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January 23, 1991

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

WHAT: Free public briefings (approximately 3 hours) to present:
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4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

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WHERE: Federal Building, 880 Front St. Conference Room 45-13 San Diego, CA
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 302, 304 and 305

[Docket No. 50583-0136]

Area Designations, Overall Economic Development Program and Supplementary Grant Rates

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts as final the Economic Development Administration's (EDA) interim regulations at 13 CFR parts 302, 304 and 305, concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program (OEDP) Requirements; and Supplementary Grant Rates. This rule updates provisions to more nearly approximate the most recent census data, methodology, and practices.

EFFECTIVE DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, Washington, DC 20230 (202) 377-4687.

SUPPLEMENTARY INFORMATION: On July 7, 1986, EDA published an interim rule on designation requirements, OEDP requirements and supplementary grant rates (51 FR 24512), and allowed interested persons 60 days to comment. No comments were received. EDA is adopting as a final rule 13 CFR parts 302, 304 and 305 "Area Designations, Overall Economic Development Programs and Supplementary Grant Rates'.

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis had been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

Since a notice and opportunity for comment are not required to be given for the rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects

13 CFR Part 302

Community development.

13 CFR Part 304

Community development, Reporting and recordkeeping requirements.

13 CFR Part 305

Community development, Community facilities, Grant programs—community development, Indians, loan programs—community development.

Under authority of section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, Department of Commerce Organization Order 10-4, as amended (40 FR 56702 as amended), the interim regulation amending 13 CFR Parts 302, 304 and 305 which was published July 7, 1986, (51 FR 24512) is adopted as final without changes.

Dated: January 17, 1991.

L. Joyce Hampers,

Assistant Secretary for Economic Development.

[FR Doc. 91-1560 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-24-M

13 CFR Part 308

[Docket No. 71032-0155]

Special Economic Development and Adjustment Assistance Grants—Use of Adjustment Grants

AGENCY: Economic Development Administration (EDA).

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts as final, the Economic Development Administration's (EDA) interim regulation at 13 CFR 308.5 "Use of Adjustment Grants". This rule amends EDA's rule on adjustment grants to provide that revolving loan fund (RLF) grants are held in trust by the grantee as trustee, for the benefit of borrowers and potential borrowers.

EFFECTIVE DATE: April 15, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., room 7001, Washington, DC 20230 (202) 377-4687.

SUPPLEMENTARY INFORMATION: On April 15, 1988, EDA published an interim rule on Adjustment Grants at § 308.5 "Revolving Loan Funds" (53 FR 12510), and allowed interested persons 60 days to comment. No comments were received. EDA is adopting as a final rule 13 CFR part 308 "Special Economic Development and Adjustment Assistance Grants" at § 308.5 "Use of Adjustment Grants".

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to 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 on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis had been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

Since a notice and opportunity for comment are not required to be given for the rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 13 CFR Part 308

Business and industry; Community development; Community facilities; Grant programs-business; Grant programs-community development; Indians; Manpower training programs; Mortgages; Relocation assistance; Rent subsidies; Reporting and recordkeeping requirements; Research; Technical assistance; Unemployment compensation.

Under authority of section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, Department of Commerce Organization Order 10-4, as amended (40 FR 56702 as amended), the interim regulation amending 13 CFR part 308 which was published April 15, 1988 (53 FR 12510), is adopted as final without changes.

Dated: January 17, 1991.

L. Joyce Hampers,

Assistant Secretary for Economic Development.

[FR Doc. 91-1557 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-24-M

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13 CFR Part 309

[Docket No. 70359-0135]

General Requirements for Financial Assistance—Nonrelocation

AGENCY: Economic Development Administration (EDA).

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts as final the Economic Development Administration's (EDA) interim regulation at 13 CFR part 309 on "General Requirements for Financial Assistance", Section 309.3 "Nonrelocation". This rule changes the rate of interest to be charged when failure to abide by the nonrelocation rule results in termination of financial assistance provided by EDA. Interest will be at a rate used in Federal debt collection and discount evaluation under the Debt Collection Act. Also, the amendment provides that the 48 month period for compliance by covered grantees is retroactive, if the violation occurs after September 15, 1986.

EFFECTIVE DATE: June 10, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., room 7001, Washington, DC 20230, (202) 377-4687.

SUPPLEMENTARY INFORMATION: EDA published an interim rule concerning nonrelocation on June 10, 1987 [52 FR 21932], and allowed interested persons 60 days to comment. No comments were received. EDA is adopting as a final rule 13 CFR part 309 "General Requirements for Financial Assistance" at Section 309.3 "Nonrelocation".

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

Since a notice and an opportunity for comment are not required to be given for the rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 13 CFR Part 309

Community development, Grant programs—community development; Loan programs—community development; Penalties.

Under authority of section 701, Public Law 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, Department of Commerce Organization Order 10-4, as amended (40 FR 56703, as amended), the interim regulation amending 13 CFR part 309 which was published on June 10, 1987 (52 FR 21932), is adopted as final without changes.

Dated: January 17, 1991.

L. Joyce Hampers,

Assistant Secertary for Economic Development.

[FR Doc. 91-1558 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-24-M

13 CFR Part 309

[Docket No. 91291-0154]

General Requirements for Financial Assistance—Environmental Requirements

AGENCY: Economic Development Administration (EDA).

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts as final, the Economic Development Administration's (EDA) interim regulation at 13 CFR part 309 on "General Requirements for Financial Assistance"; Section 309.18 "Environmental Requirements". This rule change amends EDA's rule on general requirements for financial assistance at 13 CFR 309.18 to include references to Federal, state and local environmental laws dealing with hazardous substances. The amended rule advises EDA recipients that they are subject to such environmental laws.

EFFECTIVE DATE: February 1, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., room 7001, Washington, DC 20230, (202) 377-4687.

SUPPLEMENTARY INFORMATION: EDA published an interim rule concerning environmental requirements on February 1, 1990 (55 FR 3400), and allowed interested persons 60 days to comment. No comments were received. EDA is adopting as a final rule 13 CFR part 309 "General Requirements for Financial Assistance" at Section 309.18 "Environmental Requirements".

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 incluidng notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and oppportunity for comment be given for this rule.

Since a notice and an opportunity for comment are not required to be given for the rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 13 CFR Part 309

Community development, Grant programs—community development; Loan programs—community development; Penalties.

Under authority of section 701, Public Law 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, Department of Commerce Organization Order 10-4, as amended (40 FR 56703, as amended), the interim regulation amending 13 CFR 309.18 which was published on February 1, 1990 (55 FR 3400), is adopted as final without changes.

Dated: January 17, 1991.

L. Joyce Hampers,

Assistant Secretary for Economic Development.

[FR Doc. 91-1559 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-ANE-37; Amdt. 39-6838]

Airworthiness Directives; Pratt & Whitney (PW) JT9D-7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to PW JT9D-7R4 series turbofan engines, which requires initial and repetitive inspections, and removal from service of certain high pressure compressor (HPC) turbine driveshafts. This AD also requires establishment of a new reduced low cycle fatigue (LCF) life limit for certain HPC turbine driveshafts. This amendment is prompted by reports of circumferential cracks found in the threads of the HPC turbine driveshaft. This condition, if not corrected, could result in loss of engine power, and/or engine inflight shutdown.

DATES: Effective February 22, 1991.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of February 22, 1991.

ADDRESSES: The applicable service information may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

FOR FURTHER INFORMATION CONTACT: Karen Grant, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (617) 273-7087.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new AD, applicable to PW JT9D-7R4 series turbofan engines, which requires initial and repetitive inspections, and removal from service of certain HPC turbine driveshafts, was published in the **Federal Register** on August 1, 1989 (54 FR 31694).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received. The commenter stated that all driveshafts which had accumulated over 7,500 cycles in service (CIS) have been inspected and proposed that paragraph (a)(1)(ii) be deleted. The FAA disagrees. Paragraph (a)(1)(ii) has been retained to account for the possibility that a driveshaft over 7,500 CIS has not been inspected.

Based on recent field experience, the commenter also proposed to lower the cap to 7,500 cycles for HPC turbine driveshafts with 7,000 CIS or less and require a drawdown cap of 500 cycles for those HPC turbine driveshafts with greater than 7,000 CIS. The notice of proposed rulemaking (NPRM) proposed

a cap of 8,000 cycles for those HPC turbine driveshafts with 7,500 CIS or less, and a drawdown of 500 cycles for HPC turbine driveshafts with greater than 7,500 CIS. Based on the results of HPC turbine driveshaft inspections completed after the NPRM was issued, the FAA concurs with the commenter, and has revised the AD accordingly.

The commenter also proposed to define CLI in paragraph (b) or modify the paragraph to read "2,500 Cycles SLI" for clarity. The FAA agrees to the suggested revision, and has revised the AD to read "2,500 cycles since last inspected (CSLI)".

The commenter also proposed to further reduce the LCF life limit for shaft Part Number (P/N) 803128 from 8,700 cycles to 3,200 cycles based on testing which indicates that crack intiation occurs earlier than analytically predicted. The FAA concurs and has revised the AD accordingly.

The commenter stated that the replacement cost per shaft is $18,400. The FAA has reevaluated cost data and agrees with the commenter, and has revised the Ad accordingly.

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

There are approximately 500 JT9D-7R4 series turbofan engines of the affected design in the worldwide fleet. It is estimated that 375 engines in the U.S. domestic fleet will be affected by this AD and that the replacement cost per driveshaft including labor is approximately $18,400. Based on this figure, the total cost impact of the AD on U.S. operators is estimated to be $7,000,000.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-7R4 series turbofan engines, installed on, but not limited to, Boeing 747 and 767, and Airbus A310 and A300 aircraft.

Compliance is required as indicated, unless previously accomplished.

To prevent failure of high pressure compressor (HPC) turbine driveshaft, Part Numbers (P/N) 5001195-01, 796245, 799570, and 803128, which could result in loss of engine power, and/or engine inflight shutdown, accomplish the following:

(a) Eddy current inspect rear threads of the HPC turbine driveshaft, in accordance with PW Alert Service Bulletin (SB) JT9D-7R4-72-375, Revision 2, dated December 22, 1989, and remove from service and replace HPC turbine driveshafts found cracked with a serviceable part as follows:

(1) For those HPC turbine driveshafts which have not been inspected prior to the effective date of this AD, in accordance with PW SB JT9D-7R4-72-365, dated June 23, 1988; PW SB JT9D-7R4-72-365, Revision 1, dated July 12, 1988; PW Alert SB JT9D-7R4-72-375, dated October 28, 1988; or PW Alert SB JT9D-7R4-72-375, Revision 1, dated January 25, 1989, inspect in accordance with the following schedule:

(i) At the next shop visit or prior to accumulating 7,500 cycles in service (CIS), whichever occurs first, those HPC turbine driveshafts with 7,000 CIS or less on the effective date of this AD.

(ii) At the next shop visit or prior to accumulating 500 CIS, whichever occurs first, those HPC turbine driveshafts with greater than 7,000 CIS on the effective date of this AD.

(2) For those HPC turbine driveshafts which have been previously inspected prior to the effective date of this AD, in accordance with PW SB JT9D-7R4-72-365, dated June 23, 1988; PW SB JT9D-7R4-72-365, Revision 1, dated July 12, 1988; PW Alert SB JT9D-7R4-72-375, dated October 28, 1988; or PW Alert SB JT9D-7R4-72-375, Revision 1, dated January 25, 1989, inspect in accordance with the following schedule:

(i) At the next shop visit or prior to accumulating 7,500 CIS, whichever occurs first; or not to exceed 2,500 cycles since last inspection (CSLI), whichever occurs later, those HPC turbine driveshafts with 7,000 CIS or less on the effective date of this AD.

(ii) At the next shop visit or prior to accumulating 500 CIS whichever occurs first; or not to exceed 2,500 CSLI, whichever occurs later, those HPC turbine driveshafts with greater than 7,000 CIS on the effective date of this AD.

(3) For the purpose of this AD shop visit means anytime the low pressure turbine module is removed.

(b) Eddy current reinspect HPC turbine driveshafts, in accordance with PW Alert SB JT9D-7R4-72-375, Revision 2, dated December 22, 1989, at intervals not to exceed 2,500 CSLI. Remove from service and replace with a serviceable part HPC turbine driveshafts found cracked.

(c) Reduce the low cycle fatigue (LCF) limit of the HPC turbine driveshaft P/N 5001195-01, 796245, and 799570, from 30,000 cycles to 2,000 cycles, and P/N 803128 from 30,000 cycles to 3,200 cycles, in accordance with the following schedule:

(1) After the effective date of this AD for new HPC turbine driveshafts, with no previous cycles in service, installed in PW JT9D-7R4 series engines.

(2) Prior to January 1, 1995, for those HPC turbine driveshafts installed in any PW JT9D-7R4 series engines, except for the PW JT9D-7R4G2 model engines.

(3) Prior to January 1, 1999, for those HPC turbine driveshafts installed in PW JT9D-7R4G2 model engines.

(d) Remove from service HPC turbine driveshafts installed in PW JT9D-7R4 series engines prior to exceeding the reduced LCF life limit.

(e) Inspections in accordance with paragraphs (a) and (b) of this AD are no longer required for HPC turbine driveshafts with reduced LCF limits.

(f) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(g) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD, may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

The inspection and removal procedures shall be done in accordance with the following Pratt & Whitney document:

Document	Page No.	Revision	Date
PW ASB, JT9D-7R4-72-375.	1, 4	2	12/22/89
PW ASB, JT9D-7R4-72-375.	2, 3, 6, 8 thru 15.	Original	10/28/88
PW ASB, JT9D-7R4-72-375.	5, 7	1	01/25/89

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment becomes effective February 22, 1991.

Issued in Burlington, Massachusetts, on December 4, 1990.

Herschel C. Jones,

Acting Manager, Engine and Propeller Directorate Aircraft Certification Service.

[FR Doc. 91-1507 Filed 1-22-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 26435; Amdt. No. 361]

IFR Altitudes: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective:* February 7, 1991.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC, on January 8, 1991.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 GMT:

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 361 EFFECTIVE DATE, FEBRUARY 7, 1991

FROM	TO	MEA
§95.6007 VOR FEDERAL AIRWAY 7 IS AMENDED TO READ IN PART		
MENOMINEE, MI VOR/DME	GERLA, MI FIX	3600
§95.6008 VOR FEDERAL AIRWAY 8 IS AMENDED TO READ IN PART		
CHICAGO HEIGHTS, IL VORTAC	HALIE, IN FIX	2600
HALIE, IN FIX	INKEN, IN FIX	*4000
*2300 - MOCA		
INKEN, IN FIX	GOSHEN, IN VORTAC	2600
DUSKY, OH FIX	MANSFIELD, OH VORTAC	*3000
*2500 - MOCA		
§95.6012 VOR FEDERAL AIRWAY 12 IS AMENDED TO READ IN PART		
JOHNSTOWN PA VORTAC	LOMON, PA FIX	5000
§95.6029 VOR FEDERAL AIRWAY 29 IS AMENDED TO READ IN PART		
SYRACUSE NY VORTAC	PAGER, NY FIX	*2400
*1800 - MOCA		
§95.6051 VOR FEDERAL AIRWAY 51 IS AMENDED TO READ IN PART		
SHELBYVILLE IN VORTAC	BOILER, IN VORTAC	3000
§95.6055 VOR FEDERAL AIRWAY 55 IS AMENDED TO READ IN PART		
GRAND FORKS, ND VOR/DME	*LAKES, ND FIX	**8000
*4100 - MRA		
**3600 - MOCA		
§95.6078 VOR FEDERAL AIRWAY 78 IS AMENDED TO READ IN PART		
IRON MOUNTAIN, MI VORTAC	GERLA, MI FIX	6000
§95.6092 VOR FEDERAL AIRWAY 92 IS AMENDED TO READ IN PART		
CHICAGO HEIGHTS, IL VORTAC	HALIE, IN FIX	2600
HALIE, IN FIX	INKEN, IN FIX	*4000
*2300 - MOCA		
INKEN, IN FIX	GOSHEN, IN VORTAC	2600
§95.6097 VOR FEDERAL AIRWAY 97 IS AMENDED TO READ IN PART		
SHELBYVILLE, IN VORTAC	BOILER, IN VORTAC	3000
§95.6101 VOR FEDERAL AIRWAY 101 IS AMENDED TO READ IN PART		
BURLEY, ID VORTAC	REAPS, ID FIX	7000
§95.6126 VOR FEDERAL AIRWAY 126 IS AMENDED TO READ IN PART		
PLANT, IN FIX	HALIE, IN FIX	2600
HALIE, IN FIX	INKEN, IN FIX	*4000
*2300 - MOCA		
INKEN, IN FIX	GOSHEN, IN VORTAC	2600
§95.6148 VOR FEDERAL AIRWAY 148 IS AMENDED TO READ IN PART		
SIOUX FALLS, SD VORTAC	REDWOOD FALLS, MN VORTAC	3700
§95.6161 VOR FEDERAL AIRWAY 161 IS AMENDED TO READ IN PART		
SQEAK, MN FIX	*BEBEL, MN FIX	5000
*4000 - MRA		
§95.6171 VOR FEDERAL AIRWAY 171 IS AMENDED TO READ IN PART		
STARR, MN FIX	*SHELS, MN FIX	**6000
*4000 - MRA		
**3000 - MOCA		
SHELS, MN FIX	GRAND FORKS, ND VOR/DME	3000

FROM	TO	MEA
§95.6220 VOR FEDERAL AIRWAY 220 IS AMENDED TO READ IN PART		
FARGO, ND VORTAC *4000 - MRA	*SHELS, MN FIX	3000
SHELS, MN FIX	GRAND FORKS, ND VOR/DME	3000
§95.6298 VOR FEDERAL AIRWAY 298 IS AMENDED TO READ IN PART		
PASCO, WA VOR/DME	PENDLETON, OR VORTAC	4400
§95.6423 VOR FEDERAL AIRWAY 423 IS AMENDED BY ADDING		
SYRACUSE, NY VORTAC *1800 - MOCA	PAGER, NY FIX	*2400
PAGER NY FIX *2000 - MOCA	WATERTOWN, NY VORTAC	*2800
WATERTOWN, NY VORTAC	U S CANADIAN BORDER	2000
§95.6430 VOR FEDERAL AIRWAY 430 IS AMENDED TO READ IN PART		
IRON MOUNTAIN, MI VORTAC	GERLA, MI FIX	6000

FROM	TO	MEA
§95.6444 VOR FEDERAL AIRWAY 444 IS AMENDED TO READ IN PART		
*SOLDE, ID FIX *12500 - MCA SOLDE FIX, W BND **9200 - MOCA	DERSO, ID FIX	**12500
§95.6500 VOR FEDERAL AIRWAY 500 IS AMENDED TO READ IN PART		
DERSO, ID FIX *12500 - MCA SOLDE FIX, W BND **9200 - MOCA	*SOLDE, ID FIX	**12500
§95.6505 VOR FEDERAL AIRWAY 505 IS AMENDED TO READ IN PART		
SQEAK, MN FIX *4000 - MRA	*BEBEL, MN FIX	5000
§95.6506 VOR FEDERAL AIRWAY 506 IS AMENDED TO DELETE		
SPRINGFIELD, MO VORTAC	VICHY, MO VORTAC	3000

FROM	TO	MEA	MAA
§95.7240 JET ROUTE NO. 240			
	IS ADDED TO READ		
MYTON, UT VORTAC	BLUE MESA, CO VORTAC	19000	45000
§95.7477 JET ROUTE NO. 477			
	IS ADDED TO READ		
GLASGOW, MT VOR/DME	U.S. CANADIAN BORDER	18000	45000
§95.7478 JET ROUTE NO. 478			
	IS ADDED TO READ		
GLASGOW MT VOR/DME	U.S CANADIAN BORDER	18000	45000
§95.7483 JET ROUTE NO. 483			
	IS ADDED TO READ		
MINOT, ND VORTAC	U.S CANADIAN BORDER	18000	45000
§95.7539 JET ROUTE NO. 539			
	IS ADDED TO READ		
GLASGOW, MT VOR/DME	U S CANADIAN BORDER	18000	45000
§95.7549 JET ROUTE NO. 549			
	IS ADDED TO READ		
WILLISTON, ND VORTAC	U.S. CANADIAN BORDER	18000	45000

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-240		
	IS AMENDED BY ADDING		
MYTON, UT VORTAC	BLUE MESA, CO VORTAC	60	MYTON

[FR Doc. 91-1440 Filed 1-22-91; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8325]

RIN 1545-AP26

Determination of Rate of Interest-Increase in Rate of Interest Payable on Large Corporate Underpayments; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations under section 6621(c), which were published in the **Federal Register** for Wednesday, December 19, 1990 (55 FR 52042). These temporary regulations relate to an increase in the rate of interest payable on large corporate underpayments.

FOR FURTHER INFORMATION CONTACT: P. Val Strehlow 202-377-9586 or David Schneider, 202-566-6438 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections affect certain corporations and are necessary to provide them with guidance needed to comply with the changes made by the Omnibus Budget Reconciliation Act of 1990.

Need for Correction

As published, the temporary regulations contain errors which may prove to be misleading and are need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations which was the subject of FR Doc. 90-29703, is corrected as follows:

1. In the preamble, on page 52043, second column, the paragraph preceding the heading "Applicable Date—Amount Shown As Due" (middle of column), line 3, the language "before January 1, 1990, can make a" is corrected to read "before January 1, 1991, can make a".

§ 301.6621-3T [Corrected]

2. On page 52045, second column, in § 301.6621-3T(d), under Example 3(i), second line from bottom of that paragraph, the language "district court for refund of the amounts" is corrected to read "district court for the amounts".

§ 301.6621-3T [Corrected]

3. On page 52045, third column, in § 301.6621-3T(d), under Example 4(v), line 5, the date "June 1, 1990," is corrected to read "May 31, 1990,".

§ 301.6621-3T [Corrected]

4. On page 52046, first column, in § 301.6621-3T(d), under Example 6(ii), lines 2, 4, and 5, the year "1985" is corrected to read "1986" in three locations.

§ 301.6621-3T [Corrected]

5. On page 52046, first column, in § 301.6621-3T(d), under Example 6(iv), line 1, the language "From March 15, 1990, to December 31," is corrected to read "From March 16, 1987, to December 31,".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-1438 Filed 1-22-91; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-310: RE: Notice No. 704]

RIN 1512-AA07

The Rogue Valley Viticultural Area (89F-458P)

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

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area known as Rogue Valley which is located in Jackson and Josephine Counties of southwest Oregon. The petition was submitted by Mr. David R. Beaudry, a grape grower in Jackson County, Oregon. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make their wines were grown and enables consumers to better identify wines they purchase.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27 CFR, defines in American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

By letter dated August 29, 1989, Mr. David R. Beaudry, a grape grower in Jackson County, Oregon, filed a petition for establishment of a "Rogue Valley" viticultural area in Jackson and Josephine Counties, Oregon. This viticultural area is located in the southwestern part of the State. There are seven wineries and 49 vineyards located within the Rogue Valley area, with approximately 400 acres of wine grapes. In response to Mr. Beaudry's petition, ATF published a notice of proposed rulemaking, Notice No. 704, in the **Federal Register** on July 5, 1990 (55 FR 27654), proposing the establishment of the Rogue Valley viticultural area.

Comments

ATF received three comments during the 45-day comment period which ended on August 20, 1990. All three comments fully supported the Rogue Valley viticultural area as proposed in Notice No. 704.

General Information

The beginning of viticulture in the Rogue Valley can be traced to Peter Britt, who secured cuttings from the mission grapevines of California and by 1858 was making the first wine in the Oregon Territory. He eventually experimented with more than 200 varieties of grapes, ranging for advice as far as the German Wine Growers Association on the Rhine. By 1880 his 15-acre vineyard was producing up to 3,000 gallons a year. Records show that he made a very popular claret, along

with muscatel, schiller, zinfandel and port. (Photographer of a Frontier, the Photographs of Peter Britt by Alan Clark Miller). Mr. Miller reports that Britt's vineyard was located near Jacksonville west of Medford. The winery operation was called Valley View Vineyards. Today the name Valley View Vineyards is used by the Rogue Valley's first post-Prohibition winery, which is located near the town of Ruch south of Jacksonville.

Farmers at Ashland in southwestern Oregon grew vinifera table grapes and were shipping Flame Tokays to market before the Tokay industry developed at Lodi in California. In 1880, when the special national census of winegrowing was taken, Jackson County was listed as producing 15,000 gallons of wine. (The Wines of America by Leon D. Adams).

In 1884, A.G. Walling published his History of Southern Oregon, in which he refers to sixty or seventy acres of vineyards, located mainly near Jacksonville, which produced several thousand gallons of wine annually. The Rogue River Courier newspaper, in 1905, reported the visit of Mr. A.H. Carson, the largest grape grower in Oregon, to Grants Pass. The newspaper reported that Mr. Carson's 31 acres of vineyards produced Tokay, Emperor and Black Ferrerra grapes. His vineyard was located on the Applegate River in the Missouri Flat district of Josephine County.

Viticultural Area Name

The name "Rogue Valley" is the name used in both academic and consumer-oriented wine and viticultural books to refer to the sections of Jackson and Josephine Counties where grapes are grown. The Wines of America by Leon Adams. The History of Southern Oregon by A.G. Walling, and Touring the Wine Country of Oregon by Ronald and Glenda Holden all make considerable mention of viticulture in the Rogue Valley. The Rogue Valley in 1976 became one of three appellations of origin which were approved for use on Oregon wines by the Oregon Liquor Control Commission. Locally in southwestern Oregon, the names "Rogue Valley" and "Rogue River Valley" are used synonymously to describe the lands drained by the Rogue River and its many tributaries. These lands are entirely within southwestern Oregon and make up portions of Jackson, Josephine and northern Curry Counties. The viticultural area has been narrowed, however, to include only portions of Jackson and Josephine Counties and to exclude Curry County altogether. The basis for this limitation is the philosophy that the Rogue Valley viticultural area should include only those areas which have a current or past history of winegrape production. The principal cities within the Rogue Valley of Oregon are Ashland, Medford, and Grants Pass. The name "Rogue Valley" is frequently used in the names of commercial, governmental, and charitable organizations in the region. At the national level, the name "Rogue Valley" is widely identified with the sport fishing industry on the Rogue River and with the pear orchards and pear packing companies of the region. The Rogue Valley has been identified as the third largest pear growing area in the nation by Clifford B. Cordy in his History of the Rogue Valley Fruit Industry.

Historical/Current Evidence of Boundaries

All the past and present commercial grape-growing areas of the region are located on the low elevation land along the watercourses of the Rouge River and its tributaries. Today, viable commercial vineyards are found at or near the communities of Ashland, Talent, Medford, White City, Eagle Point, Central Point, Ruch, Rogue River, Grants Pass, Applegate, Murphy, Selma, Cave Junction, and Holland, all of which are located along the Rogue River and its tributaries.

The Rogue Valley is completely surrounded by three mountain ranges. At the northern and western boundaries of the Rogue Valley, the Siskiyou and Oregon Coast Ranges form a barrier. These ranges also form an effective dividing line geographically from the Umpqua Valley viticultural area to the north in Douglas County. To the south, the Siskiyou Mountains separate the Rogue Valley from the Klamath River Valley in northern California. In the east, the Cascade Mountains serve as a partition between the Rogue Valley and the Klamath River Basin in Klamath County, Oregon.

The main tributaries of the Rogue River are: (1) Bear Creek which drains Medford, Ashland, and surrounding smaller communities, (2) the Applegate River which drains the south central part of the Valley, Jacksonville and the south Grants Pass area, (3) Evans Creek which drains Rogue River City, Wimer and the north central part of the Valley, and (4) the Illinois River which drains Holland, Cave Junction, Selma and the southwestern portion of the Valley, and which merges with the Rogue River at the town of Agness in Curry County. There are also many more small creeks and water systems which feed the Rogue River and its main tributaries.

Geographical Features

The Rogue Valley is unique in Oregon viticulture in two respects: (1) The climate is warmer than anywhere else in the State and (2) the elevation is higher. For instance, the only zone II grape-growing area in Oregon listed in General Viticulture by Winkler, Cook, Kliewer and Lider is Grants Pass in the Rogue Valley. Here the "Heat summation" is listed at 2680 degrees. This compares with the zone I figures of 2220 degrees in Roseburg, Oregon in the Umpqua Valley viticultural area and 2030 degrees for Salem, Oregon in the Willamette Valley viticultural area. The heat summation for Medford in the Rogue Valley is 2650 degree days. (Compiled from Climatography of the United States No. 84, Daily Normals of Temperature, Heating and Cooling Degree Days and Precipitation, N.O.A.A., 1983).

The greater warmth of the Rogue Valley allows certain grape varieties to achieve a level of success not found in the surrounding areas of western Oregon. In western Oregon, except for the Rogue Valley, the grape variety Merlot fails to set fruit reliably. In addition, wines made from Rogue Valley Cabernet Sauvignon grapes are widely regarded as among the finest in Oregon according to the petitioner. Ted Jordan Meredith, in his Northwest Wine Companion, states that Oregon's Willamette Valley is too cool for the best Cabernet Sauvignon, while further south, the Umpqua Valley and particularly the Rogue Valley, are capable of producing fine Cabernets. Mr. Meredith describes the Applegate Valley (within the Rogue Valley viticultural area) as one of the warmest grape-growing areas in western Oregon, and the Illinois Valley (also within the Rogue Valley viticultural area) as being only slightly cooler than the nearby Applegate Valley. Mr. Meredith also states that warmer climate grapes like Cabernet Sauvignon and Semillon are well-suited to the Illinois Valley.

The other great geological difference between the Rogue Valley and surrounding areas is the high elevation of the land. The highest elevation vineyards in Oregon are all located in the Rogue Valley. The highest elevation vineyard in the Umpqua Valley viticultural area is lower in elevation than the lowest elevation in Rogue Valley vineyard. Hillcrest Vineyard in the Umpqua Valley is at 850 feet above sea level, while the Rogue Valley's lowest elevation vineyard is Rancho Vista Vineyard in Grants Pass at 1,100 feet. The remaining Rogue Valley vineyards are at even higher elevations.

Due to the higher elevations, the Rogue Valley experiences large drops in evening temperatures. The average range between high and low daily temperatures in July in the Medford area is 37 degrees Fahrenheit, which is higher than any other location in Oregon. The average Medford July high is more than 86 degrees F. and the average nighttime low is 50 degrees F. (Atlas of Oregon, University of Oregon.)

The low evening temperatures have a beneficial effect on wine grapes. The retention of grape acids is much better when the fruit is ripened in a cool environment. Also, cool nights aid significantly in the coloration of ripening grapes. These characteristics of high elevation viticulture lead to improved wine quality. (General Viticulture, Winkler, Cook, Kliewer and Lider). The average length of the growing season in the Rouge Valley is 180 days, and the average annual rainfall is 28 inches. The Rogue Valley drainage area (Rogue Valley) is characterized by steep, rugged mountains and narrow river valleys. The Klamath, Siskiyou, and western Cascades are the principal mountain ranges in this area. These mountains are composed of volcanic, altered volcanic and sedimentary, and intrusive igneous rocks. The valleys consist of flood plains, terraces, alluvial fans, and hills. The topography, parent material, and climate combine and interact to create soil properties unique to the area. Six of the ten soil orders (Vertisols, Ultisols, Mollisols, Alfisols, Inceptisols, and Entisols) occurring in the world are in the Rogue Valley area. (Roger Borine, Area Soil Scientist, U.S.D.A.). The agricultural soils of Jackson and Josephine Counties are located in the 900 to 200 foot elevation range. In Jackson County, soil pH ranges from 5.8 to about 6.6. Josephine County soils have pH range of 5.7 to about 6.4. Jackson County has some soil series that are of clay texture, principally Carney, Coker, and Phoenix clays. These clay series are not found in Josephine County. There are at least ten soil series that are common to both counties. They are Barron, Camas, Central Point, Cove, Debenger, Evans, Kerby, Newberg, Pollard and Ruch. The soils of Jackson and Josephine counties are much more closely related to each other than to those of the Willamette Valley, coastal, or eastern Oregon areas. Soils of the Willamette Valley formed under at least 40 inches of annual precipitation and they are considerably more acid than those of the Rogue Valley, having pH ranges of 5.4 to 6.0. (John A. Yungen, Professor of Agronomy, Oregon State University, Medford, Oregon).

Boundaries

The boundaries of the Rogue Valley viticultural area as proposed in the notice are adopted. The boundaries may be found on one U.S.G.S. map, "Medford," 1:250,000 scale (1955, revised 1976). The Rogue Valley viticultural area is located entirely within Jackson and Josephine Counties in southwestern Oregon. The specific description of the boundaries of the viticultural area is found in the regulations which immediately follow the preamble to this Treasury decision.

Miscellaneous

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

Executive Order 12291

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

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

Drafting Information

The principal author of this document is Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

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

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Para. 2. The Table of sections in subpart C is amended to add the title of § 9.132 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

§ 9.132 Rogue Valley.

Para. 3. Subpart C is amended by adding § 9.132 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.132 Rogue Valley.

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

(b) *Approved map.* The appropriate map for determining the boundaries of the Rogue Valley viticultural area is one U.S.G.S. map titled "Medford," scale 1:250,000 (1955, revised 1976).

(c) *Boundaries.* The Rogue Valey viticultural area is located entirely within Jackson and Josephine Counties in southwestern Oregon. The boundaries are as follows:

(1) Beginning at the point of intersection of Interstate 5 and the Josephine County/Douglas County line approximately 20 miles north of Grants Pass, the boundary proceeds southerly and southwesterly along U.S. Interstate 5 to and including the town of Wolf Creek;

(2) Then westerly and southerly out of the town of Wolf Creek along the

Southern Pacific Railway Line to and including the town of Hugo;

(3) Then southwesterly along the secondary, hard surface road known as Hugo Road to the point where the Hugo Road crosses Jumpoff Joe Creek;

(4) Then westerly and down stream along Jumpoff Joe Creek to the intersection of Jumpoff Joe Creek and the Rogue River;

(5) Then northwesterly and down stream along the Rogue River to the first point where the Wild and Scenic Rogue River designated area touches the easterly boundary of the Siskiyou National Forest just south of Galice;

(6) Then in a generally southwesterly direction (with many diversions) along the easterly border of the Siskiyou National Forest to the 42 degree 0 minute latitude line;

(7) Then easterly along the 42 degree 0 minute latitude line to the point where the Siskiyou National Forest again crosses into Oregon approximately 1 mile east of U.S. Highway 199;

(8) Then in a generally northeasterly direction and then a southeasterly direction (with many diversions) along the northern boundary of the Siskiyou National Forest to the point where the Siskiyou National Forest touches the Rogue River National Forest at Big Sugarloaf Peak;

(9) Then in a generally easterly direction (with many diversions) along the northern border of the Rogue River National Forest to the point where the Rogue River National Forest intersects with Slide Creek approximately 6 miles southeast of Ashland;

(10) Then southeasterly and northeasterly along Slide Creek to the point where it intersects State Highway 273;

(11) Then northwesterly along State Highway 273 to the point where it intersects State Highway 66;

(12) Then in an easterly direction approximately 5 miles along State Highway 66 to the east line of Township 39 South, Range 2 East (T39S, R2E);

(13) Then following the east line of T39S, R2E, in a northerly direction to the northeast corner of T39S, R2E;

(14) Then westerly approximately 5 miles along the north line of T39S, R2E, to the 2,600 foot contour line;

(15) Then in a northerly direction following the 2,600 foot contour line across Walker Creek and then in a southwesterly direction to the point where the 2,600 foot contour line touches the east line of T38S, R1E;

(16) Then northerly along the east line of T38S, R1E, to the northeast corner of T38S, R1E;

(17) Then westerly along the north line of T38S, R1E, to the northwest corner of T38S, R1E;

(18) Then northerly along the west line of T37S, R1E, to the northwest corner of T37S, R1E.

(19) Then easterly along the north lines of T37S, R1E, and T37S, R2E, to the southeast corner of T36S, R2E;

(20) Then northerly along the east line of T36S, R2E, to the northeast corner of T36S, R2E;

(21) Then westerly along the north line of T36S, R2E, to the northwest corner of T36S, R2E;

(22) Then northerly along the east line of T35S, R1E, to the northeast corner of T35S, R1E;

(23) Then westerly along the north line of T35S, R1E, to the northwest corner of T35S, R1E;

(24) Then northerly along the east line of T34S, R1W, to the northeast corner of T34S, R1W;

(25) Then westerly along the north lines of T34S, R1E; T34S, R2W; T34S, R3W; T34S, R4W; and T34S, R5W, to the northwest corner of T34S, R5W;

(26) Then northerly along the west line of T33S, R5W, to the Josephine County/Douglas County line;

(27) Then westerly along the Josephine County/Douglas County line to U.S. Interstate 5, the point of beginning.

Signed: December 17, 1990.

Stephen E. Higgins,

Director.

Approved: December 28, 1990.

Dennis M. O'Connell,

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

[FR Doc. 91-1514 Filed 1-22-91; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

United States Marshals Service Fees

AGENCY: Office of the Secretary, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule establishes the United States Marshals Service fees and commissions as required by the Anti-Drug Abuse Act of 1988, Public Law 100-690. New section 1921(b) of title 28, United States Code, requires the Attorney General to establish fees to be collected for certain services rendered by the United States Marshals Service in connection with federal court proceedings. To the extent practicable, these fees shall reflect the actual and reasonable costs of the services provided. In addition, section 1921(c)(2) requires the Attorney General to establish a minimum and maximum amount for the U.S. Marshals Service commissions for sales conducted pursuant to federal court proceedings.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Edward Moyer, Chief, Finance Division, U.S. Marshals Service, telephone (202) 307-9230 or FTS 367-9230.

SUPPLEMENTARY INFORMATION: Prior to the passage of the Anti-Drug Abuse Act of 1988, the U.S. Marshals Service fees for serving and executing federal court process were seriously outdated, as compared to the rates charged in the private sector for similar services. The U.S. Marshals Service costs for serving process far exceeded the fees charged private litigants, thus requiring the Service to use public funds to subsidize private litigation. The rule establishes fees for serving and executing federal court process based on the actual costs, *e.g.*, salaries, overhead, travel, out-of-pocket expenses, of the services rendered and the hours expended.

The rule also establishes a range for the U.S. Marshals Service commissions to eliminate unduly high and low commissions resulting from a strict application of the statutory formula in section 1921. In the past, the Service's commissions did not provide for a minimum to assure recovery of costs or a maximum to protect against unduly high commissions. This resulted in litigation and judicial review of statutorily prescribed commissions charged private litigants.

The rule limits the U.S. Marshals Service commissions imposed under section 1921 to a minimum and maximum amount. The minimum guarantees the Government a fixed level of cost coverage, while the maximum protects the private litigant from excessive Marshals Service commissions. Moreover, by establishing a reasonable maximum, the rule should also eliminate the need for judicial review of these matters.

A proposed rule was published in the **Federal Register** at Volume 55, No. 84, on May 1, 1990, and comments were solicited for thirty (30) days thereafter. No comments were received. The final rule is identical to the proposed rule except for minor clarifications.

This rule is not a major rule for purposes of Executive Order 12291. As required by the Regulatory Flexibility Act, it is hereby certified that this rule

will not have significant impact on small business entities (5 U.S.C. 601).

List of Subjects in 28 CFR Part O

Administrative practice and procedure, Authority delegations (Government agencies) and Fees.

Therefore, by virtue of the authority vested in me by law, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and 28 U.S.C. 1921(b), 1921(c), part O of title 28 of the Code of Federal Regulations is hereby amended as follows:

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

Authority: 5 U.S.C. 301, 2303, 3101; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3521, 3622, 4001, 4041, 4042, 4044, 4082, 4201, *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622, note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569, 1921(b), 1921(c); 31 U.S.C. 1108, 3801, *et seq.*; 50 U.S.C. App. 1989b, 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300; Pub. L. No. 101–203.

2. A new § 0.114 is added to subpart T to read as follows:

§ 0.114 Fees for services.

(a) The United States Marshals Service shall routinely collect fees according to the following schedule:

(1) For process forwarded for service for one U.S. Marshals Service Office or suboffice to another—$3.00 per item forwarded;

(2) For process served by mail—$3.00 per item mailed;

(3) For process served or executed personally—$40.00 per item minimum if served by one U.S. Marshals Service employee, agent, or contractor in two regular office hours (duty hours) or less, or $50.00 per item minimum if served by one U.S. Marshals Service employee, agent, or contractor in two overtime hours (non-duty hours) or less, plus travel costs and any other out-of-pocket expenses. For each additional hour, or portion thereof, and/or each additional U.S. Marshals Service employee, agent, or contractor—$20.00 per duty hour ($25.00 per non-duty hours) for each item served, plus travel costs and any other out-of-pocket expenses. Travel costs, including mileage, shall be calculated according to 5 U.S.C. chapter 57.

(4) For copies at the request of any party—$.10 per page.

(5) For keeping and advertisement of property attached—actual expenses incurred.

(b) The United States Marshals Service shall collect the fees enumerated in paragraph (a) of this section, where applicable, even when process in returned to the court or the party unexecuted, as long as service is endeavored.

(c) Pursuant to 28 U.S.C. 565, the Director of the United States Marshals Service is authorized to use funds appropriated for the Service to make payments for expenses incurred pursuant to personal services contracts and cooperative agreements for the service of summonses on complaints, subpoenas, and notices, and for security guards.

(d) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1.5 percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall not be less than $100.00 and shall not exceed $50,000. The U.S. Marshal's commission shall apply to all judicially ordered sales and/or execution sales, including but not limited to all private mortgage foreclosure sales. if the property is not disposed of by Marshal's sale, the commission shall be set by the court within the range established above.

Dated: December 26, 1991.

Dick Thornburgh,

Attorney General.

[FR Doc. 91–576 Filed 1–22–91; 8:45 am]

BILLING CODE 4410–01–M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 301, 302, 305, 309

[Docket No. CRT 91–3–RM]

Modification of Rules of Procedure

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal is amending its rules of procedures for the filing of cable, jukebox and satellite carrier claims. The rule changes reflect the Tribunal's change of address, the new stand-by status of the jukebox compulsory license, and amendments clarifying the obligation of claimants to sign their claims, file timely, and keep the Tribunal informed of changes of their address. This action is in response to the agency's own internal review of its rules.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009 (202–673–5400).

SUPPLEMENTARY INFORMATION: As part of its continuing review of its procedural regulations, the Tribunal is adopting certain rule changes.

First, the Tribunal's offices are moving to a new location, and each regulation stating the Tribunal's address is being amended accordingly.

Second, part 305 is being amended to reflect that jukebox royalty claims may only be filed for a year in which the jukebox compulsory license was in effect. Last year, the Tribunal suspended the jukebox compulsory license through 1999. As a result, no fees were collected for 1990, nor will any fees be collected through 1999. Rather than delete our jukebox distribution rules, the rules are simply being revised to indicate that they are not in effect while the jukebox license is suspended.

Third, royalty claimants are being advised that in the event that their legal name and/or address changes, they should advise the Tribunal within thirty days of the change or their claim may be subject to dismissal. This change is being done in an effort to allow the Tribunal to contact a claimant, even if the claimant's address is no longer what it appears on the claim.

Fourth, the Tribunal is making it clear that while it will accept claims postmarked by the U.S. Postal Service as having been mailed during the filing month, it will not accept claims received after the filing month which only bear a business meter date.

Fifth, the Tribunal is explicitly requiring that claims be signed either by the copyright owner or a duly authorized representative.

Finally, the Tribunal is explicitly disallowing any official filing by facsimile transmission, whether it is a direct or rebuttal case, a pleading or motion, or a claim.

List of Subjects

37 CFR Part 301

Administrative practice and procedure, Freedom of Information Act, Sunshine Act.

37 CFR Part 302

Cable television, Claims, Copyright.

37 CFR Part 305

Claims, Copyright, Jukeboxes

37 CFR Part 309

Claims, Copyright, Satellite

For the reasons set forth in the preamble, the Tribunal amends 37 CFR parts 301, 302, 305 and 309 as follows:

PART 301—COPYRIGHT ROYALTY TRIBUNAL RULES OF PROCEDURE

1. The authority citation for part 301 continues to read as follows:

Authority: 17 U.S.C. 803(a).

2. Section 301.2 is revised to read as follows:

§ 301.2 Address for information.

The official address of the Copyright Royalty Tribunal is 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009. Office hours are Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

3. In § 301.45, paragraph (a) is revised to read as follows:

§ 301.45 Filing and service of written cases and pleadings.

(a) *Copies.* In all filings with the Tribunal, the party shall file an original plus two copies plus a copy for each sitting Commissioner. In the case of exhibits whose bulk or whose cost of reproduction would unnecessarily encumber the record or burden the party, the Tribunal may reduce the number of required copies. In no case shall a party tender any written case or pleading by facsimile transmission.

* * * * *

PART 302—FILING OF CLAIMS TO CABLE ROYALTY FEES

4. The authority citation for part 302 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4)(A).

5. In § 302.7, new paragraphs (c) and (d) are added as follows:

§ 302.7 Filing of claims to cable royalty fees.

* * * * *

(c) Claims shall bear the original signature of the claimant or any duly authorized representative of the claimant.

(d) In the event that a claimant's legal name and/or full address changes after the filing of the claim, the claimant shall notify the Tribunal of such change within thirty days of the change, or the claimant's claim may be subject to dismissal.

6. In § 302.8, the introductory text is republished and paragraph (b) is revised as follows:

§ 302.8 Compliance with statutory dates.

Claims filed with the Copyright Royalty Tribunal shall be considered timely filed only if:

* * * * *

(b) They are properly addressed to the Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009, and they are deposited with sufficient postage with the United States Postal Service and bear a July U.S. postmark. Claims dated only with a business meter that are received after July 31 will not be accepted as having been filed during the month of July. No claim may be filed by facsimile transmission.

PART 305—CLAIMS TO PHONORECORD PLAYER (JUKEBOX) ROYALTY FEES

7. The authority section for part 305 is revised to read as follows:

Authority: 17 U.S.C. 116(c)(2); 17 U.S.C. 116A(b)(2).

8. Section 305.1 is revised to read as follows:

§ 305.1 General.

(a) This part prescribes regulations pursuant to 17 U.S.C. 116(c)(2), whereby persons claiming to be entitled to compulsory license fees for public performances of nondramatic musical works by means of coin-operated phonorecord players shall file claims with the Copyright Royality Tribunal.

(b) This part is not in effect at any time when the Tribunal has determined, pursuant to 17 U.S.C. 116A(b)(2), that sufficient voluntarily negotiated jukebox licenses exist such that the jukebox compulsory license is suspended.

9. In § 305.3, the introductory text is republished and new paragraphs (d) and (e) are added as follows:

§ 305.3 Content of claims.

The claims filed shall include the following information:

* * * * *

(d) Claims shall bear the original signature of the claimant or a duly authorized representative of the claimant.

(e) In the event that the claimant's legal name and/or full address changes after the filing of the claim, the claimant shall notify the Tribunal of such change within thirty days of the change, or the claim may be subject to dismissal.

10. In Section 305.4, the introductory text is republished and paragraph (b) is revised as follows:

§ 305.4 Compliance with statutory dates.

Claims filed with the Copyright Royalty Tribunal shall be considered timely filed only if:

* * * * *

(b) They are properly addressed to the Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009 and they are deposited with sufficient postage with the United States Postal Service and bear a January U.S. postmark. Claims dated only with a business meter that are received after January 31 will not be accepted as having been filed during the month of January. No claim may be filed by facsimile transmission.

PART 309—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES

11. The authority citation for part 309 continues to read as follows:

Authority: 17 U.S.C. 119(b)(4).

12. In § 309.3, the introductory text is republished and new paragraphs (e) and (f) are added as follows:

§ 309.3 Content of claims.

Claims filed for satellite carrier compulsory license fees shall include the following information:

* * * * *

(e) Claims shall bear the original signature of the claimant or of a duly authority representative of the claimant.

(f) In the event that the legal name and/or full address of the claimant changes after the filing of the claim, the claimant shall notify the Tribunal of such change within thirty days of the change, or the claim may be subject to dismissal.

13. In § 309.4, the introductory text is republished and paragraph (b) is revised to read as follows:

§ 309.4 Compliance with statutory dates.

Claims filed with the Copyright Royalty Tribunal shall be considered timely filed only if:

* * * * *

(b) They are properly addressed to the Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009 and they are deposited with sufficient postage with the United States Postal Service and bear a July U.S. postmark. Claims dated only with a business meter that are received after July 31 will not be accepted as having been filed during the month of July. No claim may be filed by facsimile transmission.

Mario F. Aguero,

Chairman.

[FR Doc. 91-1469 Filed 1-22-91; 8:45 am]

BILLING CODE 1410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5F3158/R1101; FRL-3842-8]

Pesticide Tolerances for Thiobencarb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for combined residues of the herbicide thiobencarb (S-[(4-chlorophenyl)methyl]diethylcarbamothioate) and its chlorobenzyl and chlorophenyl moiety-containing metabolites in or on the following raw agricultural commodities (RACs): celery at 0.2 part per million (ppm), endive (escarole) at 0.2 ppm, and lettuce at 0.2 ppm. These regulations were requested by Chevron Chemical Co. and establish the maximum permissible level for residues of the herbicide in or on these RACs.

DATES: These regulations become effective January 23, 1991.

ADDRESSES: Written objections, identified by the document control number, [PP 5F3158/R1101], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Acting Product Manager (PM) 23, (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 14, 1984 (49 FR 45064), EPA issued a notice that Chevron Chemical Co., Ortho Agricultural Chemicals Division, 940 Hensley St., Richmond CA 94804-0036, proposed amending 40 CFR 180.401 by establishing a regulation to permit chlorophenyl)methyl]diethylcarbamothioate) and its moiety-containing metabolites in or on the following RACs: celery, endive (escarole), and lettuce at 0.1 ppm. In the **Federal Register** of September 27, 1990 (55 FR 39157), EPA issued a notice which announced that Chevron Chemical Co. subsequently amended its request to include combined residues of the herbicide thiobencarb (S-[(4-chlorophenyl)methyl]diethylcarbamothioate) and its chlorobenzyl and chlorophenyl moiety-containing metabolites in or on the following RACs: celery at 0.2 ppm, endive (escarole) at 0.2 ppm, and lettuce at 0.2 ppm. Chevron proposed that the use of thiobencarb in the culture of celery, endive (escarole), and lettuce be limited to the State of Florida based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to either of the notices of the proposed additional thiobencarb tolerances.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the tolerances include the following material.

1. Plant metabolism study.
2. A rat oral lethal dose (LD_{50}) of 920 milligrams/kilogram (mg/kg) of body weight.
3. A rat developmental study with a maternal and fetotoxic no-observed-effect level (NOEL) of 25 mg/kg/day; and a developmental toxicity NOEL of 25 mg/kg/day.
4. A rabbit developmental study with a maternal NOEL of 100 mg/kg/day and a developmental NOEL of greater than 200 mg/kg/day (HDT).
5. A rat two-generation reproduction study with a reproductive toxicity NOEL of 100.0 mg/kg/day (HDT) and systemic NOEL of less than 2 mg/kg/day, the lowest dose tested (LDT). The effects were liver weight changes, enlargement of centralobular hepatocyes, and increased incidence of renal atrophic tubules.
6. A 2-year mouse oncogenicity study with no oncogenic potential observed under the conditions of the study up to and including 240 mg/kg/day and a systemic NOEL of 25 mg/kg/day.
7. A 2-year rat oncogenicity study with no oncogenic potential observed under conditions of the study up to 25 mg/kg/day and a systemic NOEL of 1 mg/kg/day.
8. A 1-year dog feeding study with a systemic NOEL of 8 mg/kg/day and a plasma cholinesterase (ChE) NOEL of 1 mg/kg/day (LDT). The effect was decreased erythrocyte counts, hematocrit, and hemoglobin; and relative kidney and liver weights.
9. *In vitro* Salmonella TA 100, TA 98, and TA 1537 assays, negative.
10. *In vitro* human lymphocytes (with or without S-9) assays, negative.
11. *In vivo* mouse dominant-lethal assay, negative.

Based on a NOEL of 1.0 mg/kg/day in a 2-year chronic feeding/oncogenicity study in rat and hundredfold safety factor, the acceptable daily intake (ADI) has been set at 0.01 mg/kg/day. The established and proposed tolerances have a theoretical maximum residue contribution (TMRC) of 0.001280 mg/kg/day and would utilize 13 percent of the ADI.

There are no regulatory actions pending against the registration of thiobencarb. The metabolism of thiobencarb in plants is adequately understood for purposes of the tolerances set forth below. An analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from:

William Grosse, Chief, Information Service Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 223, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Established tolerances are adequate to cover residues that would result in meat, milk, poultry, and eggs. The Agency concludes that the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 9, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.401, by designating the existing text as paragraph (a) and adding new paragraph (b), to read as follows:

§ 180.401 Thiobencarb; tolerance for residues.

(a) * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide thiobencarb (S-[(4-chlorophenyl)-methyl]diethylcarbamothioate) and its chlorobenzyl and chlorophenyl moiety-containing metabolites in or on the following raw agricultural commodities:

Commodity	Parts per million
Celery	0.2
Endive (escarole)	0.2
Lettuce	0.2

[FR Doc. 91-1298 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 180, 185, and 186

[PP 8F3695, PP 9F3698, and FAP 8H5569/R1102; FRL-3844-8]

Pesticide Tolerances for Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the fungicide metalaxyl and its metabolites in or on alfalfa forage at 6.0 parts per million (ppm), alfalfa hay at 20.0 ppm, barley grain at 0.2 ppm, barley fodder at 2.0 ppm, barley forage at 2.0 ppm, barley straw at 2.0 ppm (pesticide petition (PP) 8F3695), leaves of root and tuber vegetables (human food or animal feed) group at 15 ppm and root and tuber vegetables group at 0.5 ppm (PP 9F3698), and barley milling fractions at 1.0 ppm (food additive petition (FAP) 8H5569). These regulations to establish the maximum permissible levels for residues of metalaxyl in or on the commodities were requested in petitions submitted by Ciba-Geigy Corp.

DATES: These regulations become effective January 8, 1991.

ADDRESSES: Written objections, identified by the document control number, (PP 8F3695, PP 9F3698, and FAP 8H5569/R1102), may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-1900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 22, 1989 (54 FR 7597), which announced that the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted PP 8F3695 and FAP 8H5569 to EPA requesting that the Administrator, pursuant to sections 408(d) and 409(b) of the Federal Food, Drug, and Cosmetic Act, proposing the establishment of tolerances for the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl) alanine methyl ester in or on alfalfa forage at 10.0 ppm, alfalfa hay at 20.0 ppm, barley grain at 0.2 ppm, barley fodder at 2.0 ppm, barley forage at 2.0 ppm, barley straw at 2.0 ppm, and a food additive regulation for barley milling fractions at 1.0 ppm resulting from application of the pesticide to the growing crop. Since that time, Ciba-Geigy Corp. has petitioned the Agency to decrease alfalfa forage to 6.0 ppm.

EPA also issued in the notice (54 FR 7597), Ciba Geigy's request in PP 9F3698 to establish tolerances for the fungicide metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl) alanine methyl ester in or on root and tuber vegetable tops at 15.0 ppm and root and tuber vegetable roots at 0.5 ppm resulting from application of the pesticide to the growing crop. Since that time, Ciba-Geigy Corp. has petitioned the Agency to change editorially the nomenclature for the crop groupings and tolerances to leaves of root and tuber vegetables (human food or animal feed) group at 15.0 ppm and root and tuber vegetables group at 0.5 ppm.

There were no comments received in response to the notices of filing.

The data submitted in support of the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are being sought. The toxicological data considered in support of the tolerances include the following:

1. A 3-month dietary study in rats with a no-observed-effect level (NOEL) at 12.5 milligrams per kilogram (mg/kg) body weight (bwt)/day (250 ppm).

2. A developmental toxicity study in rats with a NOEL of 400 mg/kg bwt (highest dose tested [HDT]). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

3. A developmental toxicity study in rabbits with a NOEL of 300 mg/kg bwt (HDT). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

4. Metalaxyl did not induce gene mutations in bacteria, yeast, and lymphoma cells in vitro with or without metabolic activation. The fungicide also caused no structural or numerical chromosomal aberrations in yeast, hamsters (in vivo nucleus anomaly assay), or mice (a dominant lethal assay). No DNA damage was observed in bacteria, and no unscheduled DNA synthesis was noted in rat primary hepatocytes or human fibroblasts in vitro as the result of exposure to metalaxyl. These results suggest that metalaxyl is not genotoxic.

5. A mouse dominant-lethal study that was negative for mutagenicity.

6. A three-generation rat reproduction study with a NOEL of 62.5 mg/kg bwt/day (1,250 ppm).

7. A 6-month dog feeding study with a NOEL of 6.25 mg/kg bwt/day (250 ppm). Effects found at 250 mg/kg were increased serum alkaline phosphatase activity and increased liver weight and liver-to-brain weight ratios without histological changes.

8. A 2-year rat chronic feeding/oncogenic study with no compound-related carcinogenic effects under the conditions of the study at dietary levels up to 1,250 ppm. The NOEL is 12.5 mg/kg bwt/day (250 ppm) based upon slight increases in liver weight to body weight ratios at 1,250 ppm.

9. A 2-year mouse oncogenic study with no compound-related carcinogenic

effects under the conditions of the study at dietary levels up to 1,250 ppm.

Because of concerns raised over some equivocal increases in tumor incidences in the male mouse liver and the male rat adrenal medulla, and the female rat thyroid, the two chronic feeding studies were submitted to the Environmental Pathology Laboratories (EPL) for an independent reading of the microscopic slides. The new pathological evaluation by EPL and the original reports of the rat and mouse oncogenicity studies were then both submitted for review to EPA's Carcinogen Assessment Group (CAG). A final review of the carcinogenicity studies and related material was performed by the Peer Review Committee of the Toxicology Branch (TB) of the Office of Pesticide Programs (OPP).

The four major issues evaluated by CAG and the peer review group include: (1) Perifollicular cell adenomas in the thyroid of female rats; (2) adrenal medullary tumors (pheochromocytomas) in male rats; (3) liver tumors in male mice; and (4) whether the HDT (1,250 ppm) in the rat and mouse oncogenicity studies represented a maximum-tolerated dose (MTD).

Regarding the thyroid tumors in female rats, the peer review group concluded that the increased incidences of thyroid tumors in females of treated groups were not compound related. This conclusion was based on the following: (1) There was no progression of benign tumors (adenomas) to malignancy (carcinomas); (2) there was no increase in hyperplastic changes; (3) there was no dose-response relationship; and (4) the two reevaluations of the microscopic slides by the pathologists at EPL and TB in OPP further mitigated any apparent effects observed in the original report.

The issue of a possible treatment-related increase of adrenal medullary gland tumors, namely, pheochromocytomas, in the male rat was also reassessed by both CAG and the Peer Review Committee. Both concluded that the data, especially in view of the reevaluation of the microscopic slides performed by EPL, did not support a compound-related increase of adrenal medullary tumors; the incidence of pheochromocytomas more accurately represented spontaneous variations of a commonly occurring tumor in the aged rat.

The analysis of the significance of the equivocal increase in the incidence of liver tumors in male mice was very similar to that performed for the rat thyroid and adrenal gland tumors. The original pathological reading of the tissue slides reported an elevated incidence of tumors in some treatment groups; however, these increases were not evident after a reevaluation of the microscopic slides was performed by an independent pathologist at EPL and by the reading of a CAG pathologist. The Peer Review Committee concurred that the reevaluation of the slides is reliable and does not show any compound-related increase in the incidence of liver tumors in the mouse.

The Agency believes that the data from the rat and mouse long-term studies are sufficient to support the conclusion that metalaxyl does not show a carcinogenic potential in laboratory animals. This conclusion is supported by the following: (1) The doses tested in both the rat and mouse long-term studies approached an MTD based upon compound-related changes in liver weight and/or liver histology; (2) extensive available mutagenic evidence indicates no potential genotoxic activity which correlates with the negative carcinogenic potential demonstrated in long-term testing; (3) metalaxyl is not structurally related to known carcinogens; and (4) under the conditions of the rat and mouse tests, no indications of compound-related carcinogenic effects were noted at any of the treatment doses, sexes, or species.

The acceptable daily intake (ADI) based on the 6-month dog feeding study (NOEL 6.25 mg/kg bwt/day), and using a hundredfold safety factor, is calculated to be 0.060 mg/kg bwt/day. The theoretical maximum residue contribution from previously established tolerances and food additive regulations established here is 0.010354 mg/kg bwt/day and utilizes 17.81 percent of the ADI.

The nature of the residue is adequately understood, and adequate analytical methods (capillary N/P GLC) are available for enforcement purposes. Because of the long lead time from establishing these tolerances and food additive regulations to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-4432.

The pesticide is considered useful for the purpose for which the tolerances are sought. Existing meat and milk tolerances are adequate to cover any secondary residues from the feed use of metalaxyl in conjunction with the proposed tolerances. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health and the establishment of the food additive regulation allows for a safe use of the pesticide if such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136a *et seq.* Therefore, the tolerances and food additive regulations are established as set forth below.

Any person adversely affected by these regulations may, within 30 days after publication of this document in the **Federal Register**, file written objections and a request for a hearing with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance or food additive regulation levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180, 185, and 186

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Food additives, Feed additives, Reporting and recordkeeping requirements.

Dated: January 8, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.408, paragraphs (a) and (b) are amended in the table therein by adding and alphabetically inserting the following raw agricultural commodities, to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	6.0
Alfalfa, hay	20.0
* * * * *	
Leaves of root and tuber vegetables (human food or animal feed) group	15.0
* * * * *	
Root and tuber vegetables group	0.5
* * * * *	

(b) * * *

Commodity	Parts per million
Barley, grain	0.2
Barley, fodder	2.0
Barley, forage	2.0
Barley, straw	2.0
* * * * *	

* * * * *

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 185.4000, paragraph (b) is amended in the table therein by adding and alphabetically inserting the food commodity barley milling fractions, to read as follows:

§ 185.4000 Metalaxyl.

* * * * *

(b) * * *

Foods	Parts per million
Barley, milling fractions	1.0
* * * * *	

* * * * *

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.4000, paragraph (b) is amended in the table therein by adding and alphabetically inserting the feed commodity barley milling fractions, to read as follows:

§ 186.4000 Metalaxyl.

(b) * * *

Feeds	Parts per million
Barley, milling fractions	1.0
* * * * *	

* * * * *

[FR Doc. 91-1297 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6829; [MT-930-4214-10; MTM 40641]

Partial Revocation of Executive Order Dated July 9, 1910; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order insofar as it affects approximately 58.63 acres of National Forest System lands withdrawn for Coal Reserve Montana No. 1. The lands are no longer needed for this purpose and the revocation is needed to permit disposal of the lands through land exchange. This action will open the lands to such forms of disposition as may by law be made of National Forest System lands. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107; 406-255-2935.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order dated July 9, 1910, which withdrew public lands (now National Forest System lands) for classification and appraisement of coal values is hereby revoked insofar as it affects the following described lands:

Principal Meridian

Gallatin National Forest

T. 9 S., R. 9 E.,

Sec. 8, that portion of lot 7 which when resurveyed will be part of tract 39;

Sec. 9, that portion of lot 2 and the NW¼NW¼ which when resurveyed will be part of tract 38 and that portion of lots 7 and 8 which when resurveyed will be part of tract 39;

Sec. 17, that portion of lots 1 and 4 which when resurveyed will be part of tract 39.

The areas described aggregate approximately 58.63 acres in Park County.

2. At 9 a.m. on February 22, 1991, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: January 9, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1457 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-DN-M

43 CFR Public Land Order 6828; [NV-930-91-4214-10; N-51511]

Withdrawal of Public Land for Fire Station Complex; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 9.12 acres of public land from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect a fire station complex in Humboldt County. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702-785-6526.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, to protect the Bureau of Land Management's McDermitt Fire Station Complex:

Mount Diablo Meridian

T. 47 N., R. 38 E.,

Sec. 16, Lot 11.

The area described contains 9.12 acres in Humboldt County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

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

Dated: January 2, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1458 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-HC-M

43 CFR Public Land Order

[CO-930-4214-10; COC-0125422]

Partial Revocation of Public Land Order No. 3843; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 90.40 acres of public land withdrawn for the Bureau of Land Management Drowsy Water Recreation Site. This land is no longer needed for recreation purposes. This action will open this land to surface entry and mining and allow for disposal. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3843 which withdrew public land for the Bureau of Land Management for archaeological and recreational values is hereby revoked insofar as it affects the following described land:

Sixth Principal Meridian

T. 2 N., R. 77 W.,

Sec. 26, lot 1 (previously described as NW¼NW¼);

Sec. 27, lots 1 and 2 (previously described as N½NE¼).

The area described contains approximately 90.40 acres in Grand County.

2. At 9 a.m. on February 22, 1991, the land described in paragraph 1, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and requirements of applicable law. All valid applications received at or prior to 9 a.m. on February 22, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on February 22, 1991, the land described in paragraph 1 will be opened to location and entry under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 9, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1456 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-JB-M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 25

[FAC 90-3]

Technical Correction to Federal Acquisition Circular 90-3

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Correction.

SUMMARY: This document corrects Federal Acquisition Circular (FAC) 90-3, published in the Federal Register on Friday, December 21, 1990 (55 FR 52782).

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Office of Federal Acquisition Policy, GS Bldg., 18th & F Sts., NW., Washington, DC 20405, (202) 501-4082. Please cite FAC 90-3 correction.

SUPPLEMENTARY INFORMATION: In FR Doc. 90-29681, on page 52793, in the first column, at item 34, § 25.401 was erroneously amended to add Thailand to the "Designated country" list.

Therefore, in FAC 90-3, amendatory instruction 34 should be deleted.

Dated: January 10, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 91-1500 Filed 1-22-91; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 204 and 646

[Docket No. 900798-0303]

RIN 0648-AD59

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Final rule; interim final rule and request for comments; and notice of OMB control numbers.

SUMMARY: NOAA issues this final rule to implement Amendment 3 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP); except for § 646.21(b), which is issued as an interim final rule. The final rule (1) Adds wreckfish to the management unit; (2) requires permits to fish for wreckfish; (3) requires catch and effort reports from selected, permitted vessels; (4) requires that fish in the snapper-grouper fishery be made available, upon request, to an authorized officer; (5) requires permitted vessels to display their official numbers; (6) establishes a fishing year for wreckfish that commences on April 16; (7) makes vessel operators responsible for ensuring that no fish from the snapper-grouper fishery below the minimum size limits or without their heads and fins attached are possessed aboard their vessels; (8) establishes a trip limit for wreckfish of 10,000 pounds (4,536 kilograms); (9) prohibits the possession of dynamite aboard vessels

in the snapper-grouper fishery; (10) excludes wreckfish from the calculations for determining when a vessel with a trawl aboard is in a directed fishery for fish in the snapper-grouper fishery; (11) establishes a spawning-season closure for wreckfish from January 15 through April 15; (12) establishes a wreckfish quota and provisions for closure of the fishery for wreckfish; (13) provides for annual modifications of specified wreckfish management measures; (14) prohibits interference with law enforcement functions under the Magnuson Fishery Conservation and Management Act (Magnuson Act); and (15) reorders the regulations and makes other minor changes. The interim final rule requires that a wreckfish taken in or from the Exclusive Economic Zone (EEZ) have its head and fins intact through landing. Because this specific requirement was not included in the proposed rule (55 FR 39023, September 24, 1990), public comment on it is requested. The intended effects of this rule are to conserve and manage the wreckfish resource, to enhance enforcement of the snapper-grouper regulations, to reorder and restate the regulations for clarity, and to conform the existing regulations with current usage. This rule also informs the public of the approval by the Office of Management and Budget (OMB) of two new information collection requests (ICRs) contained in this rule and publishes the OMB control numbers for those ICRs.

EFFECTIVE DATE: January 31, 1991. Written comments on the requirement that a wreckfish in or taken from the EEZ must have its head and fins intact through landing, contained in § 646.21(b), must be received on or before February 6, 1991.

ADDRESSES: Comments on the requirement that a wreckfish in or taken from the EEZ must have its head and fins intact through landing, contained in § 646.21(b), should be sent to Robert A. Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the FMP prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Act. Amendment 3 to the FMP contains conservation and management measures for wreckfish, a definition of overfishing, as it relates to wreckfish, and a control date of March 28, 1990, after which anyone entering the wreckfish fishery will not be assured of future participation.

To prevent a resource collapse, the Council requested and the Secretary of Commerce (Secretary) implemented an emergency rule to (1) Add wreckfish to the management unit of the FMP; (2) establish a fishing year for wreckfish beginning April 16, 1990; (3) establish a wreckfish quota of 2 million pounds (907,194 kilograms) for the 1990/1991 fishing year; (4) close the wreckfish fishery when the quota is reached; (5) establish a wreckfish trip limit of 10,000 pounds (4,536 kilograms) per vessel; and (6) exclude wreckfish from the calculations for determining when a vessel with a trawl aboard is in a directed fishery for fish in the snapper-grouper fishery. The emergency rule was published on August 8, 1990 (55 FR 32257). Under the emergency rule, the wreckfish quota was reached and the fishery was closed on August 8, 1990 (55 FR 32635, August 10, 1990). The effectiveness of the emergency rule and closure was extended through January 30, 1991 (55 FR 40181, October 2, 1990).

In addition to the management measures contained in the emergency rule, Amendment 3 (1) Requires permits to fish for wreckfish; (2) requires catch and effort reports from selected, permitted vessels; (3) establishes a spawning-season closure for wreckfish from January 15 through August 15; (4) provides for annual specification or modification of the wreckfish maximum sustainable yield, total allowable catch, quota, trip limit, spawning-season closure, fishing year, and permit requirements; and (5) defines overfishing for wreckfish.

The rationale for the management measures in the emergency rule was included in the preamble to that rule and are not repeated here. Background information on the wreckfish fishery, the rationale for the additional management measures of Amendment 3, and the rationale for additional changes proposed by NOAA to facilitate enforcement and clarify the regulations were included in the preamble to the proposed rule (55 FR 39023, September 24, 1990) and are not repeated here. Additional information on the wreckfish fishery, the management measures, and the definition of over-fishing, as it relates to wreckfish, is contained in Amendment 3, the availability of which was announced in the **Federal Register** on August 14, 1990, (55 FR 33143). A document establishing a control date of March 28, 1990, after which anyone entering the wreckfish fishery will not be assured of future participation, was published in the **Federal Register** on September 24, 1990 (55 FR 39039).

Comments and Responses

Comment: Comments were received from three commercial wreckfish fishermen, who generally supported Amendment 3. One commenter objected to the 10,000-pound vessel trip limit. The fisherman, whose wreckfish trips reportedly include large catches, often in excess of 30,000 pounds, stated that the limit would make his participation in the fishery unprofitable due to rising gasoline costs, vessel loan payments, insurance, and expenditures for maintenance and safety equipment. The fisherman also indicated that some of the boats in the fishery were not properly equipped to fish the grounds that are located approximately 120 miles offshore. He suggested that if the limit is necessary to prevent a potential collapse of the resource, a quota allocation system should also be included, whereby historic participants would be awarded a certain percentage of the annual allowable catch.

Response: Amendment 3 was structured to limit each vessel in the fishery to 10,000 pounds per trip. The limitation was determined necessary to allow effective monitoring of the fishery and prevent overrunning of the established quota. The extension of the fishing season spreads the collection of biological data, for use in future management decisions, over a greater period of time. Assuming that fishing effort does not increase drastically, trip limits also provide a more consistent supply of wreckfish to the market. Fishermen who testified at the public hearings supported trip limits.

A system to distribute the available quota to participants in the fishery, based on their share of the historic harvest, is outside the scope of Amendment 3. However, the Council is developing a limited entry management program for wreckfish, possibly including a system similar to that mentioned by the commenter. Such a program, if submitted by the Council, will be thoroughly reviewed for consistency with the Magnuson Act and made available for public comment.

Comment: The other two commenters suggested that the total allowable catch (TAC) for 1991 be set at 4 million pounds instead of 2 million pounds. They also suggested that the use of longlines and nets be prohibited in the wreckfish fishery.

Response: Amendment 3 contains provisions for an annual TAC of up to 8 million pounds; however, the harvest level for the 1991 fishing year was set at

2 million pounds because of the uncertainties surrounding the size of the wreckfish resource and the amount that can be removed on a sustainable basis. A conservative approach is further supported because of the small size of the productive fishing grounds and because the source of recruitment is unknown. So little is known about this relatively new fishery that caution must be exercised in exploiting the resource to ensure that the harvest capacity is not exceeded.

Prohibition of use of certain gear in the wreckfish fishery goes beyond the scope of Amendment 3, but is being addressed in Amendment 4 to the FMP. Comments on gear use in this fishery will be solicited during the course of preparation and review of Amendment 4.

Changes From the Proposed Rule

Subsequent to publication of the proposed rule, regulations implementing Amendment 2 to the FMP became effective, October 30, 1990 (55 FR 46213, November 2, 1990). Those regulations prohibit the harvest or possession of jewfish in or from the exclusive economic zone. In order to make the final rule implementing Amendment 3, § 646.7(k) and § 646.21(e) have been added and § 646.7(t) is deleted.

Minor changes are made to the paragraph on recordkeeping and reporting for permitted vessels (§ 646.5(a)) to clarify that the Science and Research Director must receive required reports not later than the seventh day after the end of the reporting period and to reorder and clarify the name of the dealer that appears on the report.

When filleted, wreckfish are not easily distinguished from some species of grouper. As an aid to enforcement, a requirement that wreckfish be maintained with head and fins intact through landing is added at § 646.21(b). Wreckfish are currently landed with heads and fins intact by all vessels in the fishery. Thus, this requirement does not present a substantive change to current practice. However, because this requirement was not included in the proposed rule, NOAA is requesting public comments on it. (See **EFFECTIVE DATE AND ADDRESSES,** above.) After the comment period, NOAA will continue, discontinue, or modify the requirements, as appropriate.

To clarify the wreckfish trip limit (§ 646.21(d)), the 10,000 pound limit is specified as whole or eviscerated wreckfish. Standard industry practice is to eviscerate wreckfish at sea. It is the intent of the Council to allow 10,000 pounds per trip in the standard, eviscerated form and, for practicality of enforcement, to provide a single trip limit, without regard to whether the wreckfish are whole or eviscerated. For quota management, however, the annual quota of 2 million pounds of wreckfish each fishing year is measured in whole fish and is clarified at § 646.24(a). Provision has been made in the reporting requirements to distinguish between whole and eviscerated wreckfish. A multiplication factor of 1.18 is applied to the weight of eviscerated wreckfish to determine equivalent whole weight. This factor is based on the best scientific information available and is used in Amendment 3 for such conversions.

Classification

The Secretary determined that Amendment 3 is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to 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 a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review/regulatory flexibility analysis that analyzes the economic impacts of this rule and describes its effects on small business entities. A summary of those impacts and effects was included in the proposed rule and is not repeated here.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. Based on the EA, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the federally approved coastal management programs of Florida, South Carolina, and North Carolina. Georgia does not have a federally approved coastal management program. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Florida and South Carolina concur with the determinations. North Carolina did not respond within the statutory time period; therefore, their agreement is presumed.

This rule contains two new collections of information subject to the requirements of the Paperwork Reduction Act, namely, applications for annual vessel permits and catch and effort reports from selected, permitted vessels. These collections have been approved by the Office of Management and Budget (OMB). OMB control numbers 0648–0205 and 0648–0016 apply. The public reporting burdens for these collections of information are estimated to average 15 and 6 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule restates for clarity the application procedure for obtaining a vessel and gear identification number and color code, applicable to a vessel from which a fish trap is deployed, and redesignates that paragraph as § 646.6(b)(1). That collection of information was previously approved under OMB control number 0648–0205. The public reporting burden for that collection of information was estimated to average 15 minutes per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648–0205).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Assistant Administrator, pursuant to the Administrative Procedure Act (5 U.S.C. 553(d)(3)), finds for good cause, namely, to continue, uninterrupted, the required protection of the wreckfish resource in the EEZ off the South Atlantic States, that it is not necessary to delay for 30 days the effective date of this rule. In addition, no premature change in fishing practice will be caused by advancing the effective date of this final rule, because it merely continues

restrictions that are already in effect under the emergency rule.

List of Subjects

50 CFR Part 204

Reporting and recordkeeping requirements.

50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 15, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR parts 204 and 646 are amended as follows:

PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

2. In § 204.1(b), the table is amended by adding in the left column in numerical order "§ 646.4" and "§ 646.5(a)" and in the right column in corresponding positions the control numbers "0205" and "0016", respectively.

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

3. The authority citation for part 646 continues to read as follows:

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

4. In § 646.2, in the definition of *Fish in the snapper-grouper fishery*, after the listing of Snappers—Lutjanidae, a new family and species are added; and a new definition of *Trip* is added in alphabetical order to read as follows:

§ 646.2 Definitions.

* * * * *

Fish in the snapper-grouper fishery means the following species:

* * * * *

Temperate basses—Percichthyidae

Wreckfish—*Polyprion americanus*

* * * * *

Trip means a fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

5. Sections 646.4 through 646.8 are redesignated as §§ 646.5 through 646.9, and a new § 646.4 is added to read as follows:

§ 646.4 Permits.

(a) *Applicability.* To fish for wreckfish in the EEZ, land wreckfish from the EEZ, or sell wreckfish in or from the EEZ, an owner or operator of a vessel must obtain an annual vessel permit.

(b) *Application for permit.* (1) An application for an annual vessel permit must be submitted and signed by the owner or operator of the vessel. The application must be submitted to the Regional Director at least 60 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of the vessel's state registration certificate;

(ii) The vessel's name, official number, length, home port, and engine horsepower.

(iii) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(iv) Name, mailing address including zip code, and telephone number of the applicant, if other than the owner;

(v) Social security number and date of birth of the applicant and the owner;

(vi) Documentation that wreckfish caught by the vessel were sold during the 12 months preceding the application, or, in lieu thereof, documentation that equipment required specifically for use in the wreckfish fishery was on order or purchased for the vessel during the 12 months preceding the application; and

(vii) Any other information concerning vessel and gear characteristics requested by the Regional Director.

(3) Any change in the information specified in paragraph (b)(2) of this section must be submitted in writing to the Regional Director by the permit holder within 30 days of any such change. The permit is void if any change in the information is not reported.

(c) *Issuance.* (1) The Regional Director will issue a permit at any time during the fishing year to an applicant if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 646.5 during the 12 months immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 646.5 during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Directors' notification, the application will be considered abandoned.

(d) *Duration.* A permit remains valid for the remainder of the fishing year for which it is issued unless revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(e) *Transfer.* A permit issued under this section is not transferable or assignable. A person purchasing a vessel with an annual vessel permit must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of an executed (signed) bill of sale.

(f) *Display.* A permit issued under this section must be carried on board the permitted vessel at all times and such vessel must be identified as provided for in § 646.6. The operator of a fishing vessel must present the permit for inspection upon request of an authorized officer.

(g) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(h) *Alteration.* A permit that is altered, erased, or mutiliated is invalid.

(i) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application.

6. Newly redesignated § 646.5 is revised to read as follows:

§ 646.5 Recordkeeping and reporting.

(a) *Permitted vessels.* The owner or operator of a vessel for which a permit has been issued under § 646.4(a), and that is selected by the Science and Research Director, must maintain a fishing record for each fishing trip on a form available from the Science and Research Director. These forms must be submitted on a monthly basis (or more frequently, if requested by the Science and Research Director) so as to be received by the Science and Research Director not later than the 7th day after the end of the reporting period. If no fishing occurred during a month, a report so stating must be submitted on one of the forms. If fishing occurred, the following information must be reported for each trip:

(1) Name and official number of vessel;

(2) Date(s) of trip and fishing location(s) by statistical area(s) (see Figure 1);

(3) Average depth of fishing effort in feet;

(4) Type and quantity of gear fished;

(5) Duration (hours) of vessel fishing effort;

(6) Port of landing;

(7) Name of dealer to whom wreckfish were sold;

(8) Pounds of catch of wreckfish; and

(9) Condition of wreckfish landed (whole or gutted).

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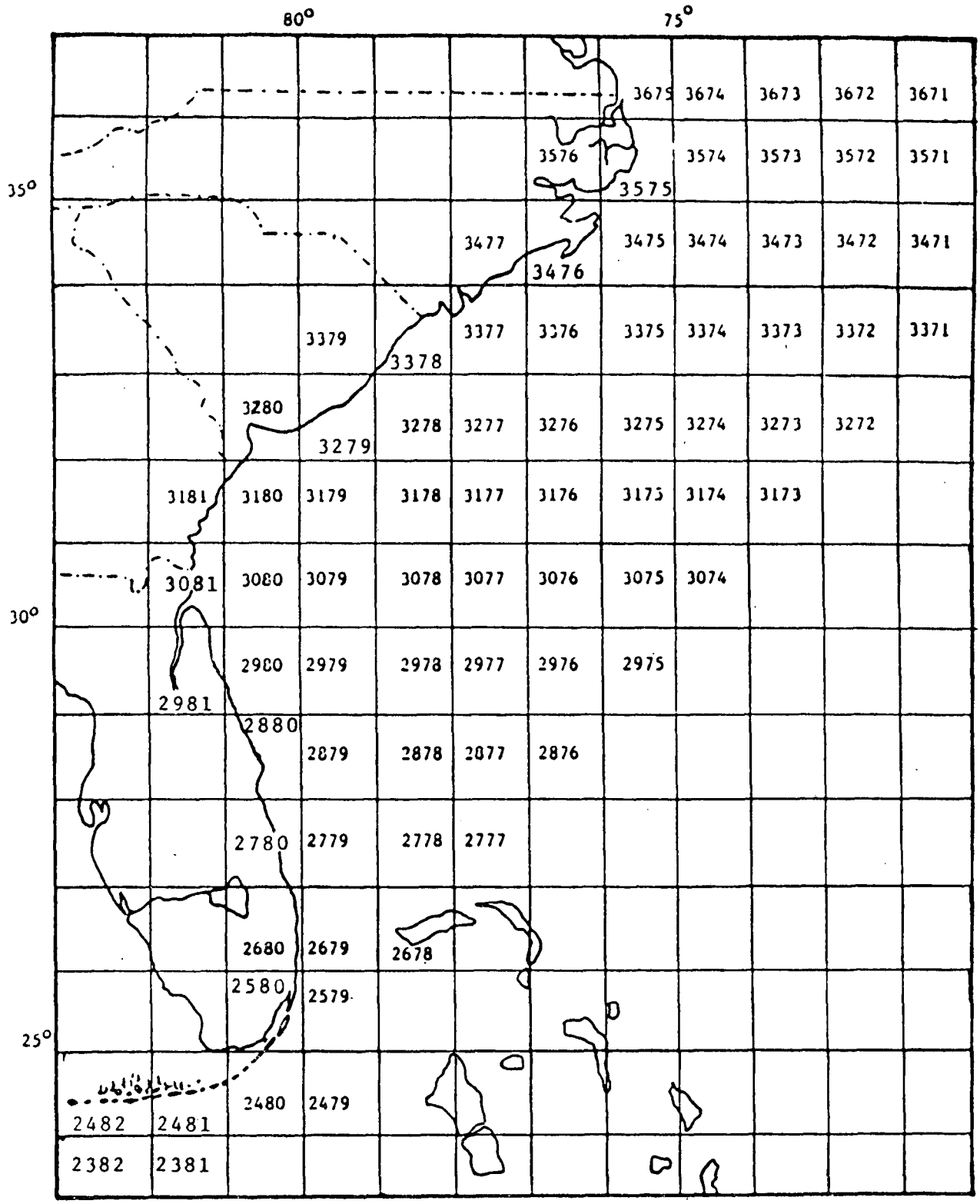

Figure 1. STATISTICAL AREAS FOR THE SOUTH ATLANTIC

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(b) *Additional data and inspection.* Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers.

(1) An owner or operator of a fishing vessel and a dealer or processor are required, upon request, to make fish in the snapper-grouper fishery, or parts thereof, available for inspection by the Science and Research Director or an authorized officer.

(2) The owner or operator of a vessel for which a permit has been issued under § 646.4(a), and that is not selected by the Science and Research Director to maintain a fishing record under paragraph (a) of this section, must, upon request, provide to an authorized statistical reporting agent the information specified in paragraphs (a)(1) through (6) of this section for a specific trip.

7. Newly redesignated § 646.6 is reviewed to read as follows:

§ 646.6 Vessel and identification.

(a) *Permitted vessels.* A vessel for which a permit has been issued under § 646.4 must display its official number—

(1) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 centimeters) in height for fishing vessels over 65 feet (19.8 meters) in length and at least 10 inches (25.4 centimeters) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Vessels fishing with fish traps.* The owner or operator of a fishing vessel from which a fish trap, other than a black sea bass trap, is deployed in the EEZ is required to obtain a vessel and gear identification number and color code from the Regional Director and to prominently display the number and color code. In addition, the number and color code must be displayed on traps and buoys.

(1) *Application.* (i) An application for a vessel and gear identification number and color code under this part must be signed by the owner or operator of the vessel and submitted on an appropriate form obtained from the Regional Director. A fisherman who has an existing number and color code from another fishery may indicate on the application his preference to use that same identification system for the fish trap fishery. Whenever possible, the Regional Director will reissue the requested number and color code adding only a single letter prefix to indicate that the vessel and gear are engaged in the fish trap fishery. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires receipt of the vessel and gear identification number and color code.

(ii) An applicant must provide the following information:

(A) Name, mailing address including ZIP code, and telephone number of the owner of the vessel;

(B) Name and official number of the vessel;

(C) Home port or principal port of landing, gross tonnage, and length of the vessel;

(D) Engine horsepower and year the vessel was built;

(E) Number, dimensions, and estimated cubic volume of the fish traps that will be fished;

(F) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(G) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(iii) Any change in the information specified in paragraph (b)(1)(ii) of this section must be submitted in writing to the Regional Director by the applicant within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(2) *Issuance.* The Regional Director will issue a color code, vessel and gear identification number, and fish trap tags imprinted with the vessel and gear identification number to the applicant not later than 30 days from the date of receipt of a completed application.

(3) *Display*—(i) *Vessels.* A vessel must permanently and conspicuously display its identification number and color code in a manner so as to be readily identifiable from the air and water.

(A) To be visible from the air, the identification number and color code must be permanently affixed to the uppermost structural portion of the vessel or other similar area. The color code must be in the form of a circle at least 20 inches (50.8 centimeters) in diameter, and the areas surrounding the circle must be of a contrasting color. The identification number must be at least 10 inches (25.4 centimeters) in height and must be affixed adjacent to the 20-inch (50.8-centimeter) diameter circle.

(B) To be visible from the water, the identification number and color code must be permanently affixed to both starboard and port sides of the vessel near amidships. The color code must be in the form of a circle at least 8 inches (20.3 centimeters) in diameter and the area surrounding the circle must be of a contrasting color. The identification number must be at least 4 inches (10.2 centimeters) in height and must be affixed adjacent to the 8-inch (20.3-centimeter) diameter circle.

(ii) *Fish traps.* Each fish trap must have affixed to it permanently the numbered identification tag supplied by the Regional Director.

(iii) *Buoys.* The use of buoys to identify fish traps is not required. However, if a buoy is used, the identification number and color code must be displayed on it so as to be easily distinguished, located, and identified. The identification number must be in legible figures at least 2 inches (5.1 centimeters) in height and affixed to each buoy.

(4) *Presumption of ownership.* A fish trap fished in the EEZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to a fish trap that is lost or sold if the owner of such trap reports the loss or sale within 15 days to the Regional Director.

(5) *Unmarked traps.* An umarked fish trap deployed in the EEZ, other than a black sea bass trap, is prohibited and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If an owner of the unmarked trap can be ascertained, such owner remains subject to appropriate civil penalties.

(c) *Duties of operator.* The operator of each fishing vessel specified in paragraphs (a) and (b) of this section must—

(1) Keep the official numbers, or identification numbers and color codes, clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel or structure, its rigging, fishing gear, or any other material aboard obstructs the view of the official numbers, or identification numbers and color codes, from an enforcement vessel or aircraft.

8. Newly redesignated § 646.7 is revised to read as follows:

§ 646.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify information specified in § 646.4(b)(2) on an application for a vessel permit.

(b) Fail to display a permit, as specified in § 646.4(f).

(c) Falsify or fail to provide information required to be submitted or reported, as required by § 646.5(a) and § 646.6(b)(1)(ii).

(d) Fail to make fish in the snapper-grouper fishery or parts thereof available for inspection, as required by § 646.5(b).

(e) Falsify or fail to display and maintain vessel and gear identification, as required by § 646.6 (a), (b)(3), and (c).

(f) Possess a fish in the snapper-grouper fishery smaller than the minimum size limits, as specified in § 646.21(a).

(g) Possess a fish in the snapper-grouper fishery without its head and fins intact, as specified in § 646.21(b).

(h) Operate a vessel with fish in the snapper-grouper fishery aboard that are smaller than the minimum size limits or do not have head and fins intact, as specified in § 646.21(c).

(i) Possess wreckfish in or from the EEZ in excess of the trip limit, as specified in § 646.21(d)(1).

(j) Transfer wreckfish at sea, as specified in § 646.21(d)(2).

(k) Harvest or possess a jewfish in or from the EEZ or fail to release a jewfish taken in the EEZ, as specified in § 646.21(e).

(l) Fish with poisons or explosives or possess on board a fishing vessel any dynamite or similar explosive substance, as specified in § 646.22(a).

(m) Use or possess in the EEZ a fish trap that does not conform to the requirements for degradable openings and mesh sizes specified in § 646.22(b) (1) and (2).

(n) Use a fish trap in the prohibited area south and west of Fowey Rocks Light, Florida, as specified in § 646.22(b)(3).

(o) Attach a buoy line to a trap south of Fowey Rocks Light, Florida, that is less than 125 feet (38 meters) in length, as specified in § 646.22(b)(4).

(p) Pull or tend a fish trap, except during the hours specified in § 646.22(b)(5); or tend, open, pull, or otherwise molest or have in possession another person's fish trap, except as specified in § 646.22(b)(6).

(q) Use trawl gear in a directed snapper-grouper fishery in the EEZ between Cape Hatteras, North Carolina and Cape Canaveral, Florida, as specified in § 646.22(c)(1).

(r) Transfer at sea any fish in the snapper-grouper fishery from a vessel with trawl gear aboard to another vessel, or receive at sea any such fish, as specified in § 646.22(c) (2) and (3).

(s) During the spawning-season closure or after a quota closure, harvest or possess wreckfish in or from the EEZ, or purchase, barter, trade, offer for sale, or sell wreckfish taken from the EEZ, as specified in § 646.23 and § 646.24(b).

(t) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.26 (b) and (c).

(u) Interfere with, obstruct, delay or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

9. Sections 646.20 and 646.21 are revised to read as follows:

(Note: paragraph (b) of § 646.21 is revised as an interim final rule):

§ 646.20 Fishing year.

The fishing year for wreckfish begins on April 16 and ends on April 15.

§ 646.21 Harvest limitations.

(a) *Minimum sizes.* The following minimum size limits apply for the possession of fish in the snapper-grouper fishery in, or taken from, the EEZ:

(1) Red snapper, yellowtail snapper, red grouper, and Nassau grouper—12 inches (30.5 centimeters) total length.

(2) Black sea bass south of Cape Hatteras, North Carolina—8 inches (20.3 centimeters) total length.

(b) *Head and fins intact.* A fish in the snapper-grouper fishery subject to a minimum size limit specified in paragraph (a) of this section, or a wreckfish, possessed in or taken from the EEZ must have its head and fins intact through landing. Such fish or wreckfish may be eviscerated but must otherwise be maintained in a whole condition.

(c) *Operator responsibility.* The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish in the snapper-grouper fishery possessed aboard that vessel comply with the minimum sizes specified in paragraph (a) of this section and are maintained with head and fins intact as specified in paragraph (b) of this section.

(d) *Wreckfish trip limit.* (1) No vessel on any trip may possess wreckfish in or from the EEZ in excess of 10,000 pounds (4,536 kilograms), whole or eviscerated.

(2) Wreckfish taken in the EEZ may not be transferred at sea; and wreckfish may not be transferred in the EEZ, regardless of where such wreckfish were taken.

(e) *Jewfish prohibition.* A jewfish may not be harvested or possessed in or from the EEZ. Jewfish taken in the EEZ incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

10. In § 646.22, the section heading, paragraph (a)(1), and paragraph (c)(1) are revised; in paragraph (b)(2) introductory text, the reference to "Figure 1" is revised to read "Figure 2"; in paragraph (b)(4), the phrase "(38 meters)" is added immediately after "125 feet"; Figure 1 is redesignated as Figure 2; and new paragraphs (b) (5) and (6) are added to read as follows:

§ 646.22 Gear restrictions.

(a) * * *

(1) Explosives (except explosives in powerheads) may not be used in the EEZ to fish for fish in the snapper-grouper fishery. A vessel in the snapper-grouper fishery may not possess on board any dynamite or similar explosive substance.

* * * * *

(b) * * *

(5) A fish trap in the EEZ in the Atlantic Ocean south of 28°24.5′ N. latitude (Cape Canaveral, Florida) may be pulled or tended only during the period from one hour before sunrise to one hour after sunset.

(6) A fish trap may be tended or pulled only by a person (other than an authorized officer) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner.

(c) * * *

(1) In the EEZ between Cape Hatteras, North Carolina (35°15′ N. latitude) and Cape Canaveral, Florida (28°35.1′ N. latitude—due east of the NASA Vehicle Assembly Building), the use of trawl gear in a directed snapper-grouper fishery is prohibited. A vessel with trawl gear and more than 200 pounds (90.7 kilograms) of fish in the snapper-grouper fishery, excluding wreckfish, aboard is considered to be in a directed snapper-grouper fishery. It is a rebuttable presumption that a vessel with more than 200 pounds (90.7 kilograms) of fish in the snapper-grouper fishery, excluding wreckfish, aboard harvested such fish in the EEZ.

* * * * *

11. Section 646.23 is redesignated as § 646.27, § 646.24 is redesignated as § 646.26, and new §§ 646.23, 646.24, and 646.25 are added to read as follows:

§ 646.23 Wreckfish spawning-season closure.

During the period January 15 through April 15, each year, fishing for wreckfish in the EEZ, landing wreckfish from the EEZ, or selling or attempting to sell

wreckfish in or from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to January 15 and were held in cold storage by a dealer or processor.

§ 646.24 Wreckfish quota and closure.

(a) Persons fishing for wreckfish are subject to a quota of 2 million pounds (907,194 kilograms), whole weight, each fishing year.

(b) When the quota is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the **Federal Register**. After the effective date of such notice, for the remainder of the fishing year, wreckfish may not be harvested or possessed in or from the EEZ and the purchase, barter, trade, offer for sale, and sale of wreckfish taken from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to the effective date of the notice in the **Federal Register** and were held in cold storage by a dealer or processor.

§ 646.25 Annual modification of wreckfish management measures.

(a) The Council will appoint an assessment group (Group) that will assess the condition of the wreckfish resource in the management unit on an annual basis. The Group will present a report of its assessment and recommendations to the Council.

(b) The Council will consider the report of the Group and hold at least one public hearing to discuss the Group's report at a time and place of the Council's choosing. The Council may convene the Advisory Panel and the Scientific and Statistical Committee to provide advice prior to taking final action. After receiving public input, the Council will make findings on the need for changes.

(c) If changes are needed in maximum sustainable yield (MSY), total allowable catch (TAC), quota, trip limit, fishing year, spawning-season closure, or criteria for permits, the Council will advise the Regional Director, Southeast Region, NMFS (Regional Director), in writing of its recommendations accompanied by the Group's report, relevant background material, draft regulations, and a summary of public comments. This report will be submitted each year by such date as agreed upon by the Council.

(d) The Regional Director will review the Council's recommendations, supporting rationale, public comments, and other relevant information. In the event the Regional Director rejects the recommendations, he will provide written reasons for the rejection to the Council and existing regulations will remain in effect until the issue is resolved.

(e) If the Regional Director initially concurs that the Council's recommendations are consistent with the goals and objectives of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), the national standards, and other applicable law, he will recommend that the Secretary publish notice in the **Federal Register** of the proposed changes with a minimum of 15 days for public comment. After review of the public comments and final determinations of consistency with the goals and objectives of the FMP, the national standards, and other applicable law, the approved changes will be published as a final rule.

(f) Appropriate adjustments that may be implemented by the Secretary via proposed and final rules under this procedure are:

(1) Initial specification of MSY and subsequent adjustment of the best estimate of MSY.

(2) Setting TAC for wreckfish, not exceeding 8 million pounds (3.629 million kilograms).

(3) Modifying the quota or trip limit.

(4) Modifying the fishing year and/or the spawning-season closure by not more than one month.

(5) Modifying the criteria for obtaining a permit.

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Proposed Rules

Federal Register
Vol. 56, No. 15
Wednesday, January 23, 1991

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.

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052-AB13

Loan Policies and Operations; Definitions; Lending Authorities, Appraisal Standards, Participations, and Lending Limits

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board, republishes for comment proposed amendments (reproposed regulations) to 12 CFR part 614 relating to lending limits, appraisals, and loan participations previously proposed on November 3, 1988, 53 FR 44438 (proposed regulations). The proposed amendments would have implemented the Agricultural Credit Act of 1987 (1987 Act) (Pub. L. 100-233) (which authorized the creation of new corporate entities) established appraisal standards for Farm Credit System (FCS) lending institutions, and established lending limits for new entities.

The effect of the reproposed regulations on lending limits would be to lower the existing and previously proposed lending limits to 20 percent of capital for all FCS direct lender institutions except banks for cooperatives (BCs), provide for exceptions to the lending limitation, provide rules for the attribution of loans to separate but related borrowers and address "single borrower" determinations. The effect of the reproposed regulations establishing appraisal standards would be to bring FCA appraisal standards more in line with appraisal standards adopted by other bank regulatory agencies under the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (FIRREA). The effect of the reproposed loan participation regulations would be to alter certain regulatory constraints on participation authorities contained in existing and proposed regulations, including the deletion of certain FCA prior approval requirements, and to adopt implementing regulations for the authority to purchase and sell interests in loans other than participation interests. The reproposed regulations address the sale of loans to a pooler certified by the Federal Agricultural Mortgage Corporation (Farmer Mac) and the sale of interests in loans to other institutional lenders that are not FCS institutions.

DATES: Written comments must be received on or before March 25, 1991.

ADDRESSES: Submit any comments in writing (in triplicate) to Anne E. Dewey, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.
or
Dennis K. Carpenter, Senior Credit Specialist, Regulation Development, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4498.

SUPPLEMENTARY INFORMATION:

I. General

On November 3, 1988, the FCA published a proposed rule (53 FR 44438) implementing changes resulting from the amendment of the Farm Credit Act of 1971 (1971 Act) by the 1987 Act relating to borrower eligibility and the lending authorities of FCS institutions. The 1987 Act authorized the creation of new corporate entities from mandatory and voluntary mergers and the transfer of long-term real estate lending authorities from Farm Credit Banks (FCBs) to certain associations and directed the FCA to reconcile the authorities of the resulting institutions. These changes required amendments to FCA regulations to reflect the structural changes and the lending authorities of new entities. Other provisions of parts 613, 614, 615, 618 and 619 were proposed to be amended to make conforming changes and to eliminate a number of FCA prior approvals, including provisions relating to lending limits, appraisals, and loan participations.

Many of the amendments proposed on November 3, 1988, were adopted as final regulations on June 19, 1990. Among the proposed amendments that were not adopted at that time were those related to lending limits, appraisals and loan participations. As a result of its consideration of comments received on those proposals and related issues, the FCA concluded that more substantive adjustments requiring additional comment should be proposed. Therefore, the FCA today reproposes amendments to its regulations relating to appraisal standards, sale and purchase of loans (including loan participations), and lending limits. Amendments proposed on November 3, 1988, ("proposed regulations") comments received on the proposed regulations, and the regulations reproposed today ("reproposed regulations") are described below.

II. Subpart F—Appraisal Standards

A. General

Existing regulations require primary real estate security to be valued on the basis of appraised value and primary chattel security or additional security to be valued on the basis of recovery value, but do not prescribe how or by whom such appraisals must be done. The proposed regulations would have required FCS banks and associations to develop a more structured and uniform collateral appraisal process that would conform to the uniform standards of the appraisal industry, be independent of the loan-making decision, and utilize three valuation approaches (cost, income, and comparable sales). The proposed regulations would have required each bank and association board to develop policies governing appraisal standards and standards for the qualification of staff and fee appraisers, but did not prescribe such standards in the regulations.

A number of comments were received on the proposed regulations, the majority of which related to the requirement that the appraisal process be independent of the loan-making process. An appraisal industry group expressed unqualified support for the independence of the appraisal process from the credit decision. Other respondents agreed in theory, but

specific concerns relating to efficiency of operations and the potential increase in costs to borrowers were expressed by all respondents but one.

BCs expressed opposition to the proposed application of the requirements to BCs, contending that their commercial bank competitors are not subject to such requirements and the additional cost would be a competitive disadvantage. Also BCs asserted that book value is more reliable than appraised value because of the limited availability of appraisers with the necessary expertise to evaluate the complex and sometimes unique operations financed by the BCs.

While the comments were under consideration, Congressional interest in accurate appraisals was elevated by extensive losses in the thrift industry, which Congress addressed in FIRREA. FIRREA prescribed appraisal standards and appraiser qualifications for all Federally related real estate loans and required bank regulatory agencies to prescribe regulations implementing these provisions. Although not subject to these requirements, the FCA supports the Congressional policy reflected in FIRREA, and now proposes to adopt, in lieu of the proposed regulations, amendments to subpart F of part 614 relating to appraisals. The reproposed amendments closely parallel in most respects the appraisal regulations adopted by other Federal financial institution regulatory agencies.

Although the appraisal is but one of several components of a sound credit judgment and should not alone dictate the credit decision, appraisals that accurately reflect the value of the collateral are essential to the safe and sound exercise of the lending authorities vested in FCS institutions. The soundness of loans and investments collateralized by real estate, personal, and intangible property depends in large degree upon the adequacy and accuracy of the analysis used in support of the appraisal. The amendments are reproposed to ensure that real estate, personal, and intangible property appraisals are performed in accordance with uniform standards by individuals with relevant training and experience whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. The amendments are reproposed in the interest of improving the quality of appraisals supporting the credit decisions of FCS institutions.

The reproposed amendments to subpart F would expand the requirements of existing regulations and the proposed regulations, in that they would prescribe minimum appraisal standards and standards for appraiser qualifications, but take into account the comments on the earlier proposal to the extent possible. The reproposed amendments, like the proposed regulation, would require the appraisal process to be independent of the credit decision, but would make some adjustments to the previous proposal in response to the practical concerns of some of the smaller associations. (See discussion below under "C. Appraiser Independence and Objectivity"). The reproposed regulations would not prescribe when collateral must be required. The institution's board would be required to adopt policies prescribing collateral requirements, consistent with statutory and regulatory requirements and prudent lending standards.

The requirements of the reproposed regulation would apply to all FCS direct lenders, including BCs, in any instance in which real estate, personal property, and/or intangibles are used as collateral for a loan, except that certain requirements would not apply when such collateral is taken solely out of an abundance of caution. "Abundance of caution" is intended to describe those circumstances in which the institution takes the collateral when collateral is not required by statute and a prudent lender would make the loan without requiring such types of collateral, after evaluating the application on each of the five credit factors relevant to a sound loan, as set forth in 12 CFR 614.4160. In order to qualify for the abundance of caution exceptions, the institution would be required to document in the loan file the approval of the application on the strength of the five credit factors without considering the collateral.

The FCA believes that BCs should be subject to the same requirements as other direct lenders. The FCA considers the accuracy of appraisals to be an essential component of prudent lending and vital to the institution's safety and soundness. Accurate appraisals are even more important for large, complex loans than for smaller loans. The FCA does not agree with the assertion that the availability of appraisers with relevant experience is so limited that book value would be a more reliable indicator of value than appraised value. The production credit associations (PCAs) and FCBs have historically provided credit, supported by collateral appraisals, to large, highly complex operations that have facilities and seasonal collateral similar to the types encountered in lending to cooperatives. Furthermore, contrary to the respondent's assertion, commercial banks that compete with BCs have been and will continue to be subject to similar appraisal requirements for the types of loans that BCs make. Consequently, the reproposed regulation should result in no competitive disadvantage to the BCs.

B. Appraisal Standards

The reproposed regulation would require that all appraisals used to support credit decisions of FCS institutions engaged in lending or leasing be performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Foundation and that any departures from the standards be in accordance with the departure provisions of USPAP. However, under the reproposed regulation the departure provisions could only be used for: (1) Appraisals for loans with transaction values of $50,000 or less; (2) for collateral taken out of an abundance of caution; or (3) for subsequent transactions resulting from a maturing extension of credit when no new funds are advanced, the borrower has performed satisfactorily, and there has been no deterioration in the borrower's credit standing or the property or market conditions that would threaten the institution's collateral position. The reproposed regulation would require the board of directors of each institution to adopt policies and standards governing appraisals of real, personal, and intangible property and qualifications of appraisers that are consistent with USPAP and the requirements of the regulation. Federal land bank associations (FLBAs) would be required to adopt appraisal policies in compliance with the policies of their respective Farm Credit Banks. Definitions used in the reproposed regulations are consistent with USPAP, which is becoming an industry standard as a result of FIRREA.

The reproposed regulation would set forth specifically the following basic requirements of USPAP that are applicable to appraisals of real, personal, and intangible property. All appraisals would be required to:

(1) Conform to the USPAP standards adopted by the Appraisal Foundation except where departure is allowed under the regulation and warranted under the departure provision of USPAP, which permits departure only if it is clearly and accurately set forth in the appraisal and would not result in confusing or misleading results.

(2) Disclose the steps taken to comply with the competency provision of the USPAP, which requires that an appraiser have the knowledge and experience necessary to complete an

assignment or disclose the lack of knowledge and experience and take steps to complete the appraisal in a competent manner;

(3) Value the subject property in its "as is" condition based upon "market value," as defined;

(4) Be written and presented in a format that satisfies the requirements of this subpart; be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale used to support the estimate; provide sufficient detail and depth of analysis to reflect the complexity of the property appraised; deduct and discount applicable adjustments to the subject property for conditions that would have a negative impact on the value of the property, including but not limited to condition of the facilities and property, specialization of the operation, and potential environmental impact concerns;

(5) Address the purpose for which the property will be used and the property's highest and best use if different from the intended use;

(6) Include in the certification required by the USPAP an additional statement that the appraisal assignment was not based on a requested minimum valuation or specific valuation or approval of a loan; and

(7) Contain sufficient supporting documents with all pertinent information reported so that the appraiser's logic, reasoning, judgment and analysis in arriving at a conclusion indicate to the reader the reasonableness of the market value reported. The reproposed regulation would require the legal description of the real property to be included in the appraisal in addition to, and not in lieu of, the description required in USPAP.

C. Appraiser Independence and Objectivity

The reproposed amendments would require all appraisals of property that serves as the collateral for a loan to be performed by a "qualified appraiser" who is not engaged in the marketing, lending, collections, or credit decision processes of the institution or an institution under common management, and who has no direct or indirect interest in the transaction of the property that is the subject of the appraisal (subject property). The independence restriction would apply to any officers and directors of an institution who participate in the marketing, lending, collection, or credit decision processes as well to other employees of the institution. The regulation would also not allow the appraisal to be performed by any employee involved in the credit decision process of a FCS institution to which an interest in the loan is to be sold. Reproposed subpart H of part 614 would prohibit an employee of a FCS institution from participating in the decision to purchase an interest in a loan for which the employee has performed an appraisal.

In response to some of the practical concerns of smaller associations that it would be difficult to find sufficient qualified appraisers if independence of the loan-making function were to be required, the reproposed regulation would allow an exception for transactions with values of $50,000 or less where the only qualified persons availble to perform an appraisal are involved in the marketing, lending, collections, or credit decision processes of the institution. In these circumstances the reproposed regulation would allow such individuals to perform the appraisal if the institution takes appropriate steps to ensure that the appraiser exercises independent judgment and that the appraisal is objective. Under the reproposed regulation, such steps must include, at a minimum, adopting procedures for ensuring that an individual does not perform appraisals in connection with transactions in which the appraiser is otherwise involved, professionally or personally, and prohibiting directors, officers, and employees from participating in any vote or approval involving assets on which they have performed an appraisal.

This exception is proposed because the FCA recognizes that in some smaller associations it may not be economically feasible to maintain a separate appraisal staff, and that a loan officer or other official of the institution maybe the best qualified individual to perform appraisals in some circumstances. However, because of the importance of an independent and objective appraisal to a sound credit decision, the exception is limited to smaller transaction values with less risk. Appraisals involving transaction values in excess of $50,000 would require strict adherence to the independence requirements. The FCA believes that adequate appraisal services are available to satisfy these requirements without significant economic or operational hardships if institutions avail themselves of the services of fee appraisers, regional appraisers, and staff appraisers from other FCS institutions (including bank staff appraisers). Although these requirements may increase costs to borrowers in the short term, the FCA believes that prudent lending requires that the inherent conflict that is present when appraisals are performed by individuals involved in the credit decisions be minimized or eliminated. However, it is not the intention of the FCA in proposing the independence requirement to remove the loan officer from the review of collateral, since farm visits and collateral inspections are considered an integral part of proper credit administration.

The reproposed regulation would also prohibit the performance of an appraisal by any individual having any direct or indirect interest in the property, financial or otherwise. The purpose of this requirement is to ensure that the objectivity of the appraiser is not compromised because of a personal interest in the transaction or the subject property. Owning all or part of the subject property is an obvious example of a direct financial interest. Owning property adjacent to the subject property or other property whose value is likely to be affected by the appraisal is an example of an indirect financial interest. The prohibition would also extend to nonpecuniary interests, such as a relationship with the applicant that would undermine the objectivity of the appraiser.

In addition to the reproposed regulations addressing appraiser independence in subpart F of part 614, the reproposed regulations also provide a definition for an "independent appraiser" as the term is used in subpart L of part 614 "Actions on Applications; Review of Credit Decisions." As described in § 614.4443–Review process an applicant for a loan, or a borrower who has applied for a restructuring, may, as part of the request for a review, request an independent appraisal, by an independent appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the lender held by the borrower).

For the purposes of subpart L, an "independent appraiser" would be defined as an appraiser who is a State-certified, State-licensed, designated, or an accredited appraiser, and who qualifies under the standards established by the FCS institution for the type of property to be appraised. Such an appraiser may not be a FCS institution employee or have a relationship with the institution or any of its officers or directors that contravenes the provisions of part 612, subpart B. In addition, § 614.4443 is proposed to be amended to further clarify requirements for use of an "independent appraiser" and the role of the independent appraiser for the purposes of subpart L of part 614. The proposed regulation would also require

appraisals completed pursuant to subpart L to be performed in compliance with the requirements of subpart F of part 614 relative to appraisal standards, appraiser independence and appraiser qualifications.

D. Appraiser Qualifications

The reproposed regulation would impose the following minimum qualification requirements:

(1) All appraisals would be required to be performed by a "qualified appraiser" who meets the independence requirements. A "qualified appraiser" is defined as one who is competent, reputable, impartial and has sufficient training and experience in appraising property of the type that is the subject of the appraisal to perform a competent appraisal.

(2) For transactions with "transaction values" of $50,000 or less, there would be no additional requirements.

(3) For transactions with "transaction values" of over $50,000 and up to and including $250,000, the appraisal would be required to be performed by a State-certified appraiser, a "designated appraiser" or a State-licensed appraiser.

(4) For transactions with "transaction values" of over $250,000 and less than $1,000,000, the appraisal would be required to be performed by a designated appraiser or a State-certified appraiser.

(5) For transactions with "transaction values" of $1,000,000 or more, the appraisal would be required to be performed by a State-certified appraiser.

(6) Regardless of the transaction value, where the property is not the primary security but is taken as collateral solely out of an abundance of caution and the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of the lien, the appraiser must only be qualified and meet the institution's standards and the independence requirement.

(7) For subsequent transactions resulting from a maturing extension of credit, regardless of transaction value, the appraiser must only be qualified and meet the independence requirement, provided: (1) The borrower has performed satisfactorily; (2) no new funds are advanced except as originally agreed; (3) the credit standing of the borrower has not deteriorated; and (4) there has been no material deterioration in market conditions of the physical aspects of the property that would threaten the institution's collateral position.

These requirements are summarized in Table 1:

TABLE 1.—APPRAISER QUALIFICATIONS AND INDEPENDENCE

Transaction levels	Qualifications (minimum) [1]	Independence required
All appraisals—real, personal, and intangible property.	Qualified	Yes.
Real property—$1,000,000 and over.	Qualified and state-certified.	Yes.
Real property—over $250,000 and less than $1,000,000.	Qualified and state-certified or designated [2].	Yes.
Real property—over $50,000 to $250,000.	Qualified and state-certified designated,[2] or state-licensed.	Yes.
Real property—$50,000 and less.	Qualified	Objectivity procedure.
Abundance of caution.	Qualified	Objectivity procedures.
Personal property and intangibles.	Qualified	Objectivity procedures.

[1] Minimum Qualification requirements would become effective January 1, 1992.
[2] "Designated appraiser" satisfies the "State-Certified" requirement only until January 1, 1994.

"Designated appraiser" would be defined as a qualified appraiser who has successfully completed at least the minimum educational and experience requirements to be State licensed and, in addition, 60 course hours of agricultural real estate appraisal training in specified subjects, which courses must be recognized by the State-licensing authority for licensing or accreditation. A "State-certified appraiser" would be defined as an individual who has been certified as having met the requirements for certification by any State or territory whose certification criteria meet or exceed the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. A "State-licensed appraiser" would be defined as any individual who has satisfied the requirements for licensing and has been licensed as a real estate appraiser by a State or territory in which the licensing procedures comply with the licensing criteria of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC). For loans, "transaction value" would be defined as the amount of the loan and/or any unfunded commitment; for leases, sales, purchases, and investments in or exchanges of real property, "transaction value" would be defined as the market value of the real property. Where loans are purchased or sold in a group, the transaction would be the individual credit transaction rather than the aggregate value of the sale transaction.

Exceptions to the requirements for State-licensed, designated or State-certified appraisers for transaction values of $50,000 or less are proposed in recognition of the lower degree of risk associated with smaller loans and in response to the concerns over cost and availability of appraisers. Such an exception is consistent with the position taken in recently adopted regulations on appraisal standards by the Federal Reserve Board, the Office of the Comptroller's (OCC), and the Federal Deposit Insurance Corporation's (FDIC) (55 FR 27762, July 5, 1990; 55 FR 34684, August 24, 1990; and 55 FR 33879, August 20, 1990 respectively). However, for transaction values of $50,000 or less, appraisers must be "qualified appraisers" and meet the institution's standards for appraiser qualifications.

Unlike the regulations of the other Federal bank regulatory agencies, the FCA's reproposed regulation would allow appraisals for transaction values of over $50,000 and up to and including $250,000 to be performed by a "designated appraiser." This term is not used in the regulations of other agencies and is proposed as a temporary relaxation of the requirement that appraisals for transactions with values of over $250,000 be performed by a State-certified appraiser, in recognition of the practical difficulty institutions may have in securing the services of State-certified appraisers during the implementation of FIRREA appraisal requirements and the adoption of State-certification programs. The "designated appraiser" option is proposed as an interim step and would cease to be effective January 1, 1994. At that time all real estate appraisals of $250,000 or more would be required to be performed by a State-certified appraiser.

It is anticipated that the requirement that all appraisers be both qualified and licensed or certified would result in certified appraisers and licensed appraisers that are competent to perform commercial appraisals and also possess sufficient unique agricultural appraisal experience as necessary to satisfy an institution's requirements for competent appraisers to meet the institution's appraisal needs.

Although these requirements may result in increased costs to the institution, the FCA believes that these costs will be offset by savings realized through better risk identification and control.

D. Valuation Methods

Existing regulations require real estate collateral to be valued on the basis of appraised value and personal property

to be valued on the basis of "recovery value." The proposed regulation would have required both real and personal property to be valued on the basis of market value. The reproposed regulation would also require real, personal, and intangible property to be valued on the basis of market value, but would impose standards and use definitions more consistent with uniform industry standards and terminology than existing regulations or than the previously proposed regulations.

(1) *Real Property*

For appraisals of real property, the previously proposed amendments would have required the appraiser to consider the cost, income, and comparable sales approaches to valuation and to explain in the appraisal why any of the three approaches not used were not completed. The reproposed regulation would require the appraiser to document two approaches—the income capitalization approach and either the cost approach or the comparable sales approach.

Respondents to the previous proposal objected to having to perform more than one approach because of the increased cost to the institution. Although the FCA recognizes that this requirement may result in some additional cost, this cost should be more than offset by the benefits of better identification of risk and control of potential losses. This requirement is contained in the standards of USPAP, which will become an industry standard as a result of FIRREA.

In responding to the previously proposed amendments, some associations expressed considerable support for the benchmark system (a form of sales comparison approach where the comparable is a single property rather than several properties and adjustments are made for the differences in the subject property from the comparable, or benchmark) based on their past experience. A benchmark system could be recognized as a form of the comparable sales approach, which is one of the three permitted approaches, provided the institution maintains a current market evaluation of the benchmark properties supplemented with sales data developed from ongoing sales comparisons.

(2) *Appraisal of Personal Property and Intangibles*

Existing regulations require the use of recovery value for personal property collateral. Recovery value is defined as the amount the lender should realize from a sale of the property on reasonable terms less estimated maintenance, selling costs, and prior liens and encumbrances, at the date of inspection or appraisal. While the recovery value may be a more accurate reflection of what will actually be realized on the collateral, the FCA has concluded there is merit in making the basis for valuation consistent for real, personal, and intangible property and consistent with industry standards. Therefore, the reproposed regulation would require personal property, as well as intangibles, to be valued on the basis of a market value. Under USPAP standards the "market value" of certain types of personal property, involving transportation costs or related expenses nromally associated with the marketing of such products includes consideration for such factors and costs as part of the "market value." While the reproposed regulations would discontinue the use of recovery value as the required basis for valuing personal property, the FCA believes that institutions still need to consider what can actually be recovered (as a net realizable value) in making their credit decisions.

The term personal property is intended to include movable chattels, except that collateral closely aligned with, an integral part of, and normally sold with real estate (fixtures) may be included in the value of the real estate. All other collateral associated with real estate but designated as personal property must be appraised as personal property. Such appraisals must describe the property, including its location, and must include a review and description of the legal documents supporting the property interests and marketability of the intangible property.

III. Subpart H—Purchase and Sale of Interests in Loans

Proposed changes to Subpart H—Participations where published for comment on November 3, 1988, largely to reflect structural changes made by the 1987 Act. Comments were received urging additional amendments not proposed for comment. As a result of these comments and the need to address issues related to the authority to purchase and sell interests in loans and the authority to pool and securitize loans under title VIII of the 1971 act, the FCA is reproposing amendments to subpart H that would result in a more extensive revision than previously proposed. The reproposed revision would address, in addition to loan participations, the purchase and sale of interests in loans other than participation interests and issues related to subordinated participation interests and cash reserves required under title VIII of the 1971 Act when loans are sold into the Farmer Mac program. These reproposed regulations take into consideration comments on the previously proposed regulations by the former Farm Credit Corporation of America (FCCA) as well as two Farm Credit Banks, a bank for cooperatives and an individual.

The reproposed regulations address sales and purchases of interests in loans generally and treat loan participations as a subcategory of interests in loans. It is necessary to make a distinction because the authority to sell and purchase interests in loans is granted separately from the authority to enter into loan participations and is more restricted. The authority to purchase and sell interests in loans is also granted separately and predates the authority to pool and securitize loans and sell loans to a pooler certified by Farmer Mac, which was granted by the 1987 Act.

A. Authorities

While the 1971 Act authorizes all direct lender FCS institutions to sell loan participations to, and purchase loan participations from lending institutions that are not FCS institutions, it only authorizes FCBs and direct lender associations to purchase interests in loans other than participation interests from institutions that are not FCS institutions and only for the purpose of conducting a pooling operation under title VIII of the 1971 Act. BCs are not authorized to purchase or sell interests in loans other than participation interests from non-FCS institutions. While the 1971 Act authorizes all FCS direct lenders except BCs to sell loans to poolers certified by Farmer Mac that are not FCS institutions, only the FCB has statutory authority to sell interests in loans to lending institutions that are neither FCS institutions nor poolers certified by Farmer Mac. The statutory authority of production credit associations to purchase and sell interests in loans other than participation interests is restricted to engaging in such transactions with banks of the FCS when authorized by their respective funding banks. However, the 1971 Act directs the FCA to reconcile authorities between the FCB and transferee associations (namely Federal land credit associations (FLCAs) and agricultural credit associations (ACAs)).

The reproposed regulation would amend part 614, subpart A of existing regulations to set forth the authorities of FCS institutions to sell and purchase interests in loans other than participation interests and would reconcile authorities between the FCB

and an association to which it transfers direct long-term lending authority under § 7.6 of the 1971 Act. The FCA proposes to reconcile these authorities in the following manner:

Transferee FLCAs and ACAs would receive loan-related authorities such as participation authority and authority to sell interests in long-term real estate loans to lending institutions other than FCS institutions and Farmer Mac poolers. However, a transfer of loan-related authorities would be not deemed to deplete the FCBs loan-related authorities. Even where FCBs have transferred all direct lending authority to associations, the FCB continues to have residual authority to make loans in areas where there is no active association and needs to retain its loan-related authorities. Furthermore, it is necessary to reconcile the participation authorities in this way to give full effect to the purpose for which the powers were granted, to allow broad participation among FCS institutions and non-FCS lenders so that the credit needs of farmers might be adequately met. Also, allowing associations receiving long-term lending authority to exercise the same loan-related authorities the FCB has with respect to the loans it is authorized to make is needed to accomplish a full and complete transfer of lending authority. Under the proposed reconciliation the authority received by the transferee association to sell interests in loans other than participation interests to institutions other than FCS institutions and Farmer Mac poolers would relate only to long-term real estate loans and could not be used to sell interests in short-term loans.

B. Definitions

The reproposed regulation would amend the definition of "loan participation" in part 619 of the existing regulations to distinguish it from other interests in loans that may be bought or sold. The reproposed definition would clarify that a loan participation is a fractional undivided interest, which necessarily must be less than 100 percent, in the principal amount of the loan. "Interests in loans" would be defined more broadly as ownership interests in the principal amount, interest payments, or any other aspect of a loan transaction, including servicing rights. The reproposed regulation would permit transactions in which interest and other revenues are shared differently from the principal amount to qualify as a participation interest, as long as the interest in the principal is an undivided interest. However, in order to qualify for exclusion from lending limits and capital requirements, sales of interests in loans, including participation interests, would be required to be structured within more narrow parameters, as discussed more fully below under "D. *Exclusion from lending limits and capital requirements.*" Loan participations, as a subcategory of interests in loans, would be subject to the provisions in reproposed § 614.4325 relating to sales and purchases of interests in loans generally and the more specific requirements of reproposed § 614.4330.

The reproposed regulations would define the term "loan" broadly for the purposes of subpart H, to include all direct or indirect extensions of credit and similar financial assistance, such as leases and off-balance sheet items such as guarantees and standby letters of credit. The definition would include subordinated participation interests and interests in pools of subordinated interests, as well as any contributions to a cash reserve made for the purpose of satisfying the requirements of title VIII of the 1971 Act when a loan is sold to a Farmer Mac-certified pooler.

The reproposed regulation also includes a definition for the term "subordinated participation interest," as that term is used in title VIII of the 1971 Act. The subordinated participation interest is not a participation interest as defined in the reproposed regulation, inasmuch as it bears the first risk of loss and is hence not an undivided interest in the principal. Consequently, it would not be subject to the requirements of § 614.4330 of the reproposed regulation, but, like other interests in loans, would be subject to the requirements of § 614.4325. The term "subordinated participation interest" would include an interest in a pool of subordinated interests that includes the subordinated portion of a loan the institution has sold to a Farmer Mac-certified pooler or into other similarly structured programs. The effect of this inclusion is to authorize FCs institutions to purchase such interests and to require them to be characterized as loans rather than investments. The authority to purchase such interests is limited, however, to those necessary to permit the institution to pool and securitize loans through the Farmer Mac program.

Additionally, the reproposed regulations would define "sales with recourse," for the purpose of determining when interests in loans sold may be excluded for lending limit and capital purposes. This definition does not control the accounting issue of whether a transaction must be recorded as a sale or a financing. For all other regulatory purposes, however, "recourse" would be defined to include the retention of any risk of loss on any portion of the loans sold or an obligation to make principal or interest payments to any party as a result of the borrower's default, a change in market value, any contractual arrangement that by its terms could continue after final payment, default or other termination of the loan contract, or any other cause (except breach of usual and customary representations and warranties designed to prevent misrepresentation and fraud).

C. Independent Credit Judgment

Both existing regulations and previously proposed regulations require an independent credit judgment on each purchased interest by the purchasing institution. Among the comments on the previously proposed amendments to the regulation were assertions by certain respondents that such a requirement is unnecessary. The FCCA contended that FCS institutions should be permitted to purchase an interest in a pool of loans, for which the only loan analysis is performed by the institution originating the loans in the pool.

Like existing and previously proposed regulations, the reproposed regulation reflects the judgment of the FCA that the purchase of participations or other interests in loans without adequate independent analysis to make an independent, objective, and informed decision by the purchasing institution on the borrower's creditworthiness and the quality of the asset is an unsafe and unsound practice. In addition to the credit risk assumed in the purchase of an interest in a loan, an institution that purchases an interest in a loan without also purchasing the servicing rights incurs considerable risk in the necessary reliance on the lead lender to discharge its responsibilities under the agreement, particularly servicing. The purchasing institution is required to have sufficient capital to absorb these risks, which capital is exposed to any risk associated with the purchased interest. Fraudulent activity, ineffective servicing, or the insolvency of the lead lender can result in loss to the participant adversely affecting its capital position. Because of this exposure, the reproposed regulation would require that the analysis consider the financial stability and the servicing capacity of the lead lender.

Therefore, the reproposed regulation would require that the participating institution perform an independent credit analysis and judgment with respect to each interest purchased, to provide reasonable assurance that

assets are purchased and recorded at their proper value and that imprudent risks are not accepted. The reproposed regulation would also make explicit the implicit requirements of existing regulations that the credit judgment and analysis be independent of the originating or lead lender and any intermediary seller or broker and that the analysis and judgment be performed by employees of the participating institution, who are accountable to the participating institution's board of directors. In addition, the reproposed regulation would prohibit an employee from participating in the decision to purchase a loan for which the employee had performed the appraisal.

The reproposed regulation would require the independent credit judgment to be made prior to the purchase of the interest and prior to each servicing action that changes the terms of the original agreement with the borrower or the terms of the contract under which the asset was purchased. The reproposed regulation would require that the independent credit judgment be supported by a similarly independent credit analysis that considers such credit and other borrower information as would be required by a prudent lender and evaluates the capacity and financial condition of the servicing institution.

The requirement for an independent analysis does not mean that the participating institution could not consider the analysis performed by the originating or lead lender or that it must gather information independently, if the information provided by the originating or selling institution meets the prudent lender standard. Nor is it necessary for the analysis to be lengthy or even totally separate in its documentation. However, the purchasing institution's records must document that an objective, independent, and thorough analysis was done prior to the making of a loan decision, and the credit judgment must be more than a mere rubber stamp of the analysis and judgment of the originating or selling institution. The reproposed regulation contemplates that FCS institutions would ensure through their participation agreements that the originating or selling institution is obligated to provide them, in a timely manner and on a continuing basis, all financial and other information critical to assessing and monitoring risk in the purchased asset.

Although the reproposed regulation would permit the board to delegate to institution employees the functional responsibilities necessary to discharge its fiduciary responsibility, the fiduciary responsibility itself cannot be delegated, and the board must exercise appropriate oversight of the performance of delegated responsibilities. Also, while the practice of employing an agent to perform certain administrative and operational functions involved in the credit analysis would continue to be permissible under the reproposed regulations, such relationships must be structured to preserve the institution's responsibility to conduct an independent analysis and to reach an independent, objective credit decision. Where a funding bank is the agent, this would require that the association have the ability to disagree with the bank's analysis and cancel that contract without fear of repercussion.

The FCA believes that these requirements are necessary to the effective discharge of the board's fiduciary responsibility to the institution's stockholders to ensure that adequate internal controls are in place to safeguard its assets. Although a properly written participation agreement can result in the imposition on the lead lender of fiduciary duties owed to the participant, judicial interpretations have not been sufficiently consistent to allay safety and soundness concerns. In any case, even if such duties are found to exist, when the lead lender is bankrupt, there may be insufficient assets to satisfy any judgments the participant may be successful in obtaining for breach of such duties. Therefore, even if the lead lender owes a fiduciary duty of the participants, the FCA believes that there should be an independent judgment made by persons who are accountable to the institution's shareholders.

D. Exclusion From Lending Limits and Capital Requirements

The reproposed regulation would require that interests in loans sold have the following three characteristics in order to be excluded from the institution's assets for the purpose of determining whether lending limits have been exceeded and capital requirements have been met: (1) If less than a 100 percent interest in principal is sold, the interest must be an undivided interest in the principal amount of the loan; (2) risk, including collection costs and collateral proceeds, must be shared on a pro rata basis (as defined); and (3) the sale must be without recourse.

(1) Undivided interest

Neither existing nor previously proposed regulations, both of which only address loan participations, permit an institution to purchase or sell a divided interest in a loan. A loan participation is by definition an undivided interest in a loan (See 12 CFR 619.9195). However, existing regulations permit collateral to be shared on a divided basis with FCA approval. That is, instead of the participant owning a fractional interest in all of the collateral upon foreclosure, which is the normal consequence of owning an undivided interest in the loan, the agreement may provide for the division of collateral, so that the lead lender might have a 100 percent ownership interest in a particular part of the collateral and the participating institution a 100 percent ownership interest in another part of the collateral.

Although the reproposed regulation would continue to define "loan participation" as a fractional undivided interest in a loan, the reproposed regulation would allow institutions to purchase interests in loans other than participation interests that are divided interests (except BCs, which have only participation authority) without FCA approval, provided the requirement for an independent credit judgment is met. The reproposed regulation would also permit institutions to divide collateral without FCA approval. However, such interests would not be excluded from the selling institution's lending limits or capital computations. Similarly, under the reproposed regulation, all FCS institutions (including BCs) could purchase a participation interest (i.e., an undivided interest in the principal amount of the loan) but agree to take a divided interest in the collateral. However, in order to exclude such participations sold from lending limits and capital computations, it would be necessary under the reproposed regulation for the selling institution to have disposed of all risk associated with the portion sold. Therefore, the reproposed regulation would not allow sales in which the interest in the principal or the collateral is divided interest, to be excluded from the lending limits and capital requirements. Requiring an undivided interest in the loan *and* the collateral ensures that the portion of the loan that is retained does not retain a disproportionate share of the risk.

The reproposed regulations do not address loan syndications, whereby a borrower has a direct contractual relationship with more than one lender but the loan negotiations with the borrower are coordinated under the auspices of a lead bank(s). Such loans can be made through the exercise of the institution's direct lending authority provided the institution's underwriting standards and other statutory and regulatory requirements, including

eligibility requirements, are met. Loans provided under this type of arrangement would not be subject to the requirements of the reproposed regulations unless they constitute the purchase of a divided interest in a loan. However, since such loans are an exercise of the institution's direct lending authority, an independent credit judgment is required just as it is for other direct loans.

(2) *Pro Rata Risk Sharing*

The second requirement for exclusion from lending limits and capital computations under the reproposed regulations is that risk of loss, including collection expenses and collateral proceeds, be shared on a pro rata basis according to the percentage of the principal owned by the parties. Existing regulations permit risk to be shared on a basis other than pro rata only where approved by the FCA. The proposed regulation would have deleted this exception to the pro rata risk sharing requirement. The reproposed regulation would allow institutions to share risk on a basis other than pro rata without FCA approval but would require pro rata risk sharing for exclusion of the portion of the loan sold from lending limits and capital computations.

Like the proposed regulation, the reproposed regulation would allow agreements providing for other than pro rata sharing of payments prior to the time of default or comparable event to qualify as pro rata risk sharing agreements, provided the agreement requires repayments and collections to be shared pro rata at the time of default by the borrower under the loan agreement or other comparable event, as defined in the participation agreement. This position, which allows a last-in-first-out distribution of payments and advances prior to default, closely parallels that reflected in regulations of the OCC, 12 CFR 32.107, and will make it easier for FCS institutions to participate with national banks and other commercial banks. However, the FCA would require that this arrangement be clearly specified in the agreement.

In order to protect its interests, the participant should seek to ensure that default or the comparable event is defined in the agreement in such a manner that the pro rata requirement attaches when credit risk in the loan has become evident and events have transpired that indicate that some potential for loss exists. Should the reproposed regulation be adopted, institutions that are party to participation agreements should have information systems in place to identify any interests in loans sold subject to agreements that share risk on any basis other than a pro rata, as defined in § 614.4325(g)(3), including their amount and the nature of the conditions that would move them to a pro rata basis.

(3) *Recourse*

The third requirement for exclusion from the lending limits and capital computations under the reproposed regulation is that the interest be sold without recourse. Recourse is defined as the retention of some risk of loss from a transferred asset for any cause except breach of usual and customary warranties or representations designed to protect the purchaser against fraud or misrepresentation, or any obligation to make payments of principal or interest to any party resulting from: (a) Default by the borrower; (b) changes in the market value of the asset; (c) any contractual relationship between the seller and purchaser incident to the transfer that, by its terms, continue even after final payment, default, or other termination of the assets transferred; or (d) any other cause.

Interests in loans sold subject to agreements that share risk on other than a pro rata basis, as defined in § 614.4325(g)(3), would be considered to be loans sold with recourse and would not be afforded favorable capital and lending limit treatment. For this reason, retained subordinated participation interests and loans for which a contribution to a cash reserve is made in order to satisfy the requirements of title VIII of the 1971 Act for a loan sold into the Farmer Mac program would not be excluded from lending limits and capital computations.

An interest in a pool of subordinated participation interests would not be excluded from capital computations, but would be excluded from lending limit computations, provided the institution shares risk in the pool on a pro rata basis with all other holders of interests in the pool. Interests in pools of subordinated interests are excluded from lending limit computations because the risk of lending to a single borrower that is present when the subordinated interest is retained is exchanged for a more diversified risk. They are not excluded from capital computations because the credit risk, although diversified, is still present and the interest is still in a first loss position. Although the institution may be less likely to lose the entire amount of the interest than if it had retained the subordinated interest in the loan it originated, it is more likely to sustain some loss on the interest and has increased the risk that loss will occur because of the negligent underwriting or servicing of other parties over which it has no control.

E. Removal of FCA Prior Approvals

The proposed regulations would have deleted requirements of existing regulations for FCA prior approval for district policies governing the making of participation loans within a district, the sharing of risk on other than a pro rata basis, the making of any loans subject to prior approval, the use if differential rates by originating institutions, and the requirement for FCA prior approval of participation agreements between regional banks for cooperatives and the Central Bank for Cooperatives (a constituent entity of the National Bank for Cooperatives). The reproposed regulations would also delete these prior approval requirements.

F. Purchase of Participation Interests From Non-Farm Credit System Lenders

The reproposed regulations would ease the restrictions under which FCBs, agricultural credit banks (ACBs), PCAs, FLCAs, and ACAs may purchase participation interests from lenders that are not FCS institutions. For all banks and associations except BCs, existing regulations restrict participations purchased from institutions that are not FCS institutions to those in which the selling institution retains 50 percent of the loan or retains 10 percent and does not materially reduce its ratio of agricultural loans to total loans from the ratio maintained during the preceding 3 years, or retains the maximum amount permitted by its regulatory authority. The restriction was imposed when the authority to participate with non-FCS lenders was first granted, to ensure that FCS institutions did not become merely warehouses of participation interests and neglect their statutory mission.

The FCA has received comments from FCS institutions suggesting that this restriction is a serious obstacle to participation with commercial banks. Commenters have also noted that these conditions are difficult to enforce and that the participant often has difficulty determining whether the originating lender is in compliance with these conditions.

The FCA continues to believe that some limitation in this area is needed, but for a purpose related to safety and soundness. Such a requirement, if tied to servicing rights, can help to contain the risk attendant to relying on another institution to service the loan. The FCA believes that if the servicing institution has a vested interest in the loan, servicing is likely to be more prompt and

effective. However, the FCA believes that a 50 percent retention requirement is not needed to achieve the safety and soundness purpose and believes that the warehousing concern can be addressed by requiring the institution itself to set appropriate limits on purchased participations in its board policies.

Therefore, the reproposed regulation would lower the retention amount to 10 percent and extend the requirement to BCs, but would require that the retained interest be tied to the servicing rights. That is, the reproposed regulations would limit the purchase of participation interests from non-FCS lenders to those in which at least a 10 percent participation interest in the principal amount of the loan is retained by the institution servicing the loan, which interest could not be assignable separately from the servicing rights. Such a requirement is necessary to ensure that the purpose of the requirement could not be defeated by the sale of the servicing rights. In cases where the servicing lender has a lending limit of less than 10 percent, the reproposed regulation would require only that the servicing lender retain the amount permitted by its lending limit. The requirement would apply across the board without considering whether the lender is decreasing its ratio of agricultural loans to other loans, as existing regulations do, but would not apply at all if the FCS institution acquires the servicing rights with the interest. This requirement would also not apply to participations between FCS institutions because the loan servicing by FCS institutions is subject to FCA regulatory oversight.

To ensure that these requirements can be enforced, the FCS institution would need to ensure that appropriate provisions are included in the participation agreement restricting the assignability of the retained amount separately from the servicing rights. Failure to do so would be deemed by the FCA to be a violation of the requirement of the proposed regulation for the institution to include in the agreement any provisions necessary to protect its interests.

G. Institution Policies

The reproposed regulations would make some adjustments in the requirements for policies in existing and previously proposed regulations. The proposed regulations would have substituted a requirement for individual institution participation policies for the requirement of existing regulations that institutions comply with district and bank policies. As noted above, the proposed regulation would also have deleted the requirement for FCA prior approval. The reproposed regulations would make a similar substitution, delete the prior approval requirement, and require the policy to address all interests in loans, including loan participations.

In addition to matters required to be addressed in the policy by existing regulations, the reproposed regulation would incorporate certain factors formerly considered by the FCA in its evaluation of district policies prior to giving its approval. Also, certain additions to the policy would be required by the reproposed regulation to ensure that the authority to purchase and sell interests in loans are prudently exercised. Both existing and previously proposed regulations require district policies to contain a limit on the aggregate amount of loan participations that an institution could purchase. Under existing regulations these limits are subject to the FCA prior approval of participation policies. The reproposed regulation would remove the existing FCA prior approval for loan participation policies and would provide more flexibility to institutions in establishing institution limits for loan participations purchased. However, the reproposed regulations would require that institution policies specify limits on the aggregate amount of interests in loans that may be purchased, including participation interests, sufficient to ensure that the primary mission of the institution to provide credit directly to agriculture is not compromised. In addition, the reproposed regulation would require each institution to set limits on the aggregate amount of purchased interests in loans, including participation interests, that it does not service, so that the risks from the lead lender's fraud, insolvency or ineffective servicing is sufficiently diversified.

The board of each institution should ensure that risks inherent in purchasing or selling interests in loans are considered in the policy limits it establishes, and should monitor these exposures periodically to ensure such exposures are appropriate in view of potential risks. The reproposed regulation would require each FCS bank and association board of directors to ensure the institution stays within the limits established in its policy.

The reproposed regulations incorporate a requirement that participation policies address the need to obtain financial and other borrower information on a timely and ongoing basis. Adequate and timely information is essential in order to make a sound credit judgment in the purchase of a loan, as well as to monitor any change in risks in that loan, and boards should ensure that policies require information sufficient to accomplish these objectives.

Other subjects not included in existing regulations that the reproposed regulations would require are: (1) Types of interests in loans which may be purchased or sold; (2) types of loans in which an institution may purchase or sell interests; (3) the types of institutions with which an institution may agree to purchase or sell interests in loans; and (4) underwriting standards.

H. Purchase and Sale Agreements

Existing and proposed regulations set forth certain requirements that must be met in any loan participation agreement executed by a FCS institution. The reproposed regulations set forth general requirements for agreements under which interests in loans are sold or purchased as well as more specific additional requirements for agreements governing the sale or purchase of loan participations.

Section 614.4325 of the reproposed regulations sets forth requirements for agreements governing the purchase or sale of any interest in a loan, including participation interests. These requirements include: (1) Identification of the loan or loans covered by the contract; (2) description of the nature of the interest in loans being purchased or sold; (3) provisions requiring the transfer of credit and other borrower information on a timely and continuous basis; (4) the terms and conditions of the sale and rights and obligations of the parties; (5) provisions for sharing, dividing, or assigning of collateral; and (6) any other terms needed for the appropriate administration of the loan or the protection of the interests of the FCS institution.

The reproposed regulation would require loan participation agreements to meet additional requirements, which reflect some slight adjustments to the requirements contained in both existing and proposed regulations governing loan participations. For example, the reproposed regulations would require that the participation agreement provide for the monitoring of the servicer. The participation agreement should establish the authority of the participating institution to review the loan files and records of the servicing institution to ensure that timely and pertinent information is being provided and that the responsibilities of the servicing institution are being adequately discharged.

More rigorous requirements are placed on participation agreements, because the originating institution normally has maintained responsibility for servicing the loan and properly written agreements can serve to contain the risks arising from insolvency or fraudulent activity of the servicer or negligent or ineffective servicing. The reproposed regulations would also require that the agreement provide for the issuance of a participation certificate evidencing an equitable interest in the loan, as a safeguard against losses that can be incurred if the servicing institution becomes insolvent.

The reproposed regulations would delete certain requirements of existing regulations for loan participation agreements, such as the provision for capitalization of the participation interest. Although the agreement may include an agreement for the participant to purchase stock in the lead lender, the FCA believes that this no longer need be required by regulation. Each institution is responsible for meeting its minimum permanent capital standards and maintaining in addition a level of capital adequate to reflect the risk in its particular assets. However, the reproposed regulation would permit institutions to provide for adequate capitalization in whatever way it deems appropriate. For the purpose of determining whether capital standards are met, interests in loans purchased, as well as subordinated participation interests or any equivalent thereof used to satisfy the requirements of title VIII of the 1971 Act, must be considered as loan assets.

I. Borrower Rights

The reproposed regulations would address the impact of the sale of an interest in a loan on the borrower's rights under title IV of the 1971 Act and would require that impact to be clearly disclosed to the borrower. An institution selling an interest in a loan would be required to either obtain from the borrower a waiver of his or her statutory rights, or ensure that the borrower's statutory rights will not be defeated by the sale by incorporating the rights in the loan contract, to ensure that such rights would continue to be afforded by the purchaser. Under the reproposed regulation, the waiver would take effect at the time the loan is sold and would remain in effect only so long as the loan is not reflected on a FCS institution's books. If the originating institution or another FCS direct lender should repurchase the loan, the statutory borrower rights would reattach under the reproposed regulation.

Prior to obtaining a waiver of borrower rights for any loan sales, the reproposed regulation would require institutions to make the disclosures required when a waiver is obtained for the purpose of selling a loan to a Farmer Mac pooler by 12 CFR 614.4367(b).

J. Borrower Stock

The reproposed regulations reflect the statutory requirement that a borrower, as a condition of obtaining a loan by or through a Farm Credit bank or association, purchase an amount of stock not less than the lower of $1,000 or 2 percent of the loan amount. In addition, the 1971 Act contemplates the individual institutions may need to require a higher minimum stock purchase requirement to capitalize the institution adequately. The reproposed regulations would require a FCS institution to impose the institution's minimum stock purchase requirement upon all borrowers, whether or not the loan is made for the purpose of sale. However, the FCA does not believe that the borrower should be required to hold stock in the institution when the entire loan is sold without recourse and the institution does not retain a subordinated participation interest, take an interest in a pool of subordinated interests, or make a contribution to a cash reserve to satisfy the requirements of title VIII of the 1971 Act. However, where a subordinated participation interest is retained or an interest in a pool of subordinated participation interests is purchased or a contribution to a cash reserve is made to satisfy the requirements of title VIII of the 1971 Act, the reproposed regulation would not allow the retirement of stock below the institution's minimum stock purchase requirement for the entire loan.

The FCA believes that so long as the institution retains the first loss position on a loan in any form, the borrower should be required to hold stock in the institution the same as any other borrower and that the requirement should be calculated on the basis of the entire loan amount. To allow stock retirement for such loans would be inequitable to stockholders whose loans are not sold, because they would bear a disproportionate share of the burden of capitalizing the institution, a situation which would conflict with cooperative principles. For this reason, the reproposed regulation would also require the borrower to repurchase stock or participation certificates equal to the institution's minimum stock purchase requirement if the institution were to repurchase the loan. However, if the institution sells a fractional interest in the principal amount of a loan that qualifies for exclusion from capital computations under the reproposed regulation, the institution could under the reproposed regulation retire a proportionate share of the borrower stock, provided that after the retirement minimum permanent capital standards would continue to be met and the institution's capital would continue to be adequate in light of the risk in its portfolio. The reproposed regulation would not require stock to be retired in such circumstances, however, and the FCA encourage institutions to evaluate future as well as present capital needs carefully before deciding to make such retirements.

Institutions should be careful that any disclosures made to borrowers about the possibility of stock retirements if the loan is sold also include disclosure that stock cannot be retired if minimum permanent capital standards are not met or if the institution's capital is not adequate to support the risk in its loan portfolio.

K. Disclosure to Borrowers

The reproposed regulation would add a requirement that certain disclosures be made to a borrower at least 10 days prior to the borrower's next payment date when his or her loan is sold. These disclosures include the name, address and telephone number of the purchasing institution, the name and address of the party to whom payment is to be made; the effect of the sale upon the borrower's exercise of statutory borrower rights; the impact of the sale on the borrower's stock purchase requirement; and any authority under the borrower's contract that would allow the purchaser to change the terms of the borrower's loan. The reproposed regulation would also prohibit any servicing action by the purchasing institution that would adversely affect the borrower until the purchasing institution ensures that disclosure has been made to the borrower of the name, address and telephone number of the purchasing institution and the address where the borrower's payment should be sent. These provisions address concerns over damage to borrowers caused by the transfer of the servicing rights which prompted a recent General Accounting Office (GAO) study on the transfer of servicing rights.

L. Loan Participations Originated by Banks for Cooperatives

Existing regulations require district BCs to first offer participations to the Central Bank for Cooperatives (CBC), one of the constituent entities of the National Bank for Cooperatives

(CoBank), and set forth a Systemwide lending limit for borrowers of the BCs. Existing regulations also require the prior approval of the FCA of the participation agreement between the CBC and district BCs and any modifications of that agreement.

The proposed regulations did not allow BCs to offer participations to FCBs that operated in the same district. These proposed restrictions were prompted by the FCA's concern that when institutions have common management or operations so interlocked that the viability of one institution is severely affected by the viability of the other, the independence of the loan decision process may be compromised. This concern is heightened when loans are of such substantial size that a BC would need to offer a participation, as the impact on earnings and assets resulting from the participation decision can be substantial.

The FCA received two sets of comments on the proposed amendments to § 614.4334. The FCCA and a BC noted that the proposed regulations seemed to envision only the origination of participation loans by the district BCs rather than the origination of such loans by the CoBank and participation by the district BCs. In addition, the FCCA asserted that there should be no limitation on the other FCS institutions with which a BC could enter into a participation relationship, and that associations should be identified as participants for loans originated by BCs. A FCB opined that a BC within the district should be authorized to participate a loan to the FCB within the same district, stating that setting a lending limit for the System would be preferable to a restriction on participation within a district as a method of containing risk.

After considering the comments and reflecting on alternative means of containing risk, the FCA has concluded that there are ways of containing the concentration of risk that are less restrictive than prescribing the parties to whom such participations could be offered or prohibiting intra-district participation altogether. Consequently, the reproposed regulations would not require FCS institutions to offer loan participations to any particular FCS institution or types of institutions in any particular order and would not prohibit intradistrict participations. Thus, under the reproposed regulations, BCs could sell loan participations to any FCS institution with direct lending authority, including FCS institutions within their respective districts.

The FCA has concluded that the requirements for an independent loan analysis and credit judgment, the proposed lower limits on loans to a single borrower and the limitations required by the reproposed regulation in each institution's policies would be sufficient to contain the concentration of risk in a single district. When a BC sells loan participations to institutions within the same district, the participant's board of directors has a fiduciary responsibility to ensure that an independent, objective, and informed decision has been made on the participation purchased, based on an independent analysis of the risks by the participating institution. As long as the institution can provide sufficient evidence to establish that the decision and its supporting analysis were independent, the participation by a district institution in a loan originated by the BC headquartered within the district would be permitted under the reproposed regulations. Since these institutions possess separate boards of directors, independence of the analysis and decision can be achieved despite the fact that the respective institutions may maintain common managerial staff and employees. However, like existing regulations, the reproposed regulation would require that boards of jointly managed institutions develop procedures for ensuring that the respective interests of their shareholders is protected when they participate in each other's loans. FCA also considers the disciplines required by the independence in the analysis and decision process on participation loans, along with the proposed lower lending limits for individual institutions and the elimination of double counting of capital in the computation of those lending limits, to be sufficient to eliminate the need for any Systemwide lending limit other than that imposed on each individual FCS institution.

IV. Lending Limits

A. General

Existing regulations limit the amount of indebtedness an institution can have outstanding to a single borrower to a certain percentage of capital and surplus. These limits are currently set separately for Federal land banks (FLBs), Federal intermediate credit banks (FICBs), PCAs, and BCs. For FLBs, extensions of credit to one borrower are limited to 20 percent of capital and surplus; for FICBs, participations purchased from other FCS institutions representing loans to a single borrower are limited to 20 percent; and for PCAs, 50 percent if not party to an approved loss-sharing agreement and 100 percent if party to such an agreement. Existing regulations set lending limits for BCs according to the type of loan, with an overall limit of 50 percent of net worth. In addition, existing regulations limit total extensions of credit by all BCs to the same percentages applied to the combined net worth of all BCs and the CBC.

The proposed regulations reflected the restructuring required and authorized by the 1987 Act, namely the mandatory merger of the Federal land bank and the Federal intermediate credit bank to form the FCB in each district; the authorized merger of FLBAs and PCAs (creating an ACA); the authorized merger of the banks for cooperatives, including the CBC, to form the CoBank; the authorized merger of the FCB and a district BC (creating an ACB); and the authorized transfer of direct long-term lending authority from a FCB to a FLBA (creating an FLCA) or an ACA. The proposed regulation would have set lending limits for the FCBs, ACBs and the ACAs at the level applicable to the individual banks or associations prior to the mergers. For ACAs an overall lending limit of 50 percent was proposed in addition to the separate limits for short- and long-term loans. Lending limits for FLCAs would have been set at 20 percent of the FLBA's capital and surplus. PCAs and ACAs that were parties to an approved loss-sharing agreement would have been permitted to lend up to 100 percent of capital and surplus.

Some respondents to the proposed regulations expressed support for lowering the lending limits. While four FCS institutions supported a lending limit of up to 100 percent if an approved loss-sharing agreement were in place for FLCAs, the FCCA and an FCB commented that lending limits should be equalized for all institutions and brought in line with industry standards, and that the loss-sharing exception should be eliminated.

At the time the proposed regulations were published for comment, final capital adequacy regulations had not yet been adopted and FCS banks and associations were in the process of considering various merger and reorganization proposals. The FCA recognized that the final capital adequacy regulations, as well as the resulting structure of the institutions, would have a major impact on the individual bank and association lending limits by affecting the manner in which the capital and assets are adjusted between the banks and associations.

The FCA has now reconsidered the proposed regulations on the lending limits in light of the capital adequacy regulations and the considerable amount of restructuring that has taken place in the interim and reproposes amendments to existing lending limit regulations.

Although the FCA recognizes that it is important for the institutions to serve the credit needs of all creditworthy, eligible borrowers, safety and soundness is a necessary prerequisite to continuation of such service. The FCA believes that limiting the amount that can be lent to one borrower or a group of related borrowers is an effective way to control risk in a lending institution. The limits currently in effect for FCS institutions have been in place for many years and are generally higher than lending limits for other Federally chartered lending institutions. Studies have shown that failed banks have a higher percentage of unwarranted concentrations of credit than healthy banks. A concentration of credit is generally defined as more than 25 percent of total capital and can include concentrations of loans to one industry, loans to one group of companies or affiliated businesses, and loans secured by the same type of collateral.

The FCA believes that single industry lending is inherently more risky than the more diversified lending of commercial banks. However, lending limits for FCS institutions have traditionally been higher than those of commercial banks, partly because of the existence of loss-sharing agreements between the associations in each district and between associations and their supervisory banks. The loss-sharing agreements were instituted to deal with the increase in loan size during the late 1960's. During that time there was no mechanism to protect the associations from excessive losses on individual loans. Prior to the passage of the 1971 Act, there was no legal limit on the total amount a PCA could commit to a single credit risk. "Risk sharing" was organized to minimize the damaging cumulative effects of large losses on PCAs and reduce the capitalization burden on individual borrowers. It was believed that all associations would work to prevent any single organization from going bankrupt because the harm resulting from serious financial difficulties in one PCA would affect the operations of neighboring associations. Although some of these loss-sharing agreements are still in place, the recent crisis in the FCS demonstrated that these agreements do not operate effectively and are not a satisfactory substitute for effective lending limits. Risk is not minimized because a loss-sharing agreement is in place and the agreements have proven difficult to control and enforce.

In the interest of safety and soundness, the FCA now proposes to establish more stringent and comprehensive lending limits on loans to any one borrower. The reproposed regulation would lower the limit on loans to a single borrower for all institutions except BCs to 20 percent of capital. (Although the reproposed regulation would not change the lending limit percentages for BCs, other provisions of the reproposed regulation would apply to BCs.) The reproposed regulation would require all extensions of credit on which a borrower is primarily liable and all extensions of credit attributable to such borrowers under rules of attribution to be aggregated for the purpose of applying the lending limit. The FCA proposes to delete the provision of existing regulations for a 100 percent lending limit when a loss-sharing agreement is in place. This proposed change reflects the FCA's judgment that it is imprudent to lend up to 50 or 100 percent of capital and surplus to one borrower and to allow concentrations of risk in one association to endanger the solvency of itself and others.

Some FLBAs have entered into loss-sharing agreements with their respective FCBs. These agreements stipulate that losses incurred in any manner on loans endorsed by the FLBA shall be shared equally by the FLBA and the FCB. Because loans originated or serviced by an FLBA are subject to the FCB's lending limit, these FLBAs are exposed to potential loan losses for a single borrower that far exceed 20 percent of their capital. While the agreement between an FLBA and the FCB may contain provisions protecting FLBA capital in the event of such losses, the FCA believes that the FLBAs could be subjected to excessive risk from any one borrower. Therefore, to diversify risk created by concentrations of credit to one borrower, the reproposed regulation would limit the risk an FLBA may assume through loss-sharing agreements for a single borrower by limiting the amount of liability an FLBA may assume for the indebtedness of any one borrower to the FCB, including loans attributed to that borrower, to 20 percent of its capital. Based on information available to the FCA, the FCA does not believe this restriction would have a material impact on those FLBAs that share losses with the FCB. However, the FCA invites comments on the impact of this proposed limitation and other means for protecting the capital of FLBAs that share losses with the FCB.

Existing regulations relate lending limits to net worth for BCs and to capital and surplus for other institutions. They do not specify when the capital and surplus of the institutions must be calculated, but require BCs to establish net worth on an ongoing basis. The reproposed regulation would relate lending limits to permanent capital, after elimination of any double counting, and would require permanent capital to be computed monthly for lending limit purposes. However, for lending limit purposes only, the reproposed regulation would permit stock protected under section 4.9A of the 1971 Act to be included as capital for 7 years, until January 1, 1998. A transition period would be allowed because of the FCA's recognition that it would be unrealistic and unfair to exclude borrower stock that would have been considered in lending limit computations but for the statutory protection while institutions still have considerable amounts of such stock outstanding. To exclude it at the same time lending limits are lowered could severely limit the size of loans some institutions could make. Since the average lives of long-term real estate loans and BC term loans have historically been 7 years, it seems likely that after 7 years most "protected" stock will have been retired or converted to "at-risk" stock. Any protected stock still on the books after 7 years from the effective date of the regulations would be excluded from capital for calculation of the lending limitation.

The reproposed regulation would bring lending limits for FCS institutions more in line with those applicable to other Federally chartered lending institutions. National banks are generally limited to 15 percent of capital and surplus. However, there are many exceptions to the general 15-percent limitation, which either allow an additional percent of capital and surplus to be loaned on certain secured loans or impose no limitation on certain guaranteed loans. Some of these exceptions are not relevant to the operations of FCS institutions, but some of them are, such as loans fully secured by livestock or by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples. Rather than incorporating numerous exceptions that may be difficult to apply and administer, the FCA proposes to adopt a lending limit that is somewhat higher than that to which national banks are subject to but allow few exceptions. See

"D. *Exclusions from the lending limit*" below.

The reproposed regulation would impose uniform lending limits for all FCS direct lenders, except banks for cooperatives, and for all types of loans. Although it may be argued that long-term real estate loans are less risky than operating loans because they are secured by a first lien, it can also be argued that operating loans are less risky because of their shorter maturities. Also, long-term real estate and seasonal operating loans are usually repaid from the same source, and prudent lenders should not rely on the forced liquidation of collateral as a primary source of repayment or lend simply on the basis of collateral. Therefore, the FCA believes that all types of loans should be subject to the same limit.

B. Loans Subject to Limitations.

In order to limit total exposure to a borrower, the term "loan" would be broadly defined in the reproposed regulation to include any extension of credit or similar financial assistance of the type authorized under the 1971 Act. All types of loans, sales contracts, notes receivable, and other similar obligations and lease financing outstanding, directly or indirectly, to a borrower would be included. This would include loans purchased from or discounted for another lender, including other financing institutions (OFIs), interests in loans to a borrower purchased from another institution, including loan participations; loans sold to another lender under certain circumstances; and loans in which the borrower obligation to repay directs the institution to advance funds to a third party.

Under the reproposed regulations "loans" would be deemed to be outstanding to a borrower for lending limit purposes, unless they are legally unenforceable. Hence, the reproposed regulation would require the lending limit computation to include the balances of loans that have been charged-off or forgiven due to restructuring and not subsequently collected, unless such amounts are uncollectible because they have been discharged in bankruptcy or are unenforceable because of the expiration of the statute of limitations or judicial decision. The inclusion of these amounts is deemed to be appropriate because the existence of charge-offs or debt forgiveness evidences excessive risk from a borrower due to inadequate performance or condition, and the failure to include previously charged-off or forgiven balances could result in excessive levels of exposure to a borrower with exhibited weaknesses. Such exposure would be inconsistent with the underlying purpose of these regulations.

C. Interests in Loans Purchased and Sold.

Like existing regulations, the reproposed regulation would require purchased interests in loans, including participation interests, to be counted against the institution's lending limit. Unlike existing regulations, the proposed regulation would include in the lend limit calculation any commitments to participate in or purchase interests in loans, regardless of whether the commitment is fully utilized.

The reproposed regulation would require interests in loans sold to other institutions, including participation interests, to be included if they are sold with recourse, as defined in reproposed § 614.4325, or if they are sold pursuant to an agreement that provides for a divided interest in principal or collateral or an agreement that provides for sharing of risk on a basis other than pro rata, as that term is used in § 614.4325(g)(3). If the agreement provides for recourse to the selling institution for all initial losses on a loan up to a stated percentage, the full amount of the loan sold would be required to be counted against the selling institution's lending limit, since the repayment risk, has not been transferred from the selling institution. For that reason, loans sold to a pooler certified by Farmer Mac would continue to be counted against the selling institution's lending limit if the selling institution retains a subordinated participation interest in the loan or contributes to a cash reserve for the loan. However, the loan would not be included if the loan is sold without recourse to a pooler and an interest in a pool of subordinated interests is taken to satisfy the requirements to title VIII of the 1971 Act, unless the interest in the pool is a divided interest or the risk of loss on the pool is shared on other than a pro rata basis. Interests in pools of subordinated interests are excluded because the risk is more diversified than a retained subordinated participation interest in a single loan.

The fact that a loan sold with recourse is counted against the selling institution's lending limit does not mean that the purchasing institution would not be required to count the purchased portion against its lending limit under the reproposed regulation. While this may appear to constitute double counting of the same risk, the purchasing institution is also subject to the risk that the seller may not be able to repurchase. Furthermore, counting the loan toward the lending limits of both institutions would serve to limit System exposure to a single borrower.

D. Exclusions From the Lending Limits

Existing regulations make no provision for the exclusion of certain types of loans from the lending limits except: (1) Loans on which a borrower is secondarily liable if the institution certifies that the party with primary liability can be depended on to repay the obligation; and (2) loans guaranteed by FCS institutions, which are counted as obligations of the guaranteeing institution. Previously proposed regulations would have allowed banks for cooperatives to eliminate from the lending limit computation a loan that is guaranteed by the United States Government.

The reproposed regulation would not allow any for the exclusion of existing regulation, but would allow all FCS institutions to exclude loans guaranteed by the United States Government. However, the reproposed regulation would alter the language of the previously proposed regulation to make it clear that only that portion of the loan that is guaranteed is exempt from any limitation.

While the FCA recognizes that some agencies guarantee late payment of principal and interest and others guarantee payment upon default or receipt of a judgment against the borrower, the reproposed regulations do not make a distinction between the types of guarantees but treat them all equally. Rather, the reproposed regulation assumes proper enforcement of the guarantee through strict adherence to the requirements of the guarantee, and the institution's enforcement of the guarantee will be examined as part of the institution's credit administration practices. However, if a lender wants to make additional loans to a borrower that would be above the legal lending limit if the guaranteed loans were not excluded from the calculation, there must be no external evidence that the guarantor will be unable to pay and the institution must be prepared to demonstrate that it is in compliance with the terms and conditions of the guarantee. If the guaranty becomes unenforceable, the entire loan would be counted against the institution's lending limit. If all loans and commitments, including the loan or portion of the loan that is not longer guaranteed, are above the lending limit, the loan(s) would become nonconforming and no further advances could be made until all loans and

commitments are within the lending limit.

The reproposed regulation would also exclude from the lending limit computation loans that are fully secured by obligations of the United States, such as Treasury bonds, notes and bills, provided the loans are fully secured by the current market value of the obligations. If the market value of the collateral were to decline so the loan is not fully secured, and the balance of the loan exceeds the 20-percent limitation, the loan would be required to be brought into conformance within 5 business days. If the institution could not obtain additional collateral so the loan is fully secured again, or the loan could not be paid down to within the 20-percent limitation, the loans to the borrower would become "nonconforming." No additional credit could be extended to the borrower until the borrower's indebtedness is within the lending limit. The basis for any exceptions to the lending limits must be documented in the loan files.

The reproposed regulation would also exclude: (1) Loans that have been discharged in bankruptcy or that have become legally unenforceable because of judicial decision or the expiration of the applicable statute of limitations; (2) undivided interests in loans (including collateral), including participation interests, sold without recourse on which risk is shared on a pro rata basis, as defined in reproposed § 614.4325(g)(3); and (3) loans sold to a pooler certified by Farmer Mac in which no subordinated participation interest is retained and no contribution is made to a cash reserve to satisfy the requirements of title VIII of the 1971 Act. As noted above, loans sold to a Farmer Mac pooler may be excluded if the requirements of title VIII are met by the purchase of an interest in a pool of subordinated participation interests, provided the interest is an undivided interest and risk is shared on a pro rata basis, as defined in reproposed § 614.4325(g)(3).

E. Aggregation and Attribution

The term "borrower" would be defined to include any individual, partnership, joint venture, trust, corporation, or any other business entity (except a FCS institution), with which an institution has a lending relationship either through direct negotiations or by means of a purchase of a loan or interest in a loan participation from another lending institution. Historically, there has been a strong correlation between problem commercial banks and the volume of loans concentrated in related entities, or borrowers. Hence, the reproposed regulation contains rules of attribution that are designed to achieve diversity and alleviate risk posed by loan concentrations to a single borrower or a group of interdependent borrowers.

Under the reproposed regulation, loans to other borrowers may be attributed to a borrower for the purpose of applying the lending limit if certain conditions are present. In addition, under the reproposed regulation, all loans on which a borrower is primarily or secondarily liable must be aggregated for the purpose of determining whether loans to that borrower exceed the lending limit. The reproposed regulation also requires loans and commitments to other borrowers ("named borrowers") that are attributed to the borrower ("subject borrower") under rules of attribution to be aggregated with loans and commitments to the subject borrower for the purpose of determining whether a loan or commitment exceeds the lending limit. However, attribution of a loan to someone other than the named borrower would not remove the loan from the named borrower's total of loans used to compute the lending limits. The named borrower is still primarily liable on the loan, leaving the institution with credit risk exposure. The attributed loan would remain in the named borrower's total of loans and would also be included in the subject borrower's total.

Under the reproposed regulations, "primarily liability" would be defined as an obligation to repay that is not conditioned on unsuccessful demand on another party. Thus, any signatory to a loan contract or note is primarily liable for repayment of the obligation, even if he or she signs as an accommodation to the maker. In this situation, the primary repayment obligation of the other party would be the same as the named borrower's and a "loan" would be deemed to have been made to the other party for purposes of determining lending limits. An institution's intention to proceed first against one party rather than another with primarily liability does not affect the determination of lending limits. "Secondary liability" would be defined as an obligation to repay that arises only after the unsuccessful resort to another party.

F. Rules of Attribution

Under the rules of attribution in the reproposed regulation, loans to a borrower (named borrower) will be attributed to another borrower (subject borrower) when: (1) The subject borrower is primarily or secondarily liable on a loan to a named borrower; (2) when the proceeds of a loan to a named borrower are to be used by or for the direct benefit of the subject borrower; (3) when the named borrower is controlled by or under common control with the subject borrower; (4) when the subject borrower is deemed to be the source of repayment on the loan to the named borrower; or (5) when the operations of a named borrower are so intertwined with the subject borrower's operations that the visibility of the named borrower's operations will affect the viability of the subject borrower's operations.

Under the reproposed regulation, the subject borrower would be deemed to be the source of repayment, except in the case of integrated operations, on the loan to the named borrower if the subject borrower contributes 30 percent or more of the named borrower's gross receipts, which for the purpose of this provision includes gross revenues, intercompany loans, dividends, and capital contributions. However, loans to an integrated operation (e.g., poultry processor) would not be attributed to all contract growers if, in the event of the demise of the current integrator, the contract grower would have other sources of repayment and other intergrators or means with which to market. Each loan must be analyzed individually to identify expected as well as alternative sources of repayment and income, and determinations that attribution is not required must be supported by analyses documented in the loan file. If contract growers do not have other sources of repayment and other integrators or means with which to market in the event of the integrator's demise, loans to contract growers would be attributed to the integrator, as they are likely to depend on the integrator as the source of repayment. Under the reproposed regulation, proceeds of a loan to a named borrower would be deemed to be for the use or direct benefit of a subject borrower if the proceeds of loan or an asset purchased with the proceeds of a loan to a named borrower are transferred to a subject borrower without the exchange of equivalent value.

Under the reproposed regulation a subject borrower would be deemed to control or be under common control with a named borrower if the subject borrower: (1) Owns, controls, or has the power to vote 25 percent or more of the named borrower's voting securities; (2) controls or has the power to control the election of a majority of the named borrower's board of directors; (3) exercises or has power to exercise a controlling influence over the management of the named borrower's operations; or (4) shares a common

directorate or management with the named borrower.

It is not necessary for both borrowers to have identical boards of directors for a common directorate to exist. A common directorate would be deemed to exist when borrower A effectively controls or has the power to effectively control decisions of the board of directors of borrower B. It is not even necessary for the members of the board of the subject borrower to be members of the board of the named borrower for common management to exist. Common management would be deemed to exist if any employee of one borrower holds the position of chief executive officer, chief operating officer, or chief financial officer of another.

The rules of attribution can be illustrated by the following example. Borrower Smith has two loans; loan A and loan B. Jones is the named borrower on three loans, loans X, Y, and Z. Loan documentation evidences that Smith is primarily liable on X, which is in the name of Jones, but not on loans Y and Z. When a loan made to Jones is attributed to Smith, that loan is added to Smith's other loans to determine total loans. Thus, when determining Smith's total loans for determining lending limit conformance, loan X would be attributed to Smith. Therefore, loans A, B, and X would be totaled, or aggregated, to determine the total loans to Smith. Borrower Jones' total obligation includes loans X, Y and Z. Even though loan X is being combined with Smith's loans for the purpose of computing Smith's total obligation, it is not removed from the named borrower (Jones') total of loans used to compute whether Jones's total exceeds the institution's lending limit. If, however, Smith and Jones are partners and rely on the same primary source of repayment for all loans, then all loans to both partners would be aggregated together. For example, assume loans B, X, and Y are partnership loans. Loan A is an additional operating loan to Smith. Loan Z is a rural housing loan to Jones. The partnership operation is the primary source of income and repayment for both Smith and Jones. Thus, for the purposes of determining lending limits, all loans to Smith, Jones and the partnership would be combined, or aggregated, to determine total loans.

The reproposed regulation would require each institution to designate loans that are required to be attributed to and aggregated with the loans of another borrower, in order to monitor and ensure compliance with the lending limits. If the institution does not have the capability to combine loans through a data base, the loan files should have a manual flag to ensure that all loans are included when determining whether additional loans can be extended.

G. Timing of Determinations

Under the reproposed regulation, the determination of whether a borrower's indebtedness exceeds the lending limit would be made at the time the loan or commitment is made. An institution would be allowed to fund a loan commitment if the commitment, when combined with all other loans and commitments outstanding or attributed to the borrower, is within the lending limit when made, even if the institution experiences a decline in capital, and thus its lending limit. However, such loans would become nonconforming and would require action by the institution, as more fully discussed below under "H. *Decline in lending limits.*"

Similarly, the determination of whether to attribute a loan made to a named borrower to a subject borrower would be made at the time a new loan is made, prior to advancing funds. For purposes of these lending limit regulations, new loans are not meant to include renewals and restructurings, as defined in § 614.4440(h), unless new funds are advanced to the borrower, a different borrower is substituted for an original borrower who is subsequently released, or another borrower who is primarily liable is added to the loan contract. The restructuring of a loan that results in extended repayment terms, additional security or adjusted interest rates is not considered a new loan as long as new monies are not advanced or a new obligor created or added.

Loan renewals that result in the advancement of new funds (e.g., PCA operating lines, additional advances) will be considered new loans for purposes of determining lending limits. This determination of when a loan renewal represents a new loan is consistent with other regulators, as well as with the FCA's position on the issue of converting protected stock to eligible borrower stock when renewing PCA operating loans. Only the principal balance of the loan is considered in lending limit calculations, but in the case of renewals or restructurings that involve the capitalization of interest, the interest amount that has been capitalized is considered loan principal. Therefore, for the purposes of this subpart, the capitalization of accrued but uncollected interest would be considered the extension of new monies.

H. Decline in Lending Limits

A reduction in capital resulting in a lower lending limit may cause a loan or commitment that was previously within the lending limit to exceed it. Although this would cause the loan or commitment to because nonconforming, it would not result in a violation of lending limits. All loans or commitments must be within the lending limit at the time the loan or commitment is made; loans or commitments that if fully funded would exceed the lending limit on the day the loan or commitment is made would violate the regulation. Although the institution would not violate the regulation if it fully funds a loan commitment that was within the lending limit when it was made even if it exceeds the lending limit on the date of funding, the amount of credit to the borrower in excess of the lending limit would be nonconforming and no additional credit could be granted to the borrower until the borrower's indebtedness is within the institution's new lending limit. Therefore, it is in the institution's best interest to participate the loan if it anticipates a decline in capital or a request for additional credit from a borrower whose obligations are nearing the lending limit.

When an institution is requested to enter into a commitment that it anticipates may exceed its lending limit in the future, prudent lending practice would dictate the institution take precautions to permit the escape from such a dilemma by either entering into a participation with another institution or including a protective clause in the commitment that would release the institution from its obligation to fund the commitment if doing so would exceed the lending limit. To ensure that institutions make every attempt to bring loans into conformance, the reproposed regulations would require the institutions to have, for each nonconforming loan, a written plan that documents the specific actions that will be taken to make the loan conform, whether through participation with another lender or pay downs by the borrower. The level of nonconforming loans and the length of time a nonconforming loan remains on the books will be monitored through the examination process to ensure that institutions are not purposefully entering into loans or commitments when capital declines are anticipated.

Violations of lending limits, including extensions of credit when a loan has become nonconforming as a result of a decline in the lending limit, would be subject to possible enforcement actions when the violation is knowing and willful. The entire range of enforcement options and remedial measures would be considered, including requiring the

entire loan that caused the violation to be repaid before any new credit could be extended.

I. Transition Period

The reproposed regulation would provide for a transition period that would allow all nonconforming loans to be brought into conformance with the new regulations by the earlier of the next maturity date or the next loan servicing action, but no later than 18 months from the effective date of the regulation. An institution would not be considered in violation of the regulation during the transition period if a loan was made prior to any change in the regulation if the loan conformed with the existing regulations.

Under the reproposed regulation, if an institution enteres into a binding commitment prior to the effective date of the regulations that does not conform to the new regulations, advances under the commitment would be allowed provided the lender has documentation that demonstrates that the commitment represents a legal obligation to fund incurred before the effective date of the change. However, if the funding of the commitment results in a nonconforming loan, no new extensions of credit could be made except pursuant to the commitment or except for the purpose of protecting the institution's interest or collateral.

Every effort should be made to bring loans into conformance with the new lending limit. A loan servicing action, where the institution has the opportunity to change the contractual terms, such as an extension or reamortization, presents an opportunity to bring loans into conformance. Loans that cannot be brought into conformance by the end of the transition period would be allowed to be retired or liquidated in an orderly fashion. No further advances to the borrower would be permitted, except those that are necessary to protect the institution's interest and/or collateral position. As discussed earlier, all nonconforming loans would be required to have a documented plan of action on how the loan will be brought into conformance.

J. Other Financing Institutions (OFIs)

The reproposed regulation would require an institution to aggregate loans to a borrower purchased from or discounted for another lender with any direct loans to that borrower for the purpose of applying the lending limit. This requirement would be in addition to the requirement of § 614.4565, which limits OFI extensions of credit to a single borrower to the lesser of 50 percent of the OFI's capital and surplus or any regulatory or statutory lending limit. The FCA does not propose to amend § 614.4565 at this time, but intends to consider whether concentrations of risk in OFIs discounting with the FCB could be more effectively addressed in the general financing agreement. In the interim the FCA expects institutions that have a discounting relationship with OFIs to examine further their own procedures for limiting loss exposure from these loans and to consider imposition of more restrictive limits, if necessary.

K. Bank for Cooperatives

The proposed regulation would have made several changes to existing regulations delineating lending limits for the BCs. The proposed regulations would have deleted the requirement that BC loans be reduced to established lending limits over a reasonable period of time if the BC experiences a decline in its lending limit that causes the lending limit to be exceeded.

While the FCCA commented that this subpart should be retained, the FCA continues to believe this paragraph should be deleted. The reproposed regulation would allow each institution maximum of 18 months to bring loans into conformance with the lending limits and would prescribe the proper treatment of loans and commitments that have become excessive due to a decline in the lending limits.

Existing regulations establish a Systemwide BC lending limit, which limits loans to one borrower by one or more BCs to the lending limits for individual BCs applied to their combined net worth of the individual BCs. The reproposed regulation would delete this limitation. With the merger of 10 of the district BCs and the CBC to form CoBank, the capital base of the merged entity will result in a lending limit that will permit a loan to one borrower that is much larger than any individual bank could previously lend. Therefore, the FCA believes this regulation is unnecessary since the percentages applied to the merged entity alone are nearly as large as the percentages applied to the combined net worth of the 13 banks for cooperatives. Also, with the disappearance of the CBC, the Systemwide limitation for BCs would be no different than the combined limitation for the CoBank and the district banks.

Existing regulations set forth requirements for determining lending limits for the purpose of purchasing participations in loans of other banks for cooperatives. Because of changes made to other sections of the lending limit regulations, this section is redundant and the reproposed regulation would delete it. The reproposed regulation would require purchased loan participations to be aggregated with direct loans before the lending limit is applied.

Unlike existing requlations, which relate the lending limit to net worth, the reproposed regulation would also require lending limit percentages to be applied against permanent capital, computed on a monthly basis and in accordance with subpart H of part 615, except that protected stock could be included until January 1, 1998. Since this computation eliminates double counting of capital, the requirement of existing regulations to subtract investments in the purchasing bank owned by the originating bank for cooperatives prior to computation is redundant and would be deleted in the reproposed regulation.

List of Subjects in 12 CFR Parts 614 and 619

Agriculture, Banks, banking, Credit, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 614 and 619 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5; 12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279b-1, 2279b-2, 2279f, 2279f-1, 2279aa, 2279aa-5; sec. 413 of Pub. L. 100-233.

Subpart A—Lending Authorities

2. Section 614.4000 is amended by adding a new paragraph (e) to read as follows:

§ 614.4000 Farm Credit Banks.

* * * * *

(e) *Other interests in loans.* (1) Subject to the requirements of subpart H of this part, Farm Credit Banks may sell interests in loans to Farm Credit System institutions authorized to purchase such interests and to other lending institutions that are not Farm Credit System institutions.

(2) Subject to the requirements of subpart H of this part, Farm Credit Banks may purchase interests other than participation interests in loans and nonvoting stock from other Farm Credit System institutions.

(3) Farm Credit Banks may purchase interests in loans (other than participation interests authorized in paragraph (d) of this section) from institutions other than Farm Credit System institutions only for the purpose of pooling and securitizing such loans under title VIII of the Act.

(4) Farm Credit Banks may purchase an interests in a pool of subordinated participation interests that contains a subordinated participation interest in a loan it has originated, to satisfy the requirements of title VIII of the Act with respect to such loan.

3. Section 614.4010 is amended by adding a new paragraph (f) to read as follows:

§ 614.4010 Agricultural credit banks.

* * * * *

(f) *Other interests in loans.* (1) Subject to the requirements of subpart H of this part, agricultural credit banks may sell interests in loans originated under paragraphs (a) and (b) of this section to other Farm Credit System institutions authorized to purchase such interests and to other lending institutions that are not Farm Credit System institutions.

(2) Subject to the requirements of subpart H of this part, agricultural credit banks may purchase interests in loans and nonvoting stock from other Farm Credit System institutions.

(3) Agricultural credit banks may purchase interests in loans (other than participation interests authorized in paragraph (e) of this section) from institutions other than Farm Credit System institutions only for the purpose of pooling and securitizing such loans under title VIII of the Act.

(4) Agricultural credit banks may purchase an interest in a pool of subordinated participation interests that contains a subordinated participation interest in a loan it has originated, to satisfy the requirements of title VIII of the Act.

4. Section 614.4030 is amended by adding a new paragraph (c) to read as follows:

§ 614.4030 Federal land credit associations.

* * * * *

(c) *Other interests in loans.* (1) Subject to the requirements of subpart H of this part, Federal land credit associations may sell interests in loans made under paragraph (a) of this section to Farm Credit banks, as authorized by their respective funding Farm Credit Banks, and to other lending institutions that are not Farm Credit System institutions.

(2) Subject to the requirements of subpart H of this part, Federal land credit associations may purchase interests in loans and nonvoting stock from Farm Credit banks, as authorized by their respective funding Farm Credit Banks.

(3) Federal land credit associations may purchase interests in loans (other than participation interests authorized in paragraph (b) of this section) from institutions other than Farm Credit System institutions *only* for the purpose of pooling and securitizing such loans under title VIII of the Act.

(4) Federal land credit associations may purchase an interest in a pool of subordinated participation interests that contains a subordinated participation interest in a loan it has originated, to satisfy the requirements of title VIII of the Act.

5. Section 614.4040 is amended by adding a new paragraph (d) to read as follows:

§ 614.4040 Production credit associations.

* * * * *

(d) *Other interests in loans.* (1) Subject to the requirements of subpart H of this part, production credit associations may sell to and purchase from Farm Credit banks, interest in loans, as authorized by their respective funding Farm Credit Banks.

(2) Production credit associations may purchase interests in loans (other than participation interests authorized by paragraph (c) of this section) from institutions other than Farm Credit banks only for the purpose of pooling and securitizing such loans under title VIII of the Act.

(3) Production credit associations may purchase an interest in a pool of subordinated participation interests that contains a subordinated participation interest in a loan it has originated, to satisfy the requirements of title VIII of the Act.

(6) Section 614.4050 is amended by adding a new paragraph (d) to read as follows:

§ 614.4050 Agricultural credit associations.

* * * * *

(d) *Other interests in loans.* (1) Subject to the requirements of subpart H of this part, agricultural credit associations may sell interests in loans made under paragraph (a) of this section to Farm Credit banks, as authorized by their respective funding Farm Credit Banks, and to other lending institutions that are not Farm Credit System institutions.

(2) Subject to the requirements of subpart H of this part, agricultural credit associations may purchase interests in loans and nonvoting stock from Farm Credit banks, as authorized by their respective funding Farm Credit banks.

(3) Agricultural credit associations may purchase interests in loans (other than participation interests authorized by paragraph (c) of this section) from institutions other than Farm Credit System institutions *only* for the purpose of pooling and securitizing such loans under title VIII of the Act.

(4) Agricultural credit associations may purchase an interest in a pool of subordinated participation interests that contains a subordinated participation interest in a loan it has originated, to satisfy the requirements of title VIII of the Act.

7. Subpart F is revised to read as follows:

Subpart F—Appraisal Requirements

Sec.
614.4240 Appraisal definitions.
614.4245 Appraisal policies.
614.4250 Appraisal standards.
614.4255 Appraiser independence.
614.4260 Appraiser qualifications.
614.4265 Real property appraisals.
614.4266 Appraisals of personal property and intangibles.

Subpart F—Appraisal Requirements

§ 614.4240 Appraisal definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Abundance of caution,* when used to describe decisions to require collateral, means that the collateral is required in circumstances in which it is not required by statute, regulation or the institution's policies, and it would not be required by a prudent lender to support the credit decision. To qualify for the abundance of caution exception to the requirements of this subpart, the institution must document in the loan file that the application, when evaluated on the credit factors set forth in § 614.4160 without considering the collateral that is the subject of the appraisal, would support the credit decision.

(b) *Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(c) *Appraisal Foundation* means the Appraisal Foundation established on

November 30, 1987, by professional appraisal organizations, as a not-for-profit corporation under the laws of Illinois, in order to enhance the quality of professional appraisals.

(d) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) *Cost approach* means the valuation process by which an appraiser establishes an indicated value by measuring the current cost to construct a reproduction or replacement for the improvements minus the amount of depreciation (physical deterioration, or functional and/or economic obsolescence) evident in the structure from all causes plus the market value of the land.

(f) *Designated appraiser* means a qualified appraiser that has successfully completed at least 60 course hours of agricultural real estate appraisal training (of a type recognized by a State certification authority) and the minimum appraisal educational and experience requirements to be licensed by such State as a real estate appraiser. Such minimum appraisal educational requirements shall include courses on real estate economic theories and principles, income and discounted cash, and appraisal standards and ethics.

(g) *Fee appraiser* means a qualified appraiser who is not an employee of the contracting institution and performs an appraisal on a fee basis. For purposes of this subpart, a fee appraiser may include a "qualified" staff appraiser from another Farm Credit institution only if the employing institution is not operating under joint management with the contracting institution.

(h) *Highest and best use* means the reasonable and most probable use of the property that would result in the highest market value of vacant land or improved property, as of the date of valuation.

(i) *Income capitalization approach* means the procedure that values property by measuring the present value of the expected future benefits of property ownership. The income capitalization approach requires that the present value discount rate (or capitalization rate) be derived by the investigation of acceptable rates of return to owners of similar properties. Favorable or unfavorable features of the subject property such as commodity markets, roads, transportation, community facilities, dwelling value, and other amenities must be considered in the valuation.

(j) *Market value* means the most probable price in cash, in terms of financial arrangements equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale (including exposure on the open market for a reasonable time), with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

(k) *Personal property* for purposes of this subpart, means all tangible and moveable property not considered real property or fixtures.

(l) *Qualified appraiser* means an individual, who is competent, reputable, impartial and has sufficient training and experience in appraising property of the type that is the subject of the appraisal (subject property) to perform a competent appraisal and meets the institution's standards for appraiser qualifications.

(m) *Real estate-related financial transactions* means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real property, including interest in property or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

(n) *Sales comparison approach* means the procedure that values property by comparing the subject property to similar properties located in relatively close proximity, having similar size and utility, and having been recently sold in arms-length transactions (comparable sales). The sales comparison approach requires the appraiser to estimate the degree of similarity and difference between the subject property and comparable sales. Such comparison shall be made on the basis of conditions of sale, financing terms, market conditions, location, physcial characteristics, and income characteristics. Appropriate adjustments shall be made to the comparable property based on the identified deficiencies or superiorities to arrive at a probable price for which the subject property could be sold on the date of the appraisal.

(o) *State-certified appraiser* means any individual who has satisfied the requirements for and been certified as a real estate appraiser by a State or territory whose requirements for certification currently meet or exceed the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(p) *State-licensed appraiser* means any individual who has satisfied the requirements for licensing and has been licensed as a real estate appraiser by a State or territory in which the licensing procedures comply with the licensing criteria of the Appraisal Subcommittee.

(q) *Transaction value* means:

(1) For loans or other extensions of credit, the amount of the loan, loan commitment, or other extensions of credit;

(2) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the property interest involved; and

(3) For the pools of loans or interests in real property, the transaction value of the individual loans or the market value of the real property interests comprising the pool.

(r) *USPAP* means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Foundation.

§ 614.4245 Appraisal policies.

(a) The board of directors of each Farm Credit institution that extends credit or engages in leasing shall adopt well-defined and effective appraisal policies and standards that are formulated to insure that appraisals are completed by persons that have the knowledge and experience to perform the assigned work competently and in an unbiased manner. The policies and standards shall, at a minimum:

(1) Incorporate the requirements of and be consistent with this subpart;

(2) Be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP);

(3) Establish standards for the qualifications, education, and competence of appraisers who perform appraisals for the institution, which standards shall be consistent with USPAP; and

(4) Establish criteria for determining the circumstances under which collateral appraisals will be required and when they will be required, which criteria must, at a minimum, take into account such factors as market trends, market volatility, and various types of credit, loan, servicing, collection, and liquidation actions.

(b) Federal land bank associations shall, with the approval of their respective Farm Credit banks, adopt appraisal policies that reflect bank policies and standards.

§ 614.4250 Appraisal standards.

(a) When real, personal, or intangible property is required as security pursuant to subparts D and E of part 614 or is relied upon in making the credit decision, all appraisals shall be

performed in conformance with the USPAP standards as adopted by the Appraisal Foundation except as provided in paragraph (b) of this section. Specifically, the appraisal must:

(1) Disclose any steps taken to comply with the USPAP "Competency Provision," as appropriate;

(2) Value the subject property in its "as is" condition based upon market value as defined in § 614.4240 of this subpart;

(3) Be presented in a written format and satisfy the requirements of this subpart;

(4) Consider the purpose for which the property will be used and the property's highest and best use, if different from the intended use;

(5) Be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate;

(6) Provide sufficient detail and depth analysis to reflect the relevent characteristics and complexity of the property appraised;

(7) Analyze and report, as appropriate, on—

(i) The current income-producing capacity of the property;

(ii) A reasonable marketing period for the property;

(iii) The current market conditions and trends that will affect projected income, to the extent such conditions will affect the value of the property; and

(iv) The appropriate deductions and discounts as they would apply to the property, including but not limited to condition of the facilities and property, specialization of the operation and property, and other potential liabilities including those associated with any hazardous waste;

(8) Include in the certification required by the USPAP an additional statement that the appraisal assignment was not based on a requested minimum valuation or specific valuation or approval of a loan; and

(9) Contain sufficient supporting documentation (including a legal description of real-property) with all pertinent information reported so that the appraiser's reasoning, judgment, and analysis in arriving at a conclusion indicate to the reader the reasonableness of the market value reported.

(b) Appraisals of real, personal, and intangible property may be performed using the "Departure Provisions" of USPAP only under one of the following conditions:

(1) The transaction value is $50,000 or less;

(2) A lien on the property has been taken as collateral solely through an abundance of caution and the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of the lien;

(3) There is a subsequent transaction resulting from the maturing extension of credit, provided that:

(i) The borrower has performed satisfactorily according to the original terms;

(ii) No new monies have been advanced other than as previously agreed;

(iii) The credit standing of the borrower has not deteriorated; and

(iv) There has been no material deterioration in market conditions or physical aspects of the property that would threaten the institution's collateral position; or

(4) An institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest, when originated, met the appraisal standards of this regulation, other Federal regulations adopted pursuant to the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, or the requirements of the government-sponsored secondary market intermediaries under whose auspices the interest is sold.

§ 614.4255 Appraiser independence.

(a) Except as provided for in paragraph (c) of this section, all appraisals of real, personal, and intangible property that serve as the primary security for a loan shall be performed by a qualified appraiser who has no direct or indirect interest, financial or otherwise, in the loan or subject property and is not engaged in the marketing, lending, collections, or credit decision processes of any of the following:

(1) A Farm Credit institution making or originating the loan;

(2) A Farm Credit institution operating under common management with the institution making or originating the loan; or

(3) A Farm Credit institution purchasing an interest in the loan. In those cases where an appraisal has been performed by an individual from another Farm Credit institution for a loan in which such institution subsequently purchases an interest, the appraiser shall not participate in any decision related to the loan purchase.

(b) Fee appraisers shall be engaged directly by the institution or its agent, and shall have no direct or indirect interest, financial or otherwise, in the property or transaction.

(c) For transaction values of $50,000 or less, if the only "qualified" persons available to perform an appraisal are involved in the marketing, lending, collections, or credit decision processes of the institution, the institution may use such persons as appraisers provided it takes appropriate steps to ensure that the appraiser exercises independent judgment and that the appraisal is adequate. Such steps shall include, but are not limited to:

(1) Procedures for ensuring that an individual shall not perform appraisals in connection with transactions in which the appraiser is otherwise involved, professionally or individually; and

(2) Prohibiting directors, officers, and employees from participating in any vote or approval involving assets on which they performed an appraisal.

§ 614.4260 Appraiser qualifications.

(a) *Real, personal, and intangible property.* All appraisals shall be performed by a qualified appraiser who meets the established standards of the Farm Credit institution obtaining the appraisal.

(b) *Real estate.* For all appraisals completed after January 1, 1992, the following requirements shall apply:

(1) Appraisals for real estate-related financial transactions with transaction values of $1,000,000 or more shall be performed by a qualified appraiser who is a State-certified real estate appraiser.

(2) Appraisals for all real estate-related financial transactions with transaction values of less than $1,000,000 but in excess of $250,000 shall be performed by a qualified appraiser who is a State-certified real estate appraiser. For appraisers completed prior to January 1, 1994, the requirements of this paragraph may be met by appraisals performed by a designated appraiser.

(3) Appraisals for real estate-related financial transactions with transaction values of $250,000 or less but in excess of $50,000 shall be performed by a qualified appraiser who is a State-certified real estate appraiser or a State-licensed appraiser. For appraisals completed prior to January 1, 1994, the requirements of this paragraph may be met by appraisals performed by a designated appraiser.

(4) Appraisals of real property securing a loan shall not be required to be completed by a State-certified, designated, or State-licensed appraiser for transactions in which:

(i) The transaction value is $50,000 or less;

(ii) A lien on real property has been taken as collateral solely out of an abundance of caution and the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of the lien;

(iii) There is a subsequent transaction resulting from the maturing extension of credit, provided that:

(A) The borrower has performed satisfactorily according to the original terms;

(B) No new monies have been advanced other than as previously agreed;

(C) The credit standing of the borrower has not deteriorated; and

(D) There has been no material deterioration in market conditions or physical aspects of the property that would threaten the institution's collateral position; or

(iv) An institution purchases a loan or an interest in a loan, pool of loans (real property), or mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest, when originated, met the appraisal standards of this regulation, other Federal regulations adopted pursuant to the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, or the requirements of the government-sponsored secondary market intermediaries under whose auspices the interest is sold.

§ 614.4265 Real property appraisals.

(a) Real estate shall be valued on the basis of market value.

(b) Real estate shall be valued by a reasonable valuation method that considers the income capitalization approach, the sales comparison approach, and/or the cost approach, as appropriate under the provisions of USPAP.

(c) At a minimum, where the real estate is an integral part of and supports the principal source of loan repayment, the appraiser shall develop and document in the appraisal, in accordance with USPAP, the income capitalization approach (establishing a production earnings capacity for the property) and at least one of the other two approaches to valuing real estate, whichever is appropriate. The earnings capacity established on such properties shall be documented as part of the credit analysis for any related loan action whether the income approach value is used as the market value or not.

(d) Collateral closely aligned with, an integral part of, and normally sold with real estate (fixtures), may be included in the value of the real estate. All other collateral associated with the real estate, but designated as personal property, shall be appraised as personal property in accordance with paragraph (b) of this section.

(e) The appraisal shall properly identify all nonagricultural influences, including but not limited to, urban influence, mineral deposits, and commercial building development value.

(f) The "Departure Provisions" of USPAP may not be used for real estate appraisals unless such appraisals meet the conditions of § 614.4250(b).

§ 614.4266 Appraisals of personal property and intangibles.

(a) Personal property and intangibles shall be valued on the basis of market value in accordance with the USPAP and the institution's appraisal standards and policies.

(b) The "Departure Provisions" of USPAP may not be used for personal property and intangible appraisals unless such appraisals meet the conditions of § 614.4250(b).

(c) Personal property appraisals shall include a description of the property being appraised, including location of the property.

(d) Appraisals of intangibles shall include a review and description of the legal documents supporting the property interests and marketability of the intangible property, including applicable terms, conditions, and restrictions contained in the document that would affect the value of the property.

8. Subpart H is revised to read as follows:

Subpart H—Loan Purchases and Sales

Sec.
614.4325 Purchase and sale of interests in loans.
614.4330 Loan participations.
614.4335 Borrower stock requirements.
614.4336 Borrower rights.
614.4337 Disclosure to borrowers.

Subpart H—Loan Purchases and Sales

§ 614.4325 Purchase and sale of interests in loans.

(a) For the purposes of this subpart, the following definitions shall apply:

(1) *Interests in loans* means ownership interests in the principal amount, interest payments or any aspect of a loan transaction, including servicing rights.

(2) *Lead lender* means a lending institution having a direct contractual relationship with a borrower to advance funds, which institution sells or assigns an interest or interests in such loan to one or more other lenders.

(3) *Loan* means any extension of credit or similar financial assistance of the type authorized under the Act, such as leases, guarantees, letters of credit, and other similar transactions.

(4) *Loan participation* means a fractional undivided interest in the principal amount of a loan that is sold by a lead lender to a participating institution in accordance with the requirements of § 614.4330. The term "loan participation" does not include a subordinated participation interest.

(5) *Participating institution* means an institution that purchases a fractional undivided interest in the principal amount of a loan originated by another lender.

(6) *Sale with recourse* means a sale of a loan or an interest in a loan in which the seller:

(i) Retains some risk of loss from the transferred asset for any cause except the seller's breach of usual and customary warranties or representations designed to protect the purchaser against fraud or misrepresentation; or

(ii) Has an obligation to make payments of principal or interest to any party resulting from:

(A) Default on principal or interest on the loan by the borrower or any other deficiencies in the obligor's performance;

(B) Changes in the market value of the assets after transfer;

(C) Any contractual relationship between the seller and purchaser incident to the transfer that, by its terms, could continue even after final payment, default, or other termination of the assets transferred; or

(D) Any other cause.

(7) *Subordinated participation interest* means an interest in a loan that bears the first risk of loss, including the retention of such an interest when a loan is sold to a pooler certified by the Federal Agricultural Mortgage Corporation pursuant to title VIII of the Act, or an interest in a pool of subordinated participation interests purchased to satisfy the requirements of title VIII of the Act with respect to a loan sold to such a certified pooler.

(b) *Authority to purchase and sell interests in loans.* Loans and interests in loans may only be sold in accordance with each institution's lending authorities, as set forth in subpart A of this part. No Farm Credit institution may purchase from an institution that is not a Farm Credit institution any interest in a loan, except for the purpose of pooling and securitizing such loans under title VIII of the Act, unless such an interest is a participation interest that qualifies under the institution's lending authority, as set forth in subpart A of this part, and meets the requirements of § 614.4330.

(c) *Policies.* Each Farm Credit institution that is authorized to sell or purchase interests in loans under subpart A of this part shall exercise that authority in accordance with a policy adopted by its board of directors that addresses the following matters:

(1) The types of institutions to which the institution is authorized to sell interests in loans;

(2) The types of loans in which the institution may purchase or sell an interest, and the types of interests which may be purchased or sold;

(3) The underwriting standards to be applied in the purchase of interest;

(4) Such limitations on the aggregate principal amount of interests in loans that the institution may purchase from a single institution as are necessary to diversify risk and such limitations on the aggregate amount the institution may purchase from all institutions as are necessary to assure that service to the terriory is not impeded;

(5) Provision for the identification and reporting of loans in which interests are sold or purchased;

(6) Requirements for providing and securing in a timely manner adequate credit and other information needed to make an independent credit judgment; and

(7) Any limitations or conditions to which sales or purchases are subject that the board deems appropriate, including arbitration.

(d) *Purchase and sale agreements.* Agreements to purchase or sell an interest in a loan shall, at a minimum:

(1) Identify the particular loan(s) to be covered by the agreement;

(2) Provide for the transfer of credit and other borrower information on a timely and continuing basis;

(3) Provide for sharing, dividing, or assigning collateral;

(4) Identify the nature of the interest(s) sold or purchased;

(5) Set forth the rights and obligations of the parties and the terms and conditions of the sale; and

(6) Contain any term necessary for the appropriate administration of the loan and the protection of the interests of the Farm Credit institution.

(e) *Independent credit judgment.* Each institution that purchases an interest in a loan shall make a judgment on the creditworthiness of the borrower that is independent of the originating or lead lender and any intermediary seller or broker prior to the purchase of the interest and prior to any servicing action that alters the terms of the original agreement, which judgment shall not be delegated to any person(s) not employed by the institution. No employee who performed an appraisal on any collateral supporting a loan shall participate in the decision to purchase that loan. The independent credit judgment shall be documented by a credit analysis that considers factors set forth in § 614.4160 and is independent of the originating institution and any intermediary seller or broker. The credit analysis shall consider such credit and other borrower information as would be required by a prudent lender and shall include an evaluation of the capacity and reliability of the servicer. Boards of directors of jointly managed institutions shall adopt procedures to ensure that the interests of their respective shareholders are protected in participations between such institutions.

(f) *Limitations.* The aggregate principal amount of interests in loans purchased from a single lead lender and the aggregate principal amount of interests in loans purchased from other institutions shall not exceed the limits set in the institution's policy.

(g) *Lending limits.* In order to exclude the principal amount of interests sold from the principal amount of the loan for the purpose of determining compliance with the lending limits set forth in subpart J of this part, sale agreements must meet the following requirements:

(1) The interest sold must be an undivided interest in the principal amount of the loan and all collateral securing the loan;

(2) The interest must be sold without recourse; and

(3) The agreement under which the interest is sold must provide for the sharing of all payments of principal, collection expenses, collateral proceeds and risk of loss on a pro rata basis according to the percentage interest in the principal amount of the loan. Agreements that provide for the pro rata sharing to commerce at the time of default or similar event, as defined in the agreement under which the interest, is sold, shall be considered to be pro rata agreements, notwithstanding the fact that advances are made and payments are distributed on a basis other than pro rata prior to that time.

(h) *Sales with recourse.* When a loan or interest in a loan is sold with recourse, it shall be accorded the following treatment:

(1) The loan shall be considered, to the extent of the recourse, an extension of credit by the purchaser to the seller, as well as an extension of credit, from the seller to the borrower(s), for the purpose of determining whether credit extensions to a borrower are within the lending limits established in subpart J of this part.

(2) The amount of the loan subject to the recourse agreement shall be considered a loan sold with recourse for the purpose of computing permanent capital ratios.

§ 614.4330 Loan participations.

Agreements to purchase or sell a participation interest shall be subject to the provisions of § 614.4325, and, in addition, shall satisfy the requirements of this section.

(a) *Participation agreements.* Agreements to purchase or sell a participation interest in a loan shall, in addition to meeting the requirements of § 614.4325(d), at a minimum:

(1) Define the duties and responsibilities of the participating institution and the lead lender, and/or the servicing institution, if different from the lead lender;

(2) Provide for loan servicing and monitoring of the servicer;

(3) Set forth authorization and conditions for action in the event of borrower distress or default;

(4) Provide for sharing of risk;

(5) Set forth conditions for the offering and acceptance of the loan participation and termination of the agreement;

(6) Provide for sharing of fees, interest charges, and costs between participating institutions;

(7) Provide for a method of resolution of disagreements arising under the agreement between two or more Farm Credit System institutions;

(8) Specify whether the contract is assignable by either party; and

(9) Provide for the issuance of participation certificates to the participants evidencing an undivided interest in a loan.

(b) *Retention requirement.* No participation interest may be purchased from an institution that is not a Farm Credit institution unless the servicing institution has an ownership interest in the principal amount of the loan of at least 10 percent, or the amount permitted by the institution's lending limit, which ownership interest cannot be assigned separately from the servicing rights.

(c) *Intrasystem participations.* Loans participated between or among Farm Credit System institutions shall meet the borrower eligibility, membership, loan term, loan amount, loan security, and stock purchase requirement of the originating lender.

§ 614.4335 Borrower stock requirements.

(a) As a condition of obtaining a loan by or through a Farm Credit institution, including loans originated for sale to other lenders, a borrower shall meet the institution's minimum stock purchase

requirements. Such stock may be retired only if the institution meets its minimum permanent capital standards and only in accordance with paragraphs (a)(1), (a)(2), or (a)(3) of this section.

(1) If the loan or a portion of the loan is sold with recourse (including a sale of a portion of the loan with a retained subordinated interest), or if the entire loan is sold without recourse but an interest in a pool of subordinated participation interests is purchased or a contribution to a cash reserve is made to satisfy the requirements of title VIII of the Act with respect to the loan, borrower stock may not be retired below the institution's minimum stock purchase requirement for the entire loan.

(2) If a portion of the loan is sold without recourse and a portion is retained that is not a subordinated interest, a proportionate amount of borrower stock may be retired provided minimum regulatory capital requirements are met, but in no event may stock be retired below the institution's mimimum stock purchase requirement for the portion retained.

(3) If the entire loan is sold without recourse and no interest in a pool of subordinated participation interests is taken and no contribution to a cash reserve is made to satisfy the requirements of title VIII of the Act with respect to the loan, the stock may be retired, provided regulatory capital requirements are met.

(b) If an institution repurchases a loan on which the stock has been retired, the borrower shall be required to repurchase stock in the amount of the minimum stock purchase requirement.

§ 614.4336 Borrower rights.

(a) Each institution that contemplates selling an interest in a loan subject to the borrower rights provisions of title IV of the Act shall either:

(1) Include provisions in the contract with the borrower that ensure that the purchaser of the loan will be obligated to accord the borrower the same rights "qualified lenders" must provide under the Act; or

(2) Obtain a waiver of the statutory borrower rights from the borrower. A waiver of borrower rights shall have no effect until the loan is sold and shall have no effect if the loan or a portion thereof is repurchased.

(b) Before obtaining a waiver of borrower rights for the purpose of selling a loan, the lending institution shall disclose to the borrower:

(1) A full and complete description of the statutory rights the borrower is asked to waive;

(2) Any changes in loan terms or conditions that will occur if the loan is not sold; and

(3) The fact that the waiver will not apply unless the loan is sold and will not apply if the loan is repurchased.

(c) The making of a loan may not be conditioned on a waiver of statutory borrower rights.

§ 614.4337 Disclosure to borrowers.

When an interest other than a participation interest in a borrower's loan is sold without servicing rights, the following disclosure shall be made to the borrower:

(a) The selling institution shall disclose to the borrower at least 10 days prior to the borrower's next payment date;

(1) The name, address and telephone number of the purchasing institution;

(2) The name and address of the party to whom payment is to be made;

(3) The effect of the sale upon the exercise of statutory borrower rights; and

(4) Any terms in the agreement that would permit a purchaser to change the terms or conditions of the loan.

(b) A purchasing institution shall not take any servicing action that adversely affects the borrower until it ensures that disclosure has been made to the borrower of:

(1) The name, address and telephone number of the purchasing institution; and

(2) The address where the payment should be sent.

Subpart J—Lending Limits

9. Sections 614.4350, 614.4351, 614.4352, and 614.4353 are revised to read as follows:

§ 614.4350 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity (except a Farm Credit association or other financing institution, as defined in § 614.4540), to which an institution has made a loan or a commitment to make a loan either directly or indirectly.

(b) *Capital* means permanent capital as defined in § 615.5201(h), with adjustments required by § 615.5210(d) (1) through (4), except that stock protected under section 4.9A of the Act may be included in capital until January 1, 1998.

(c) *Commitment* means a legally binding, written obligation to extend credit, enter into lease financing, purchase or participate in loans or leases, or pay the obligation of another.

(d) *Control* means exercising a controlling influence on the affairs of another borrower or operating under common control with another borrower. A borrower is deemed to control another when the borrower:

(1) Owns, controls, or has power to vote 25 percent of more of the voting securities in another; or

(2) Controls in any manner the election of a majority of directors of another; or

(3) Exercises or has power to exercise a controlling influence over the management of another's operations; or

(4) Shares a common directorate or management with another. A common directorate is deemed to exist when one borrower can effectively control the board of directors of another borrower. Common management is deemed to exist if any employee of one borrower holds the position of chief executive officer, chief operating officer, or chief financial officer of another.

(e) *Loan* means any extension of credit or similar financial assistance authorized under the Act that is an asset of the institution whether it results from direct negotiations between a lender and a borrower or is purchased from or discounted for another lender, including participation interests. The term "loan" includes loans, contracts of sale, notes receivable, other similar obligations, guarantees, and lease financing. An institution "makes a loan" when it advances new funds, substitutes a different borrower for a borrower who is subsequently released, or adds another person's liability to an outstanding loan or commitment.

(f) *Primary liability* means an obligation to repay that is not conditioned upon an unsuccessful prior demand on another party.

(g) *Secondary liability* means an obligation to repay that only arises after an unsuccessful demand on another party.

§ 614.4351 Banks.

No Farm Credit Bank, agricultural credit bank, or Federal intermediate credit bank may, directly or indirectly, make or discount a loan, or enter into a commitment to make or discount a loan to a borrower, if after such loan or commitment the aggregate principal amount of all loans and commitments outstanding to a borrower, computed in accordance with § 614.4357, and loans and commitments attributed to such borrower under the rules of attribution set forth in § 614.4358 exceeds 20 percent of the bank's capital, calculated on a monthly basis.

§ 614.4352 Direct lender associations.

No direct lender association may make a loan or enter into a commitment to make a loan, if after such loan or commitment the aggregate principal amount of all loans and commitments outstanding to a borrower and loans and commitments attributed to such borrower under the rules of attribution set forth in § 614.4358, computed in accordance with § 614.4357, exceeds 20 percent of the association's captital, calculated on a monthly basis.

§ 614.4353 Federal land bank associations.

No Federal land bank association may assume endorsement liability on any loan or commitment outstanding to a borrower or attributed to a borrower under the rules of attribution set forth in § 614.4358, if after such endorsement the total of the association's endorsement liability on loans and commitments outstanding to or attributed to such borrower, computed in accordance with § 614.4357, would exceed 20 percent of the association's capital, calculated on a monthly basis.

10. Section 614.4354 is amended by removing paragraphs (a)(3), (a)(4), (b), (c), (d) and (e); redesignating paragraph (f) as new paragraph (b); and revising the introductory text of paragraph (a) to read as follows:

§ 614.4354 Banks for cooperatives.

(a) No bank for cooperatives may make a loan or enter into a commitment to make a loan to a borrower eligible to borrow under § 613.3110 if after the loan or commitment is made the aggregate principal amount of all loans and commitments outstanding to the borrower, computed in accordance with § 614.4357, and loans and commitments attributed to the borrower under the rules of attribution set forth in § 614.4358 exceeds the following percentages of the capital of the bank, calculated on a monthly basis.

* * * * *

11. Sections 614.4357, 614.4358, and 614.4359 are added to read as follows:

§ 614.4357 Computation of obligations.

(a) *Inclusions.* For each borrower, loans subject to the lending limit shall include:

(1) The total unpaid principal of all legally enforceable loans and commitments outstanding, directly or indirectly, or attributed to a borrower, pursuant to § 614.4358, except as excluded by paragraph (b) of this section. Outstanding loans shall include loans that have been charged off on the books of the institution in whole or in part but have not been subsequently collected, except as excluded by paragraph (b)(3) of this section;

(2) Purchased interests in loans, including participation interests, to the extent of the amount of the purchased interest, including any undisbursed commitment; and

(3) Interests in loans, including participation interests, that are sold with recourse or sold pursuant to an agreement that provides for a divided interest in principal or collateral or for the sharing of risk and associated expenses on a basis other that pro rata, as described in § 614.4325(g)(3).

(b) *Exclusions.* The following loans and commitments to make such loans, when adequately documented in the loan file, may be excluded from loans to a borrower subject to the lending limit:

(1) Any loan or portion of a loan that carries a full faith and credit performance guaranty or surety of any department, agency, bureau, board, commission, or establishment of the United States Government, provided there is no evidence to suggest that the guaranty has become unenforceable and the institution can demonstrate that it is in compliance with the terms and conditions of the guarantee;

(2) Any loan that is fully secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States, provided the loans are fully secured by the current market value of the obligations of the United States. If the market value of the collateral declines to below the balance of the loan, and the loan, when aggregated with other loans and commitments outstanding to or attributed to the borrower, causes the aggregate principal amount to exceed 20 percent of the institution's capital, the institution shall have 5 business days to bring the loan into conformance before it shall be deemed to be in violation of the lending limit;

(3) Loans that have been discharged in bankruptcy or that are legally unenforceable because of judicial decision or the expiration of the statute of limitations;

(4) Interests in loans sold, including participation interests, to the extent they have been sold without recourse, represent an undivided interest in principal and collateral, and share risk and associated expenses on a pro rata basis, as described in § 614.4325(g)(3); and

(5) Loans sold in their entirety to a pooler certified by the Federal Agricultural Mortgage Corporation, if an interest in a pool of subordinated participation interests is purchased to satisfy the requirements of title VIII of the Act.

§ 614.4358 Attribution rules.

(a) For the purpose of applying the lending limit to the indebtedness of a borrower (subject borrower), loans in the name of another borrower (the named borrower) shall be attributed to the subject borrower and aggregated with loans outstanding to the subject borrower when any of the following circumstances exist:

(1) The subject borrower is in any way primarily or secondarily liable for a loan made to the named borrower.

(2) The operations of a named borrower are so interwined with the subject borrower's operations that the viability of the named borrower's operations will affect the viability of the subject borrower's operations.

(3) The subject borrower is deemed to be the source of repayment on the loan to the named borrower. Except for integrated operations (e.g., poultry processors), the subject borrower shall be deemed to be the source of repayment if the subject borrower supplies more than 30 percent of the named borrower's annual gross receipts. For the purpose of this paragraph, gross receipts includes, but is not limited to, gross revenues, intercompany loans, dividends and capital contributions.

(4) The proceeds of the loan to the named borrower are used by or for the direct benefit of the subject borrower. At a minimum, the proceeds of the loan to the named borrower shall be deemed to be used by or for the direct benefit of the subject borrower when:

(i) The proceeds of the loan are transferred to the subject borrower without a reasonably equivalent exchange of value or are loaned to the subject borrower;

(ii) The proceeds of the loan are used to purchase an asset that is transferred to the subject borrower without a reasonably equivalent exchange of value;

(5) The named borrower directly or indirectly controls or is controlled by the subject borrower.

(b) Each institution shall make provisions for appropriately designating loans to a named borrower that are attributed to a subject borrower and aggregated to ensure that loans to the subject borrower are within the lending limits.

§ 614.4359 Nonconforming loans.

(a) Loans or commitments, together with all loans and commitments outstanding or attributed to a borrower,

must be within the lending limit on the date the loan or commitment is made. A subsequent decline in the lending limit below the aggregate amount of loans and commitments outstanding or attributed to a borrower does not result in a violation of the lending limit, but does cause the excess of the loans and commitments outstanding or attributed to a borrower over the lending limit to become nonconforming.

(b) Funds that are advanced pursuant to commitments that were within the lending limit at the time they were made do not result in a violation of the lending limit when they are funded, even if the leading limit subsequently declines, but such advances are deemed to be nonconforming.

(c) When the lending limit is exceeded because guaranteed loans no longer qualify for exclusion from the computation pursuant to § 614.4357(b)(1), the institution shall be deemed to be in violation of the lending limit if the guarantee is no longer enforceable due to the institution's failure to comply with the terms and conditions of the guarantee. If the guarantee becomes unenforceable because the guarantor is unable to pay, the loan shall be considered to be nonconforming.

(d) When a loan is excluded from the lending limit computation pursuant to § 614.4357(b)(2) and the value of the collateral qualifying it for exclusion subsequently declines and causes the lending limit to be exceeded, the loan shall be considered nonconforming for the period of 5 business days during which time the institution shall bring the loan into conformance before it shall be considered to be in violation of the lending limit.

(e) When the aggregate of loans and commitments outstanding and attributed to a borrower exceeds the lending limit, whether or not the institution is deemed to be in violation of the lending limit, no further loans and commitments with respect to the borrower may be made until they can be made without violating the new lending limit. A written plan prescribing the specific actions that will be taken by the institution and the borrower to bring the aggregate amount of loans and commitments outstanding or attributed to a borrower within the new lending limit must be documented in the loan file.

12. Section 614.4360 is revised to read as follows:

§ 614.4360 Transition period.

(a) *Loans.* Loans outstanding or attributed to a borrower on the effective date of these regulations that exceed the lending limit shall be brought into conformance by the earlier of the next maturity date, loan servicing action, or a period not to exceed 18 months. The aggregate of loans outstanding to a borrower and loans attributed to the borrower that cannot be brought into compliance by the end of the transition period, in spite of reasonable efforts to participate the excess, shall be deemed to be nonconforming and must be retired or liquidated in an orderly manner over a reasonable period, not to exceed 7 years. No further loans may be made to the borrower except pursuant to a commitment outstanding on the effective date of the regulation, unless they are necessary to protect the lender's interest and/or collateral.

(b) *Commitments.* Commitments made prior to the effective date of the regulation may be funded, but if they would result in nonconforming loans if fully funded, no additional funds may be advanced except to protect the lender's interest and/or collateral until the nonconformance is eliminated.

(c) Each institution shall develop a written plan outlining the specific actions that will be taken by the lending institution and the borrower in order to bring the nonconforming indebtedness into conformance.

Subpart L—Actions on Applications; Review of Credit Decisions

13. Section 614.4440 is revised by redesignating paragraphs (f), (g), and (h) as new paragraphs (g), (h), and (i) respectively and adding a new paragraph (f) to read as follows:

§ 614.4440 Definitions.

* * * * *

(f) *Independent appraiser* for the purposes of this subpart, means an appraiser who is a State-certified, State-licensed, designated, or an accredited appraiser, (as defined in § 614.4240) that qualifies under the standards established by the Farm Credit institution for the type of property to be appraised. Such an appraiser may not be a Farm Credit institution employee or have a relationship with the institution or any of its officers or directors that contravenes the provisions of part 612, subpart B.

* * * * *

14. Section 614.4443 is amended by revising paragraph (c) to read as follows:

§ 614.4443 Review process.

* * * * *

(c) *Independent appraisals.* (1) An applicant for a loan, or a borrower who has applied for a restructuring, may, as part of the request for a review, request an independent appraisal, by an independent appraiser, or any interests in property securing the loan (other than the stock or participation certificates of the lender held by the borrower). Within 30 days after a request for an appraisal, the credit review committee shall present the applicant or borrower with a list of three independent appraisers approved by the qualified lender, and the borrower shall select an appraiser from the list to conduct the appraisal, the cost of which shall be borne by the applicant or borrower. The lender shall provide a copy of the appraisal to the applicant or borrower, and consider the results of any such appraisal in any final determination with respect to the loan or restructuring.

(2) Such appraisals shall be completed in conformance with the appraisal requirements described in part 614, subpart F relative to appraisal standards, appraiser independence and appraiser qualifications.

* * * * *

PART 619—DEFINITIONS

15. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8; 12 U.S.C. 2015, 2075, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b-1, 2279b-2.

16. Section 619.9195 is revised to read as follows:

§ 619.9195 Loan participation.

A fractional undivided interest in the principal amount of a loan is sold by a lead lender to a participating institution in accordance with the requirements of § 614.4330. The term "loan participation" does not include a subordinated participation interest.

§ 619.9320 [Removed]

17. Section 619.9320 is removed.

Dated: January 15, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-1326 Filed 1-22-91; 8:45 am]

BILLING CODE 6705-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 215

Regulations Implementing the Privacy Act of 1974

AGENCY: Agency for International Development (A.I.D.), International

Development Cooperation Agency (IDCA).

ACTION: Proposed rule.

SUMMARY: The Agency for International Development revises its Privacy Act Regulations to make minor editorial changes; to incorporate certain internal organizational changes within the Agency; to specifically identify the appeals officer as designated by the Administrator; and to change the current fee schedule.

DATE: Comments must be received by February 22, 1991.

ADDRESS: Comments may be mailed to Jim Harper, Rm. 4889, A.I.D., 2201 C Street N.W., Washington, DC. 20523.

FOR FURTHER INFORMATION CONTACT: Jim Harper at (202) 647-1850.

SUPPLEMENTARY INFORMATION: By this notice the Agency proposes to revise part 215 of 22 CFR as stated in the **SUMMARY** above. The Agency invites comments on these proposed changes.

This action will not have a significant economic impact on a substantial number of small entities; does not constitute a "major rule" under Executive Order 12291; and does not constitute a major Federal action significantly effecting the quality of the human environment.

List of Subjects in 22 CFR Part 215

Privacy.

Part 215 of title 22 of the Code of Federal Regulations is proposed to be revised as follows:

PART 215—REGULATIONS FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Sec.

215.1 Purpose and scope.
215.2 Definitions.
215.3 Procedures for requests pertaining to individual records in a system of records.
215.4 Times, places and requirements for identification of individuals making requests.
215.5 Access to requested information by individuals.
215.6 Special procedures: Medical records.
215.7 Request for correction of amendment of record.
215.8 Agency review of requests for amendment of record.
215.9 Appeal of initial adverse agency determination.
215.10 Disclosure of record to person other than the individual to whom it pertains.
215.11 Fees.
215.12 Penalties and remedies.
215.13 General exemptions.
215.14 Specific exemptions.

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2381; 75 Stat. 445); secs. 3, 4, Administrative Procedure Act (5 U.S.C. 553; 60 Stat. 237); Privacy Act of 1974 (Pub. L. 93-579; U.S.C. 552a; 88 Stat. 1896).

§ 215.1 Purpose and scope.

(a) It is the purpose and objective of the International Development Cooperation Agency and the Agency for International Development to collect information, revise personal data collection forms or processes, and maintain Agency records in a manner that will prevent an unwarranted invasion of privacy of those individuals who are the subject of Agency records.

(b) These regulations establish the procedures by which an individual may obtain notification of the existence of Agency records pertaining to that individual, gain access to those records, request an amendment or correction to the records, and appeal adverse decisions to requests for amendment or correction of Agency records.

(c) The Agency separately states and publishes in the **Federal Register** a public notice of the existence and character of systems maintained by the Agency, pursuant to the provisions of sections (e)(4) and (e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a; 88 Stat. 1896).

§ 215.2 Definitions.

(a) *Act* means the Privacy Act of 1974 (5 U.S.C. 552a; 88 Stat. 1896);

(b) *Agency* means the International Development Cooperation Agency or the Agency for International Development, its offices, bureaus, divisions, and posts abroad;

(c) *Amend* shall include the amendment or correction of a record;

(d) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(e) *Maintain* includes maintain, collect, use or disseminate;

(f) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(g) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(h) *Statistical Record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(i) *System of Records* means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 215.3 Procedures for requests pertaining to individual records in a system of records.

(a) Requests for notification of access to or amendment of Agency records contained in a system of records pertaining to an individual may be made in person or by mail as follows:

For I.D.C.A.—Assistant Director for Administration, International Development Cooperation Agency, room 4889 New State, 2201 C Street NW., Washington, DC 20523 Attention: Privacy Liaison Officer.

For A.I.D.—Privacy Liaison Officer, Agency for International Development, room 4889 New State, 2201 C Street NW., Washington, DC 20523.

(b) Such request should include information necessary to identify the record, e.g., the individual's full name, date of birth, place of birth, present mailing address, system of records identification name and number, if known, and, to facilitate the retrieval of records contained in those systems of records which are retrievable by social security numbers, the social security number of the individual to whom the record pertains.

(c) With respect to a system of records which may be maintained by the Agency in offices outside the United States, an individual may inquire whether he or she is the subject of an Agency record or may request access to or amendment of such records by appearing in person or by writing to the Privacy Liaison Officer, Agency for International Development, at the overseas missions.

(d) The Assistant Director for Administration for requests to I.D.C.A. or the appropriate Privacy Liaison Officer for request to A.I.D., or their designees shall, within ten (10) working days of receipt of the request, furnish in writing to the requesting individual notice of the existence or nonexistence of any records described in the request.

§ 215.4 Times, places, and requirements for identification of individuals making requests.

(a) Individuals making personal requests for notification, access or contest may do so at the place designated in paragraph (a) of § 215.3, which is open 9 a.m. to 5 p.m. daily except Saturdays, Sundays, and legal public holidays.

(b) Individuals making personal requests for notification, access or contest at offices outside the United States may do so at the overseas missions during the regular business hours of those offices.

(c) An individual requesting such information in person shall provide such personal identification as is reasonable under the circumstances to verify the individual's identity; e.g., driver's license, employee identification card or medicare card. (The identification should contain a photograph of the individual.)

(d) An individual requesting such information by mail shall include in his or her request a signed, notarized statement to verify his or her identity and which stipulates that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine up to $5,000, as provided in section (i)(3) of the Act.

(e) Verification of identity as set forth in paragraphs (c) and (d) of this section shall not be required of individuals seeking access to records otherwise available to members of the public under the Freedom of Information Act (5 U.S.C. 552; 88 Stat. 1561).

(f) An individual who wishes to be accompanied by another person when reviewing a record shall furnish the Agency with a written statement authorizing discussion of his or her record in the presence of the accompanying person. Such statement need not contain any reasons for the access or for the accompanying person's presence.

§ 215.5 Access to requested information by individuals.

(a) Upon receipt of a request by an individual made in accordance with the provisions of § 215.3, such individual shall be granted access to any record pertaining to him or her which is contained in a system of records maintained by the Agency subject to exemptions discussed in §§ 215.13 and 215.14.

(b) Notwithstanding the provisions of paragraph (a) of this section, access will not be allowed an individual to information or records compiled by the Agency in reasonable anticipation of a civil or criminal action or proceeding.

(c) Whenever possible, access to requested records will be granted:

(1) Where the request is presented in person and the record is readily available, promptly upon receipt of the request for access, determination that access to the record may be granted, verification of the identity of the individual seeking access, and, where applicable, receipt of consent to discuss the record with a person accompanying the individual;

(2) Where the request is made by mail, the record will, whenever possible, be provided within ten (10) working days of receipt of the request.

(d) Where access to a record cannot reasonably be granted as provided in paragraphs (c) (1) and (2) of this section, the Agency will acknowledge in writing receipt of the request for access and indicate a reasonable time within which access to the record can be granted.

(e) Where no reasonable means exist for an individual to have access to his or her record in person, a copy of the record may be provided through the mail.

§ 215.6 Special procedure: Medical records.

If the Assistant Director for Administration or the Privacy liaison Officer determines that the release directly to the individual of medical records maintained by the Agency could have an adverse effect upon such individual, the Director/Officer will attempt to arrange an acceptable alternative (such as the release of said information to a doctor named by the individual) in granting access to such record.

§ 215.7 Request for correction or amendment of record.

(a) An individual may request the Agency to correct or amend a record pertaining to him or her which the individual believes is not accurate, relevant, timely or complete.

(b) Such request must be in writing and must be presented, in person or by mail to the addresses listed in § 215.3(a).

(c) Such requests must set forth the following information:

(1) Identification of the system of records in which the particular record is maintained;

(2) The portion(s) of the record to be amended or corrected;

(3) The desired amendment or correction; and

(4) The reasons for the amendment or correction.

The request must be accompanied by evidence, documentation, or other information in support of the request.

(d) Assistance in preparing a request to amend a record may be obtained from the officials listed in § 215.3(a).

§ 215.8 Agency review of requests for amendment of record.

(a) The Agency will examine the information requested to be amended to determine its accuracy, timeliness, completeness, and its relevancy and necessity to accomplish a purpose of the Agency required to be accomplished by statute or by executive order.

(b) Within ten (10) working days after the receipt by the Assistant Director for Administration or the Privacy Liaison Officer, of a request made in accordance with this section, the Assistant Director for Administration or the Privacy Liaison Officer shall acknowledge in writing such receipt and shall, after examination in accordance with the provisions of paragraph (a) of this section, promptly either:

(1) Make any amendment of any portion thereof which the individual believes is not accurate, relevant, timely or complete, and notify the individual of the amendment made; or

(2) Inform the individual of the Agency's refusal to amend the record in accordance with the request, the reason(s) for the refusal, and the procedures established by the Agency for the individual to request a review of that refusal.

(c) If the Agency agrees with the individual's request to amend a record, in addition to proceeding as set forth in paragraph (b)(1) of this section, it shall promptly advise all previous recipients of the record of the fact that the amendment was made and the substance of the amendment where an accounting of disclosures has been made.

(d) If unusual circumstances prevent the completion of Agency action on the request to amend within 30 days after the receipt therefor by the Assistant Director for Administration of the Privacy Liaison Officer, the individual will be promptly advised of the delay, the reasons for the delay, and of the date by which the review is expected to be completed.

(e) If the Agency, after its initial examination of the record and the request for Amendment, disagrees with all or any part of the individual's request to amend it shall:

(1) To the extent the Agency agrees with any part of the individual's request to amend, proceed as described in paragraphs (b)(1) and (c) of this section;

(2) Advise the individual of its refusal and the reason(s) therefor;

(3) Inform the individual that he or she may request a further review by the Director or the Administrator, or their designees; and

(4) Describe the procedures for requesting such review, including the name and address of the official to whom the request should be directed.

(f) No part of these regulations shall be construed to permit:

(1) The alteration of evidence presented in the course of judicial, quasi-judicial or quasi-legislative proceedings;

(2) Collateral attack upon any matter which has been the subject of judicial or quasi-judicial action; or

(3) An amendment or correction which would be in violation of an existing statute, executive order or regulation.

§ 215.9 Appeal of initial adverse agency determination.

(a) An individual who disagrees with the denial or partial denial of his or her request to amend a record may file a request for review of such refusal within 60 days after the date of notification of the denial or partial denial.

(b) The request for review must be in writing and may be presented in person or by mail to:

Director, International Development Cooperation Agency, 2201 C Street NW., Washington, DC 20523. Attention: Privacy Review Request.

Assistant Administrator, Bureau for External Affairs, Agency for International Development, 2201 C Street NW., Washington, DC 20523. Attention: Privacy Review Request.

Both the envelope and the letter should be clearly marked: Attention: Privacy Review Request. Such request should include any documentation, information or statements advanced for the amendment of the record, and a copy of the initial adverse determination.

(c) Upon receipt of the request for review, the Director or the Assistant Administrator, or an officer of the Agency designated in writing by the Director or Administrator, shall undertake an independent review of the initial determination.

(d) If someone other than the Director or the Assistant Administrator is designated to conduct the review, he or she shall be an officer who is organizationally independent of or senior to the officer or employee who made the initial determination.

(e) In conducting the review, the reviewing official, may at his or her option, request such additional information as is deemed necessary to establish that the record contains only that information which is accurate, timely, complete and necessary to assure fairness in any determination which may be made about the individual on the basis of the record.

(f) Within 30 days after receipt of the request for review, the Director, the Assistant Administrator, or the official designated to conduct the review, shall advise the individual of the Agency's final decision. If unusual circumstances prevent the completion of the review within the 30-day period, the Agency shall, prior to the expiration of the 30-day period, advise the individual in writing of the circumstances preventing the completion of such review and inform him or her of the date by which the review is expected to be completed.

(g) If the reviewing official determines that the record should be amended in accordance with the individual's request, the Agency shall:

(1) Amend the record accordingly;

(2) Advise the individual of the amendment; and

(3) Where an accounting of disclosures has been made, advise all previous recipients of the fact that the amendment was made and the nature of the amendment.

(h) If, after conducting the review, the reviewing official refuses to amend the record, in whole or in part, in accordance with the individual's request, Agency shall advise the individual:

(1) Of its refusal and the reasons therefor;

(2) Of the individual's right to file a concise statement of his or her reasons for disagreeing with the Agency's decision;

(3) Of the procedures for filing a statement of disagreement;

(4) That any such statement will be made available to anyone to whom the record is subsequently disclosed, together with a brief statement by the Agency summarizing its reasons for refusing to amend the record;

(5) That to the extent an accounting of disclosure was maintained, prior recipients of the disputed record will be provided a copy of any statement of disagreement and of the Agency's statement summarizing its reasons for refusing to amend the record; and

(6) Of the individual's right to seek judicial review of the Agency's refusal to amend a record as provided for in section (g)(1)(a) of the Act.

§ 215.10 Disclosure of record to person other than the individual to whom it pertains.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Agency shall not disclose any record which is contained in a system of records by any means of communication to any person or other agency who is not the individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Agency may disclosure any such record to a person or to another agency as requested or authorized.

(c) Notwithstanding the absense of written consent from the individual to whom the record pertains, the Agency may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Agency who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use as defined in § 215.2;

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(5) To a recipient who has provided the Agency with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferrred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his or her designee, to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law; Provided, the head of the agency of instrumentality has made a prior written request to the Assistant Administrator of Administration or the Privacy Liaison Officer, specifying the particular record and the law enforcement activity for which it is sought;

(8) To a responsible person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification will be transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress, or subcommittee of such joint committee;

(10) To the Comptroller General, or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to an order of a court of competent jurisdiction or;

(12) To a consumer reporting agency in accordance with section 3711(f) of title 31.

§ 215.11 Fees.

(a) The only fees to be charged to or collected from an individual under the provisions of this part are for copying records at the request of the individual.

(b) No fees shall be charged or collected for the following: Search for and retrieval of the records; review of the records; copying at the initiative of the Agency without a request from the individual; the first 100 pages; and first class postage. However if special handling or other than first-class mail is requested or required, the costs shall be added to the basic fee.

(c) The copying fees prescribed in paragraph (a) of this section are:

Ten (10) cents per page.

Twenty (20) cents per page of computer printout.

(d) Payment may be in the form of a check, bank draft on a bank in the United States, or postal money order payable to the Treasurer of the United States, or cash.

(e) A receipt for fees paid will be given only upon request.

(f) A copying fee totaling $15.00 or less shall be waived but the copying fees for contemporaneous requests by the same individual shall be aggregated to determine the total fee.

(g) A fee may be reduced or waived by the Privacy Liaison Officer.

§ 215.12 Penalties and remedies.

The provisions of the Act relating to penalties and remedies are summarized below:

(a) An individual may bring civil action against the Agency when the Agency:

(1) Makes a determination not to amend a record in accordance with the individual's request;

(2) Refuses to comply with an individual's request pursuant ot 5 U.S.C. 552a(d)(1);

(3) Fails to maintain a record concerning an individual with such accuracy relevance, timeliness and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and as a result thereof a determination is made which is adverse to the individual; or

(4) Fails to comply with any other provision of section (d) of the Act in such a way as to have an adverse effect on an individual.

(b) The court may order the correction or amendment of the record, may enjoin the Agency from withholding the records, may order the Agency to produce any records improperly withheld, and may assess attorney's fees and costs.

(c) Where a court of competent jurisdiction make a determination that the Agency action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (c) or (d), the United States shall be liable for actual damages of no less than $1,000, the costs of the action, and attorneys' fees.

(d) Criminal penalties may be imposed against an officer or employee of the Agency who willfully discloses material which he or she knows is prohibited from disclosure, or who maintains a system of records without complying with the notice requirements.

(e) Criminal penalties may be imposed against any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. The offenses enumerated in paragraphs (d) and (e) of this section are misdemeanors, with fines not to exceed $5,000.

§ 215.13 General exemptions.

(a) Pursuant to 5 U.S.C. 552a(j)(2), the Director or the Administrator may, where there is a compelling reason to do so, exempt a system of records within the Agency from any part of the Act, except subsections (b), (c) (1) and (2), (e)(4)(A) through (F), (e), (6), (7), (9), (10), and (11), and (i) thereof, if the system of records is maintained by the Agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of:

(1) Informatioin compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information complied for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) Each notice of a system of records that is the subject of an exemption under this section will include a statement that the system has been exempted, the reasons therefor, and a reference to the **Federal Register** issue where the exemption rule can be found.

(c) The systems of records to be exempted under section (j)(2) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below:

(1) *Criminal Law Enforcement Records.* This system of records is to be exempted from sections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f), (g) and (h) of the Act. These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement procedures, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceeding, to avoid the disclosure of investigative techniques, and to avoid endangering the law enforcement personnel.

§ 215.14 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k), the Director or the Administrator may, where there is a compelling reason to do so, exempt a system of records, from any of the provisions of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Act if a system of records is:

(1) Subject to the provisions of 5 U.S.C. 552(b)(1);

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Act: Provided, however, That if any individual is denied any right, privilege, or benefit to which he or she would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnised information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) Each notice of a system of records that is the subject of an exemption under 5 U.S.C. 552a(k) will include a statement that the system has been exempted, the reasons therefor, and a reference to the **Federal Register** issue where the exemption rule can be found.

(c) The systems of records to be exempted under section (k) of the Act, the provisions of the Act from which they are being exempted, and the justification for the exemptions, are set forth below:

(1) *Criminal Law Enforcement Records.* If the 5 U.S.C. 552a(j)(2) exemption claimed under paragraph (c) of § 215.13 and on the notice of systems of records to be published in the **Federal Register** on this same date is held to be invalid, then this system is determined to be exempt, under 5 U.S.C. 552(a)(k) (1) and (2) of the Act, from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f). The reasons for asserting the exemptions are to protect the materials required by executive order to be kept secret in the interest of the national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel.

(2) *Personnel Security and Suitability Investigatory Records.* This system is exempt under 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering those sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted.

(3) *Litigation Records.* This system is exempt under 5 U.S.C. 552 (k)(1), (k)(2), and (k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information.

(4) *Employee Equal Employment Opportunity Complaint Investigatory Records.* This system is exempt under 5 U.S.C. 552 (k)(1), and (k)(2) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f). These exemptions are claimed to protect the materials required by executive order to be kept secret in the interest of national defense or foreign policy, to prevent subjects of investigation from frustrating the investigatory process, to insure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources.

(5) The following systems of records are exempt under 5 U.S.C. 552a(k)(5) from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f):

(i) Employee Conduct and Discipline Records.

(ii) Employee Relations Records.

This exemption is claimed for these systems of records to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

Dated: December 7, 1990.

James L. Harper,

Chief, Public Inquiries Division, Office of External Affairs.

[FR Doc. 91-1332 Filed 1-22-91; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-3899-5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emissions Regulations for Gasoline and Methanol-Fueled Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: This notice announces an extension of the public comment period on EPA's proposed regulation to control evaporative emissions from gasoline and methanol-fueled light-duty vehicles, light-duty trucks, and heavy-duty vehicles. This proposal was published in the **Federal Register** on January 19, 1990 (55 FR 1914) and reopened on December 3, 1990 (55 FR 49914).

DATES: The public comment period is extended 30 days and will remain open through February 22, 1991.

ADDRESSES: Interested parties may submit written comments in response to this notice (in duplicate if possible) to Public Docket No. A-89-18, at Air Docket section, U.S. Environmental Protection Agency, Attention: Docket No. A-89-18, First Floor, Waterside Mall, Room M-1500, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Carlson, Standards Development and Support Branch, Emission Control Technology Division, U.S. EPA, 2565 Plymouth Rd., Ann Arbor, MI 48105, Telephone: (313) 668-4270.

SUPPLEMENTARY INFORMATION: A notice of public workshop concerning this proposed rule was published in the **Federal Register** on December 3, 1990 (55 FR 49914) announcing a public workshop which was held on December 19, 1990, and reopening the public comment period on the original proposal until January 22, 1991. The Motor Vehicle Manufacturers Association and the Association of International Automobile Manufacturers have requested an extension of the public comment period. In light of the complexity of the issues involved, EPA agrees to a 30-day extension and is today extending the public comment through February 22, 1991.

Dated: January 16, 1991.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 91-1532 Field 1-22-91; 8:45 am]

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40 CFR Part 228

[FRL-3899-2]

Ocean Dumping: Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate an existing dredged material disposal site located in the Gulf of Mexico near the Mermentau River Navigation Channel for the continued disposal of dredged material removed from the Mermentau River Gulf of Mexico Navigation Channel (MRGNC). This proposed MRGNC site designation is for an indefinite period of time. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material.

DATES: Comments must be received on or before March 11, 1991.

ADDRESSES: Send comments to:

Norm Thomas, Chief, Federal Activities Branch (6E-F), U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733.

Information supporting this proposed designation is available for public inspection at the following locations:

EPA, Region 6, 1445 Ross Avenue, 9th Floor, Dallas, Texas 75202.

Corps of Engineers, New Orleans District, Foot of Prytania Street, room 296, New Orleans, Louisiana 70160.

FOR FURTHER INFORMATION CONTACT: Norm Thomas, 214/655-2260.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR chapter I, subchaper H, § 228.4) state that ocean dumping sites will be designated by publication in part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*). That list established two Mermentau River ocean disposal sites for the disposal of material dredged from the MRGNC. In January 1980, the interim status of the MRGNC sites was extended indefinitely. Only one of the two interim sites is being proposed for designation. The interim site located at the natural mount of the Mermentau River (which is now totally silted) is no longer used by the Corps. De-designation of this site will occur simultaneously with the designation of the interim site still being used by the Corps. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the EPA Region 6 address given above.

B. EIS Development

Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare Environmental Impact Statements (EISs) on proposals for major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this (39 FR 16186, May 7, 1974).

EPA and the New Orleans District Corps of Engineers (COE) have jointly prepared a Draft Environmental Impact Statement entitled "Environmental Impact Statement (EIS) for the Mermentau River Ocean Dredged Material Disposal Site Designation." On June 8, 1990, a notice of availability of the Draft EIS for public review and comment was published in the **Federal Register**. The public comment period on this Draft EIS closed on July 23, 1990. Five comment letters were received. The principal issues identified include beneficial uses of dredged material for beach renourishment and wetland creation/restoration, the need for updated water quality, sediment and bioaccumulation data and a description of the proposed monitoring plan. EPA believes that beneficial use alternatives were adequately described in the Draft EIS. In addition, site designation in itself does not preclude the consideration of other disposal options. In designating a disposal site, EPA is merely providing an acceptable location should ocean disposal be the preferred disposal option for a particular dredging project. Regarding updated data, EPA obtained water and sediment samples from the project area in December 1990. Testing results will be included in the Final EIS. A monitoring plan will be developed by EPA in coordination with the COE after site designation is complete.

The proposed action discussed in the EIS is designation for continuing use of an ocean disposal site for dredged material. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal. The appropriateness of ocean disposal is determined on a case-by-case basis. Prior to each use the Corps will comply with 40 CFR 227 by providing EPA a letter containing all the necessary information.

The EIS discusses the need for the action and examines ocean disposal sites and alternatives to the proposed action. Land based disposal alternatives were examined in a previously published EIS and the analysis was updated in the Draft EIS based on information from the COE. The nearest land disposal area occurs about 0.25-1.25 miles north of the MRGNC on 168 acres paralleling the land cut. However, use of this area for disposal of material dredged from the MRGNC would result in increased costs by reducing pump efficiency. The remainder of nearby land areas are beach, chenier ridge, or marsh. Material could be pumped to an

approved marsh creation site in Lower Mud Lake for an additional cost of about $200,000 per disposal. Taking into account the benefits from the marsh alternative, the cost increase would be nominal. However, because creation of marsh with the material may not be feasible for every dredging cycle, an acceptable ODMDS is still needed.

Four ocean disposal alternatives—two shallow water areas (including the proposed site), a mid-shelf area and a deepwater area—were evaluated. Use of the mid-shelf and deepwater sites would involve: (1) Increased transportation and surveillance and monitoring costs without any corresponding environmental benefits; (2) the removal of sediments from the nearshore environment making them unavilable for movement and deposition by longshore currents; and (3) increased safety hazards resulting from transporting dredged material greater distances through areas of active oil and gas development. Because of these reasons, the mid-shelf area and the deepwater area were eliminated from further consideration. Alternate shallow-water sites located on the east or immediately west of the Mermentau bar channel were also evaluated. However, environmental effects would be similar with no environmental benefits gained by their selection.

In accordance with the requirements of the Endangered Species Act, EPA and the COE have completed a biological assessment of the potential effects of site designation on listed species of whales and turtles. The COE has coordinated a no adverse impact determination with the National Marine Fisheries Service (NMFS) and NMFS has concurred with this determination. Pursuant to an Office of Water Policy memorandum dated October 23, 1989, EPA has evaluated the proposed site designation for consistency with the State's approved coastal management program. EPA has preliminarily determined that the designation of the proposed site is consistent to the maximum extent practicable with the State coastal management program, and has submitted this determination to the State for review in accordance with EPA policy. In addition, as part of the NEPA process, EPA has consulted with the State regarding the effects of the dumping at the proposed site in the State coastal zone. EPA will take the State's comment into account in preparing the final EIS for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site, if it is designated.

C. Site Designation

The MRGNC ocean dredged material disposal site (ODMDS) is located off the coast of southwest Louisiana. The northern end of the site is about 0.4 miles offshore. The site extends approximately 1.4 miles offshore. Water depths at the site range from 4 to 14 feet. The coordinates of the rectangular shaped site are as follows: 29° 43′ 21″ N, 93° 00′ 53″ W; 29°43′ 21″ N, 93° 01′ 23″ W; 29° 42′ 27″ N, 93° 00′ 53″ W; 29° 42′ 27″ N, 93° 01′ 23″ W.

D. Regulatory Requirements

Five general criteria in § 228.5 of the EPA Ocean Dumping Regulations are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site may be terminated or limitations placed on the use of the site to reduce the impacts to acceptable levels.

EPA has determined, based on information presented in the Draft EIS, that the existing site is acceptable under the five general criteria. The Continental Shelf location is not feasible and no environmental benefit would be obtained by selecting such a site. Historical use of the existing site has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment. Section 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met. The characteristics of the proposed site are reviewed below in terms of the eleven specific factors.

1. Geographical Position, Depth of Water, Bottom Topography and Distance from Coast [40 CFR 228.6(a)(1).]

Geographical position, average water depth, and distance from the coast for the disposal site are given above. Bottom topography slopes to the south (10.0 feet per mile).

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases. [40 CFR 228.6(a)(2).]

Breeding, spawning, nursery, feeding, and passage of shrimp, menhaden, bottom fish, and other organisms occur within the entire northern Gulf of Mexico, and thus, also in the vicinity of the ODMDS. The MRGNC is a pathway for movement of fish and shellfish between the Gulf and the Mermentau River estuary. Migration of fish and shellfish through passes is heaviest during spring and fall. Major estuaries including Rockefeller National Wildlife Refuge, the Mermentau River Basin, and Calcasieu Lake are located in the area. The MRGNC ODMDS represents a small area of the total range of fisheries resources. Impacts to endangered or threatened turtles and whales that might utilize the area to be used for disposal are negligible. Least terns have been known to nest on beaches near the ODMDS, but currently do not nest in these locations.

3. Location in Relation to Beaches and Other Amenity areas [40 CFR 228.6(a)(3).]

The ODMDS is 0.4 miles from the nearest beach. The Hackberry beach is sparsely used because of shallow turbid water and its distance from population centers. The turbidity plume resulting from disposal would be diluted to ambient levels well before reaching the beach.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of release, Including Methods of Packing the Wastes, if any [40 CFR 228.6(a)(4).]

The material to be disposed is from the Mermentau River-Gulf of Mexico Navigation Channel and consists of a mixture of sand, silt, and clay obtained by hydraulic dredge. Sediment grain size decreases in the offshore direction, with silts and clays being predominant (66 percent) in the channel. This compares with 80 percent silts and clays in the ODMDS. The difference results from higher water velocities in the channel, especially near land. Approximately 500,000 cubic years of material are disposed in the site during each use. The material is removed with a hydraulic dredge and released in the ODMDS. The material is not packaged in any way. Future disposal is expected to be similar to past actions, in terms of material types, quantities, and method of disposal. The Corps of Engineers would likely be the only user of the site.

5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5).]

Surveillance is possible by shore-based radar, aircraft, or day-use boats. No surveillance is currently performed by the U.S. Coast Guard. Monitoring would be facilitated by the fact that the ODMDS is nearshore, in fairly shallow water, and has baseline data available.

The primary purpose of monitoring is to determine whether disposal at the site is significantly affecting areas outside the disposal area and to detect any unacceptable adverse effects occurring in or around the site. Based on historic data, an intense monitoring program is not warranted. However, in order to provide adequate warning of environmental harm, the EPA will develop a monitoring plan in cooperation with the COE. The plan would concentrate on periodic depth soundings and sediment and water quality testing.

6. Dispersal, Horizonal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if Any [40 CFR 228.6(a)(6).]

Mixing processes, current characteristics, and sediment transport in the nearshore region off the Chenier Plain are influenced by tidal currents, winds, and storms. Because of the shallow water, the water column is generally well mixed. Using data from off shore of the Calcasieu River, the area can experience density stratification during periods of great freshwater inflow, mainly May and June. In the summer, bottom waters of the Louisiana shelf are occasionally oxygen depleted which can cause mortality of benthic organisms. This phenomenon does occur during the summer near the ODMDS. It appears that the predominant current is to the west, but easterly currents occur with storm events; however, data on the specifics of currents in the area are sparse.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7).]

Dredged materials from construction and maintenance of the MRGNC have been disposed at the interim ODMDS since 1971 and no significant adverse impacts have resulted. Previous disposal has caused minor effects, such as temporary increases in suspended sediment concentrations, temporary turbidity, sediment mounding, smothering of benthic organisms, release of nutrients, possible minor releases of trace metals, and a temporary change in sediment grain size. The material is swept in a westerly direction by prevailing currents. Because the effects of disposal are temporary, there are no cumulative effects.

8. Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8).]

In the vicinity of the ODMDS the majority of shipping traffic is confined to the MRGNC channel. Dredging the Mermentau Channel facilitates shipping: periodic desposition of material dredged from the Mermentau in the ODMDS has some potential for interfering with ship movement in the area during disposal operations.

Nearshore and estuarine areas of the Chenier Plain also contain a diverse and highly productive fishing ground for a number of commercial and recreational species. The MRGNC ODMDS represents a very small proportion of the total nearshore fishing grounds in the Chenier Plain and adverse impacts from its use would be temporary and minor. Interference with fishing may occur if any shoals are created by dredged material disposal, as this could cause groundings of shrimp boats within disposal site boundaries. If the material is spread evenly, it would raise bottom elevations within the ODMDS by about 0.25 ft, which should present no problems for shipping and other uses. The material would eventually be moved toward the west, which would occur naturally if the dredging and disposal in the ODMDS did not occur.

The nearest oyster leases are just west of Chenier au Tigre near Vermilion Bay, some 50 miles to the east of the ODMDS. Designation of the ODMDS would not impact these or any other lease areas. Desalination areas do not occur in the vicinity of the ODMDS. The site is located about 20 miles from the Rockefeller National Wildlife Refuge and Sabine National Wildlife Refuge to the east and west, respectively. There has been no impact to the refuges from the use of the site and no impact is expected to occur in the future.

Petroleum and mineral-extracting activities occur offshore within 1.0 mile of the ODMDS and are not impacted by use of the site. Also, there are pipelines that occur throughout the area that have not been impacted by the deposition of dredged material. Intermittent dumping does not interfere with the exploration or production phases of resource development, or with other legitimate uses of the ocean.

9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9).]

Water and sediment samples were taken in the project area in 1977. These data demonstrated that concentrations of copper, lead, mercury, and nickel in the water were above EPA chronic criteria for saltwater aquatic organisms. The source of pollutants is unclear, but appears to be somewhere east of the MRGNC. The pollutants are often at higher concentrations near the shore. Sediment data, however, do not show these trends. Elutriate data from the channel sites showed a slight exceedence of the EPA criterion for copper at two sites. The detection limit for mercury was above the EPA chronic criterion in the elutriate tests. However, all sites had higher concentrations than the criterion (.025 ug/1). Pesticides were not detected at any sample site. It should be noted that criteria for metals were developed for the acid-soluable forms and all analyses are for total recoverable forms. Therefore, the criteria are overly protective.

The potential for bioaccumulation of pesticides, polychlorinated biphenyls, heavy metals, and petroleum hydrocarbons in tissues of marine organisms at the MRGNC project area was assessed using Atlantic quahog clams, polychaete worms, and oysters exposed to test and reference sediments during the solid phase bioassay. In many cases, the tissue concentrations of these constituents were below the detection limits of the analytical procedure. For all but two constituents, the concentrations of these materials in animals exposed to test sediments from three stations in the Mermentau bar channel were either less than or statistically no greater than concentrations found in animals exposed to the reference sediments. Heptachlor in the summer series was significantly greater in oysters exposed to sediments from one station than in animals exposed to the reference materials. Mean mercury concentrations were significantly greater in clams and sandworms exposed to material from all three stations than in animals exposed to the reference sediment in the winter series.

Temporary mounding can occur within the ODMDS during discharge, which reduces water depths. The direction and speed of currents are variable, but sediments generally drift toward the west under most circumstances. The channel has coarser grained material than surrounding areas leading to the slight, but discernable difference between sediment grain size in the ODMDS and areas east of the channel. Sand comprises about 5 percent more of the sediment composition west of the channel compared to areas east of the channel.

Disposal would temporarily increase turbidity at the site. The duration of the plume would depend on particle size, currents, and mixing, but should not extend over an area greater than about 17 acres beyond the ODMDS at any given time. The fine sediments may

remain suspended for hours, but would eventually settle and turbidity would return to ambient conditions. The MRGNC ODMDS is actively used for disposal an average of 14 days per operation. Thus, turbidity would be increased for approximately 2 weeks each year that disposal occurs.

Impacts of disposal of plankton would be temporary. Plankton in the ODMDS during disposal may be entrained in the dredged material, subjected to decreased light transmission, and possibly to minor increased levels of contaminants.

Benthic organisms in the ODMDS would be buried during disposal. Motile species could burrow upward through the expected 10–15 cm of substrate. Recolonization would start at the cessation of dumping and would be essentially complete within a period of 2–3 months. Disposal of dredged material in the ODMDS occurs once every three years; therefore, disturbance would occur approximately 10 percent of the time.

Waters off the central Louisiana coast, shoreward of the 20m contour, are heavily fished areas. The most valuable resources have been penaeid shrimp, menhaden, blue crabs, redfish, tuna, and spotted seatrout. There would be some physical interference with commercial and recreational fishing during disposal. However, it would be confined to the ODMDS itself and should be minimal. There would be minimal danger of heavy metal or chlorinated hydrocarbon contamination of fish and or shellfish during disposal as shown by elutriate analyses and bioaccumulation studies discussed earlier.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10).]

No nuisance species have developed at the Mermentau ODMDS, and none are expected to develop in the future.

11. Existence at or in Close Proximity to the Site of any Significance Natural or Cultural Features of Historical Importance [40 CFR 228.6(a)(11).]

Cheniers and beach ridges in the area are ancient Gulf beaches that serve important functions as wildlife habitat, storm barriers, and limiting salt water intrusion into marshes. A survey to identify archeological and historical resources is not required at this time. However, a Nautical Resources Plan for the COE is being prepared in consultation with the Louisiana State Historic Preservation Officer. Under guidelines established by this plan, studies may be done in the future to evaluate impacts to historic shipwrecks that may result from use of the MRGNC ODMDS.

E. Proposed Action

EPA proposes to designate the Mermentau River ocean dredged material disposal site. The existing site is compatible with the general criteria and specific factors used for site evaluation. While the Corps does not administratively issue itself a permit, the requirements that must be met before dredged material derived from Federal project can be discharged into ocean waters are the same as where a permit would be required. EPA has the authority to approve or to disapprove or to propose conditions upon dredged material permits for ocean dumping.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: January 14, 1991.

Joe D. Winkle.

Acting Regional Administrator of Region 6.

In consideration of the foregoing, subchapter H of chapter I of title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) under "Dredged Material Sites" the entries for Mermentau River, Louisiana and adding paragraph (b)(88) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(88) Mermentau River, Louisiana—Region 6

Location: 29°43'21" N., 93°00'53" W.; 29°43'21" N., 93°01'23" W.; 29°42'27" N., 93°00'53" W.; 2942'27" N., 93°01'23" W.

Size: 0.395 square nautical miles.

Depth: Ranges from 4–14 feet.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the vicinity of Mermentau River—Gulf of Mexico Navigation Channel.

[FR Doc. 91-1534 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 34

RIN 0905-AD29

Medical Examination of Aliens

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of the list of "communicable disease of public health significance" for the medical examination of aliens as mandated by Public Law 101-649, the Immigration Act of 1990 (the Act). The list will be incorporated in current regulations which provide for the physical and mental examination of aliens within the United States or in other countries as required by the Immigration and Nationality Act. Based on current epidemiologic concepts and medical diagnostic standards, the Secretary is proposing that "infectious tuberculosis" be the only disease currently considered a communicable disease of public health significance.

The Public Health Service is also preparing regulations covering the physical/mental disorders and the drug abuse/addiction provisions of the Act.

DATES: Written comments are invited and must be received on or before February 22, 1991.

ADDRESSES: Comments should be addressed in writing to the Director, Division of Quarantine, Center for

Prevention Services, Centers for Disease Control, Mail Stop E03, Atlanta, Georgia 30333. Comments received will be available for public inspection between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), in room 1327E, 1644 Tullie Circle, Atlanta, Georgia. All comments received during the comment period will be considered in developing the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. McCance, Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Mail Stop E03, Atlanta, Georgia 30333, telephone (404) 639-1455, or FTS 236-1455.

SUPPLEMENTARY INFORMATION: Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), as amended, sets out medical grounds for exclusion of aliens from the United States; among these are the presence of a communicable disease of public health significance in an alien (section 212(a)(1)(A)(i)). This NPRM modifies 42 CFR 34.2(b), Medical Examination of Aliens, to establish the list of communicable diseases of public health significance.

Until the effective date of Public Law 101-649, June 1, 1991, section 212(a)(6) of the Immigration and Nationality Act will continue to list "dangerous contagious diseases" as excludable conditions. The list, in 42 CFR 34.2(b), includes five sexually transmitted diseases (chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, and syphilis, infectious stage), human immunodeficiency virus (HIV) infection, active tuberculosis, and infectious leprosy.

During January and February 1990, the Public Health Service reviewed the list of dangerous contagious diseases to determine whether the disease on the list presented a public health risk to the United States. Following that review it was determined that only infectious (or active) tuberculosis should be on such a list.

The sexually transmitted diseases (STDs) currently on the list of "dangerous contagious diseases" are thus not included in this Notice of Proposed Rulemaking (NPRM). The STDs are not transmitted by casual contact, through the air, or from common vehicles (such as food or water), nor will an infected person in a common or public setting place another individual inadvertently or unwillingly at risk. A careful consideration of epidemiological principles and current medical knowledge leads us to believe that allowing persons with these conditions to enter the United States will not pose a significant risk to the general population, where there is already a widespread prevalence of these diseases. We cannot determine how many persons with these diseases would be permitted entry under the proposed change, but we do not believe there would be any significant impact on transmission in the United States.

HIV infection is transmitted among adults in this country almost exclusively by two routes: Sexual intercourse with an infected person, and sharing of contaminated injection equipment by injection drug users. The risk of (or protection from) HIV infection comes not from the nationality of the infected person, but from the specific behaviors that are practiced. Again, a careful consideration of epidemiological principles and current medical knowledge leads us to believe that allowing HIV-infected aliens into this country will not impose a significant additional risk of HIV infection to the U.S. population, where prevalence of HIV infection is already widespread. Our best defense against further spread of HIV infection, whether from a U.S. citizen or alien, is an educated population.

Leprosy (Hansen's disease) is not highly contagious. It is spread through prolonged contact with an infected individual. The majority of imported cases occur in persons who do not manifest outward signs of the disease when they are medically screened abroad, but develop active disease after arriving in this country. Effective drugs are now available for treating this disease and suppressing its infectiouness. In recent years, management of patients with Hansen's disease has substantially changed from isolation from society to ambulatory treatment. There is a nationwide system in the United States to provide comprehensive care and treatment to persons diagnosed with Hansen's disease.

Infectious turberculosis is proposed for retention on the list because *Mycobacterium tuberculosis* can be transmitted through the air, and an infectious person can place others at risk through casual contact. *M. tuberculosis* is carried in airborne particles that can be generated when persons with pulmonary or laryngeal tuberculosis sneeze, cough, speak, or sing. The particles are so small that normal air currents keep them airborne and can spread them throughout a room, building, or vehicle. Those found to have infectious tuberculosis should receive treatment until they are no longer infectious before they are allowed to travel to the United States. At that point, existing public health programs are capable of managing the relatively few who will require further treatment after arrival.

The issue of whether any of the above medical conditions should be on a list of excludable conditions for aliens seeking entry into the United States was discussed with representatives of the American Medical Association (AMA), the American Public Health Association, the Association of State and Territorial Health Officials, CDC's Advisory Committee on the Elimination of Tuberculosis, CDC's Advisory Committee for the Prevention of HIV Infection, the Council of State and Territorial Epidemiologists, the Department of Defense, the National Association of County Health Officials, the National Commission on Acquired Immune Deficiency Syndrome, the National Medical Association, the U.S. Conference of Local Health Officers, and with a former Assistant Secretary for Health. All of those consulted supported deleting from the list of dangerous contagious diseases chancroid, gonorrhea, granuloma inguinale, HIV infection, infectious leprosy, lymphogranuloma venereum, and infectious syphilis. All have supported the retention of infectious (or active) tuberbulosis. The AMA favors HIV testing and counseling of immigrants, but not exclusion of those found positive. The non-Federal experts were also asked if there should be any other communicable diseases on a list of excludable conditions, and they agreed that no other diseases should be added.

This NPRM is necessary to establish the list of "communicable diseases of public health significance" as mandated by Public Law 101-649. The Public Health Service is also taking action to develop regulations to implement the physical/mental disorders and drug abuse/addiction provisions of the Act.

The Secretary has determined that this NPRM will not have a significant impact on a substantial number of small entities and, therefore, does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Public Law 96-354.

The Secretary has also determined that, if it is finalized, this is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because this rule will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 34

Dangerous contagious disease, Communicable disease of public health significance, Immigration, Medical examination of aliens.

Therefore, title 42 of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: December 28, 1990.

James O. Mason,

Assistant Secretary for Health.

Approved: December 31, 1990.

Louis W. Sullivan,

Secretary.

PART 34—MEDICAL EXAMINATION OF ALIENS

1. The Authority citation for 42 CFR 34 is revised to read as follows:

Authority: Sec. 215, 58 Stat. 690, as amended, sec. 234, 66 Stat. 198; 42 U.S.C. 216, 8 U.S.C. 1224; secs. 322, 325, 58 Stat. 696, as amended, 697 as amended, secs. 212, 326, 66 Stat. 182, as amended, 200; 42 U.S.C. 249, 252, 8 U.S.C. 1182, 1226; and Pub. L. 101-649.

2. Section 34.2(b) is revised to read as follows:

§ 34.2 Definitions.

* * * * *

(b) *Communicable disease of public health significance.* Any of the following diseases: Infectious tuberculosis.

* * * * *

3. In § 34.4, paragraphs (a)(1) and (a)(1)(iii), paragraph (a)(2), paragraph (a)(3)(ii), paragraph (a)(5), and the beginning of the first sentence of paragraph (a)(3)(iii) are revised to read as follows:

§ 34.4 Scope of examinations.

(a) * *

(1) *Persons subject to requirement for chest X-ray examination.* Except as provided in paragraph (a)(2) of this section, a chest X-ray examination for tuberculosis shall be required as part of the examination of:

* * * * *

(iii) All other applicants for a nonimmigrant visa who are required by a consular authority to have a medical examination if such X-ray examination is considered necessary by the medical examiner;

* * * * *

(2) *Exceptions.* A chext X-ray examination shall not be required if the alien has not reached his/her 15th birthday: *Provided,* That a tuberculin test may be required when there is evidence of contact with a person known to have tuberculosis or other reason to suspect infection with tuberculosis and a chest X-ray examination required in the event of a positive reaction. Additional exceptions to the requirement for a chest X-ray examination may be authorized for good cause, upon application, by the Director, Centers for Disease Control.

(3) *How and where performed.* * * *

(ii) When necessary X-ray facilities are not available to the medical examiner, the applicant shall furnish a chest X-ray film and a reading thereof, so that the medical examination can be completed. If X-ray facilities necessary for the completion of the examination of a visa applicant or of an applicant for entry are not available in the community where the examination is made, the medical examiner shall so state on the medical examination form and the procedures will be completed at the time of examination at the U.S. port of entry.

(iii) The X-ray reading shall be included in the medical examination report. * * *

* * * * *

(5) *Failure to present records.* If, on examination at the time determination of admissibility is to be made at the U.S. port of entry, no X-ray film or medical examination report (including X-ray film or medical examination report (including X-ray reading) is presented in accordance with the provisions of this paragraph, a medical hold shall be issued pending completion of any necessary examination procedures.

* * * * *

[FR Doc. 91-1494 Filed 1-22-91; 8:45 am]

BILLING CODE 4160-18-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-651, RM-7544]

Radio Broadcasting Services; Bald Knob and Clarendon, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Capps Radio Company, licensee of Station KKSY(FM), Bald Knob, Arkansas, seeking the substitution of Channel 296C3 for Channel 296A and modification of its license accordingly. Additionally, Channel 281A is proposed as a substitute for Channel 297A at Clarendon, Arkansas, for which a construction permit has been issued to B & H Broadcasting Co. An Order to Show Cause is therefore issued to B & H Broadcasting. Coordinates for Channel 296C3 at Bald Knob are 35-10-00 and 91-44-54. Coordinates for Channel 281A at Clarendon are 34-37-19 and 91-22-46.

DATES: Comments must be filed on or before March 11, 1991, and reply comments on or before March 26, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Capps Radio Company, Attn: John Paul Capps, P.O. Box 1488, Searcy, AR 72143.

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. 90-651, adopted December 24, 1990, and released January 17, 1991. 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.

Andrew J. Rhodes,

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

[FR Doc. 91-1553 Filed 1-22-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-01; Notice 01]

RIN 2127-AD80

Federal Motor Vehicle Safety Standards; Controls and Displays

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Federal Motor Vehicle Safety Standard No. 101, Controls and Displays. This standard requires, among other things, that the identification of certain controls and displays be perceptually upright to the driver. NHTSA recently issued an interpretation of the perceptually upright requirement with respect to controls located on the steering wheel. The agency concluded that control identification which rotated along with the steering wheel would not be perceptually upright to the driver. After the letter was issued, General Motors (GM) met with NHTSA to advise it of concerns about the interpretation, paticularly with respect to cruise controls. After reviewing GM's arguments, NHTSA has decided to propose that identification of cruise controls need be perceptually upright only when the steering wheel is centered. The notice also requests comments on an alternative amendment that would exclude steering wheel mounted cruise control altogether from the perceptually upright requirement, on whether any other controls or displays which are subject to the perceptually upright requirement should be permitted on the steering wheel, and whether an amendment clarifying the meaning of perceptually upright is needed.

DATES: Comments must be received on or before March 11, 1991. The proposed requirements would become effective 30 days after publication of a final rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The docket section is open to the public from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5271).

SUPPLEMENTARY INFORMATION: Standard No. 101, Controls and Displays, specifies requirements for the accessibility, identification and illumination of controls and displays in passenger cars, multipurpose passenger vehicles, trucks and buses. The purpose of the standard is to ensure the accessibility and visibility of controls and displays to a driver and to facilitate their quick and proper identification and selection by a driver in order to reduce the safety hazards caused by diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

Section S5.2.1 of the standard requires certain vehicle controls to be identified by specified symbols or words and for the identification to be placed on or adjacent to the control. That section also requires the identification to be visible to the driver and with certain exceptions, to "appear to the driver perceptually upright."

On June 6, 1990, in a letter addressed to Mr. J. A. Schurger of Vehicle Improvement Products, Inc., NHTSA provided an interpretation of the requirement that certain control identification be "perceptually upright" to the driver. Mr. Schurger had described a proposed design for heavy trucks in which a "switch package" would be located in the center of the steering wheel, along the center spokes. The switch package would include controls for the horn, turn signals, cruise control, headlights (master lighting switch), maker lamps, hazard warning signal and high beam. Mr. Schurger noted that Standard No. 101 requires the identification of certain controls to be perceptually upright, and asked whether identifying symbols which rotate along with the steering wheel would be considered to meet that requirement.

NHTSA concluded that control identification which rotated along with the steering wheel would not be perceptually upright to the driver. The agency noted that the identification would not be perceptually upright to the driver except when the steering wheel is in a centered position, and that since rotation of the steering wheel is a necessary and routine part of driving, the identification would often not be perceptually upright to the driver. The agency also noted that there is no provision is Standard No. 101 that limits the "perceptually upright" requirement to conditions where the steering wheel is centered.

NHTSA indicated in the letter that the interpretation was consistent with past agency actions. In a July 1984 notice establishing a requirements to identify the horn control with a specified symbol, NHTSA address commenter concerns about how Standard No. 101's requirement that identification be perceptually upright might apply to horn controls located on the steering wheel. 49 FR 30191; July 27, 1984. The commenters noted that it is impossible for such horn symbols to be perceptually upright at all times. In response to the comments, the agency included a provision in the standard expressly stating that the horn symbol need by perceptually upright only when the vehicle, aligned to the manufacturer's specification, has its wheel positioned for the vehicle to travel straight forward, i.e., when the steering wheel is centered. NHTSA noted in the June 1990 interpretation letter that it would not have been necessary to establish this special provision for horn symbols if identification of controls located on the steering wheel was considered to be perceptually upright in the absence of such provision. (NHTSA subsequently decided to amend the standard to exclude the horn symbol altogether from the perceptually upright requirement. However, that decision does not affect the above analysis.)

On October 1, 1990, General Motors (GM) met with NHTSA to express concerns about the June 1990 interpretation, particularly with respect to cruise controls. (A memorandum describing the meeting, with materials provided by GM at the meeting, are available in the docket.)

GM noted that cruise controls, which are referred to as automatic vehicle speed controls in Standard No. 101, are among the controls subject to the perceptually upright requirement. GM indicated that it, and reportedly the rest of the auto industry, has long interpreted the standard to permit cruise controls to be located on the steering wheel hub, as long as the identification is perceptually upright when the steering wheel is centered. According to GM, placement of control identification so that it is essentially horizontal (upright) when the steering wheel is centered will result "perceptually uprightness" to the driver at those times when it is reasonably anticipated that the driver will be observing the identification. GM suggested that cruise control would be used primarily on multi-lane, limited access roads on which turns are comparatively few and usually very gradual. Under those circumstances, the steering wheel would normally be at or near the centered position.

GM provided a list indicating that virtually all of the major auto manufacturers produce some cars with steering wheel and hub mounted cruise control switches. Thus, the rest of the auto industry apparently interprets Standard No. 101 in the same way as GM. That company also noted that NHTSA indicated in a past **Federal Register** notice its awareness that some cruise controls are located on the steering wheel. See 50 FR 23426, June 4, 1985. Since that statement was made in the context of the perceptually upright requirement, GM argued that a fair implication was that the agency considered such controls to be in compliance with Standard No. 101.

NHTSA has reviewed its June 6, 1990 interpretation and believes that it was correct, given the wording of Standard No. 101. However, the agency can understand how the language in the preamble of the June 4, 1985 **Federal Register** notice may have contributed to confusion about how the perceptually upright requirement applies to cruise controls. As a result, many manufacturers have placed cruise controls on steering wheels. The agency does not intend to take action to enforce Standard No. 101 with respect to these controls pending completion of this rulemaking.

Given the above background, and in light of the safety arguments raised by GM, NHTSA has decided that the merits of placing cruise controls on steering wheels should be considered in a rulemaking proceeding. The agency has therefore specifically considered the safety implications of requiring, or not requiring, the identification for cruise controls mounted on the steering wheel to be perceptually upright other than when the steering wheel is centered.

At the outset, it should be noted that, as a practical matter, a requirement that identification for cruise controls be perceptually upright regardless of whether the steering wheel is centered would have the effect of prohibiting those controls from being mounted on the steering wheel. Thus, to the extent that there may be safety or other advantages to hub-mounted cruise controls, such advantages could not be obtained in the presence of such a requirement.

GM argued that hub-mounted controls can help achieve the safety purposes of Standard No. 101. That company stated that hub-mounted controls can enhance the accessibility of controls, facilitate their selection, reduce the amount of time in which the driver has his or her eyes off the road, and reduce the number of errors in selection and operation of controls. Among other things, GM stated that identification of controls on the steering wheel is less likely to be obscured from the driver's view than in other locations.

GM also provided a copy of a paper entitled "Comparing Ease-of-Use of Steering Wheel-Mounted and Conventional Radio Controls," written by Eugene Farber and Susan Salata of Ford Motor Company. (NHTSA notes that the perceptually upright requirement does not apply to radio controls.) The paper reports the results of research conducted with persons driving under actual freeway traffic conditions, and concludes that a properly designed set of steering wheel-mounted radio controls can produce a useful improvement in convenience and ease-of-use. After becoming familiar with the controls, drivers took less time to locate and use the wheel-mounted controls, had less eyes-off-the-road time and made fewer errors with them than with the conventional controls. Most drivers operated the radio wheel-mounted controls without removing their hands from the steering wheel. Results with speed controls were less clear cut. According to the paper, there were no significant differences, overall, between the wheel-mounted and conventional controls in operating time or time to locate controls.

NHTSA believes that the primary question for this rulemaking is not whether steering wheel-mounted cruise controls necessarily result in safety benefits, but instead whether there is a safety need to prohibit them. The agency has tentatively concluded that the safety benefits attributable to the perceptually upright requirement will be achieved so long as control identification located on the steering wheel is perceptually upright when the steering is centered.

NHTSA agrees with GM that placement of cruise control identification so that it is essentially upright when the steering wheel is centered will result in "perceptually uprightness" to the driver at those times when it is reasonably anticipated that the driver will be observing that identification. As indicated by that company, cruise controls are used primarily on multi-lane, limited access roads on which turns are comparatively few and the turns are usually very gradual. Under those circumstances, the steering wheel would normally be at or near the centered position. Therefore, control identification will be perceptually upright, or close to perceptually upright (when the steering wheel is slightly tilted) at all times when the driver has a need for that information.

The agency believes, in addition, that steering wheel mounted cruise controls may have safety and other advantages. For example, such controls can be operated while the driver keeps both hands on the steering wheel. This provides an added reason to permit such controls.

NHTSA is therefore proposing an amendment that would provide that identification for steering wheel mounted cruise controls need be perceptually upright only when the vehicle, aligned to the manufacturer's specifications, has its wheels positioned for the vehicle to travel straight forward, i.e., when the steering wheel is centered.

NHTSA is also considering an alternative amendment that would exclude steering wheel mounted cruise controls altogether from the perceptually upright requirement. As indicated above, the agency previously issued an amendment providing that identification of horn controls need be perceptually upright only when the steering wheel is centered. Later, however, NHTSA decided to exlude horn controls entirely from the perceptually upright requirement. The agency explained that second change as follows:

> A petition for reconsideration submitted by Toyota requested that the agency eliminate the perceptually upright requirement for the horn symbol. The petitioner argued that the provision for a horn control symbol, without the perceptually upright requirement, would accomplish the agency's intentions for accident avoidance. That company also stated that it is difficult to place a perceptually upright symbol on the type of narrow button that is typically used on a vertical spoke of a steering wheel hub. Toyota noted that while the symbol could be located adjacent to the control in such a situation, the cost would be three times more than if the symbol were simply located on the button.
>
> After carefully evaluating Toyota's arguments, the agency has decided to drop the perceptually upright requirement for the horn control symbol. This decision was based on two considerations. First, unlike some symbols which must be properly oriented in order to be understood, the horn symbol is readily recognizable in any orientation. Second, a horn symbol may be printed larger and therefore be more easily perceived if it can be oriented along the longer axle of the horn button, spoke of the wheel, or along the rim of the steering wheel. 50 FR 23427, June 4, 1985.

NHTSA request comments on whether any of the considerations which led the agency to exclude the horn control from the perceptually upright requirement are applicable to cruise controls, and whether cruise controls also should be excluded from that requirement.

The agency notes that while the identification for most cruise controls located on steering wheels is upright when the steering wheel is centered, the identification for at least some cruise controls is at a slight angle. The latter designs raise two issues.

The first issue is whether identification which is at a slight angle should be considered perceptually upright and, if so, at what angle such identification would not be considered perceptually upright. NHTSA notes that this issue is not limited to cruise controls located on the steering wheel but is also relevant to identification of controls and displays which are not located on the steering wheel. The agency requests comments on whether an amendment should be issued to clarify the meaning of perceptually upright, and if so, what amendment should be adopted. Commenters which believe identification at an angle should be considered perceptually upright are asked to indicate the angle at which the identification should not be considered perceptually upright.

The second issue relates to the fact that if identification of cruise controls is to be perceptually upright or close to perceptually upright to the driver at those times when it is reasonably anticipated that the driver will be observing that identification, it is necessary that the identification be upright or very close to upright when the steering wheel is centered. While it is not likely that a cruise control will be operated during a sharp turn, a cruise control may be operated during the gradual turns found on multi-lane, limited access roads. To the extent that cruise control identification is at an angle when the steering wheel is centered, that angle could be increased during gradual turns depending on the direction of the angle relative to the direction of the turn. For example, if identification is upright when the steering wheel is centered, it will be at a 45 degree angle when the steering wheel is turned one-eighth of the way around. However, if identification is at a 45 degree angle when the steering wheel is centered (as it might be if oriented along the axis of some steering wheel spokes) the identification could be at a 90 degree angle when the steering wheel is turned one eighth of the way around.

NHTSA requests comments on whether identification of cruise controls located on steering controls should be required to be upright when the steering wheel is centered or whether it should be permitted to be at a specified angle. If the agency clarifies the meaning of perceptually upright to expressly permit words as a whole to be placed at slight (specified) angles from the horizontal, is a different requirement (e.g., one permitting lesser angles or no angle at all) appropriate for cruise controls located on the steering wheel, given the fact that any angle will be altered during gradual turns (unlike the identification of controls and displays located on the instrument panel)?

As indicated above, Standard No. 101's perceptually upright requirement applies to a number of specified controls and displays in addition to the cruise control. The agency requests comments on whether any of these other controls or displays should also be permitted on the steering wheel.

NHTSA notes that the proposed regulatory text set forth at the end of this notice would require that identification of cruise controls need be perceptually upright only when the steering wheel is centered. Depending on the comments, NHTSA may adopt the alternative amendment discussed above that would exclude steering wheel mounted cruise controls altogether from the perceptually upright requirement, and may also adopt an amendment that would permit other controls and displays to be located on the steering wheel. The agency may also adopt an amendment clarifying the meaning of perceptually upright.

Since the proposed amendment would impose no new requirements but would instead relax an existing requirement to provide additional flexibility, NHTSA is proposing an effective date of 30 days after publication of a final rule in the **Federal Register.**

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. As already noted, the proposal would relax an existing requirement. The agency has also concluded that the impacts are so minor as not to require a full regulatory evaluation.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effect of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. As indicated above, the proposal would relax an existing requirement. Any cost impacts of the relaxation would be in the direction of cost savings, as a result of increased flexibility, and very minor. Therefore, small businesses, small organizations, and small governmental units would not be significantly affected by the amendments. Accordingly, no regulatory flexibility analysis has been prepared.

NHTSA has also analyzed this proposal under the National Environmental Policy Act and determined that, if adopted as a final rule, it would not have a significant effect on the human environment.

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

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the

rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 would be amended as follows:

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.101 [Amended]

2. The last sentence of S5.2.1(a) would be revised to read as follows:

§ 571.101 Standard No. 101; Controls and displays.

* * * * *

S5.2 * * *

S5.2.1 * * *

(a) * * * The identification shall, under the conditions of S6, be visible to the driver and, except as provided in S5.2.1.1, S5.2.1.2, and S5.2.1.3, appear to the driver perceptually upright.

* * * * *

3. S5.2.1.3 would be added to read as follows:

S5.2.1.3 The identification of an automatic vehicle speed control located on the steering wheel, including the steering wheel hub and spokes, need not appear to the driver perceptually upright except when the vehicle, aligned to the manufacturer's specifications, has its wheels positioned for the vehicle to travel in a straight forward direction.

Issued on January 16, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-1445 Field 1-22-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB52

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for a Hawaiian Plant, Geranium Arboreum (Hawaiian Red-Flowered Geranium)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list a plant, *Geranium arboreum* (Hawaiian red-flowered geranium) as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended (Act). This species grows primarily in gulches between 5,000 to 7,000 feet (1,525 to 2,135 meters) in elevation on the northern and western slopes of Haleakala, east Maui, Hawaiian Islands. The greatest immediate threat to the survival of this species is competition from naturalized, exotic vegetation, chiefly grasses. A determination that *Geranium arboreum* is endangered would implement the Federal protection and recovery provisions provided by the Act. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by March 25, 1991. Public hearing requests must be received by March 11, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Station Supervisor, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ernest F. Kosaka, Field Supervisor, at the above address (808/541-2749 or FTS 551-2749).

SUPPLEMENTARY INFORMATION:

Background

Geranium arboreum was first collected by Charles Pickering and William Brackenridge of the U.S. Exploring Expedition on Haleakala Crater, Maui, on February 26, 1841 (Funk 1988a, 1988b). Later, Asa Gray was asked to study and report on all of the foreign plants collected by the expedition. Of the two volumes he wrote concerning these specimens, only one was published, and in it *Geranium arboreum* was described as a new species (Gray 1854).

Geranium arboreum is a much branched, spreading, woody shrub about 6 to 12 feet (1.8 to 3.7 meters) tall. The leaves are thin, bright green, broad and rounded at the base, tapering toward the end, and about 1 to 1.5 inches (2.5 to 3.8 centimeters) long. Each leaf has five to nine main veins, and has edges notched with tooth-like projections. The flower petals are red, about 1 to 1.5 inches (2.5 to 3.8 centimeters) long; the upper three petals are erect, the lower two reflexed, causing the flower to appear curved. These red zygomorphic (non-symmetrical) flowers separate this species from other members of the genus; it is the only one in the genus that appears to be adapted to bird pollination (Funk 1982, 1988b).

Today about 290 individuals remain (Funk 1988b); these are found chiefly in the Polipoli Springs and Hosmer Grove—Puu Nianiau areas on the western and northwestern slopes, respectively, of Haleakala Crater. About 250 plants occur on State-owned land within the Kula Forest Reserve; the remainder are mostly in Haleakala National Park, with a few individuals on Haleakala, Kaonoulu, or Erehwon Ranch lands (privately owned).

The original range and abundance of the species are unknown; however, late 19th and early 20th century collections indicate that it once grew as low as 2,000 feet (610 meters) on the southern slopes of Haleakala Crater, and that its distribution on the northern slopes extended beyond its presently known range. Today isolated populations of *Geranium arboreum* grow in steep, narrow canyons on the north and west outer slopes of Haleakala Crater between 5000 and 7000 feet (1,525 to 2,135 meters) in elevation in an area that is roughly 9 miles (14 kilometers) in length, and 0.15 miles (0.25 km) in width. The environment of these gulches is damp, shaded part of the day and protected, and contrasts with the generally arid climate of the surrounding area. The moist habitat is apparently due to fog drip and run-off. The plants appear to obtain a significant amount of their water requirements by "combing" moisture out of the drifting fog (Funk 1982). Vegetation in the ravines is often quite dense, and consists of mostly medium-sized woody shrubs, introduced grasses and weeds, and mixed ferns (Funk 1982). *G. arboreum* is a minor component of the vegetation occurring in small isolated populations in the gulches. The habitat is nearby and surrounding areas is subalpine dry forest or mesic scrub land; a few *G. arboreum* individuals grow near areas that have been converted to agricultural uses such as pasture land or experimental tree plots.

The greatest immediate threat to the continued survival of this plant is competition by naturalized species, primarily grasses. Soil disturbance, caused by trampling domestic cattle and rooting by feral pigs, also is a major threat. Other minor threats include browsing by cattle and fires. In the

Polipoli Springs area at certain times of the year, pollen from exotic pine trees completely covers the stigmas of the geraniums and precludes any fertilization by its own species (Funk 1982, 1988b). Low numbers of individuals also makes the species more vulnerable to certain threats because a single unforeseen environmental disturbance could destroy a significant proportion of the individuals of this species. The limited number of individuals in the populations may lead to a reduction in reproductive vigor. A cooperative effort between Federal and State agencies and private landowners is needed to protect the remaining plants and to provide for the species' recovery.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Act, prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. *Geranium arboreum* was included and reported as endangered. 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) accepting the report as a petition within the context of section 4(c)(2) of the Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including *Geranium arboreum*. In this and subsequent notices *Geranium arboreum* was treated as under petition for listing as endangered. As a result of this review, 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, including *Geranium arboreum* to be endangered pursuant to section 4 of the Act. In 1978, amendments to the Act required all proposals over two years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82480), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183); each of these notices included *Geranium arboreum* as a category 1 candidate, meaning that the Service had substantial information indicating that a proposal for listing was warranted. Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 1, 1982, be treated as having been newly submitted on that date. The latter was the case of *Geranium arboreum* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Geranium arboreum* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988 and 1989. Publication of the present proposal constitutes the final 1-year finding.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) 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 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 *Geranium arboreum* A. Gray (Hawaiian red-flowered geranium) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* It is likely that the entire area supporting *Geranium arboreum* has been grazed by domestic or escaped cattle. Ground disturbing activities associated with grazing by cattle or rooting by pigs have degraded the habitat that supports *Geranium arboreum* and may be responsible for some of the reduction in the species' range. When pigs forage their rooting activity disrupts several inches of the soil surface and uproots plants, especially seedlings. The ground disturbance associated with foraging by cattle and pigs results in the increased erosion of the *Geranium* habitat. Exotic species can rapidly invade disturbed ground. Fires represent an additional potential threat to the species and its habitat; a fire in the Polipoli Springs area about seven years ago destroyed four plants.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a factor, however, unrestricted scientific collecting or excessive visits resulting from increased publicity could seriously affect the species. *Geranium arboreum* is attractive and could become the subject of increased collection in the future.

C. *Disease or predation.* Occasional browsing by cattle has been observed, but it is infrequent and is not considered a major threat.

D. *The inadequacy of existing regulatory mechanisms.* Most of the known extant *Geranium arboreum* plants grow in the Polipoli Springs area, within the boundaries of the State-owned Kula Forest Reserve. State regulations prohibit the removal, destruction, or damage of plants found on these lands. However, due to limited personnel, the regulations are difficult to enforce. Hawaii's Endangered Species Act (HRS, sect. 195D–4(a)) states, "Any species of wildlife or plant that has been determined to be an endangered species pursuant to the [Federal] Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *." Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Act (State Cooperative Agreements). Listing of this plant therefore would reinforce and supplement the protection available to the species under State law. The Act also would offer additional protection to the species, in that it is now a violation of the Act if any person removes, cuts, digs up, damages or destroys an endangered plant in knowing violation of a State law or regulation or in the course of any violation of a State criminal trespass law. Listing would also make it a Federal offense to remove and reduce to possession the plant from any area under Federal jurisdiction, or to maliciously damage or destroy the plant in any such area.

A very small proportion of the individuals of *Geranium arboreum* occur on land managed by the National Park Service. Although the Park Service does offer protective management to sensitive resources, the small percentage of plants that potentially receive this management does not substantially reduce the degree of threat faced by species.

E. *Other natural or manmade factors affecting its continued existence.* The single greatest threat to remaining *Geranium arboreum* stands most likely is competition from naturalized, exotic

plants, particularly grasses, (for example *Holcus lanatus).* Introduced grasses occupy safe sites where *Geranium arboreum* seedlings would normally grow; the grasses form dense sod-like mats, and prevent seedlings of other species from becoming established (Funk 1988b).

A large part of the annual reproductive effort is effectively lost when pollen released from pine trees in the Polipoli forestry plantings completely covers the stigmas of the *Geranium* growing in that area. The windborne pine pollen forms a mechanical barrier, blocking the reception of *Geranium* pollen, thus reducing the annual reproductive effort of this species (Funk 1988b). However, *Geranium arboreum* has a longer flowering period than do the introduced pine trees.

Approximately 290 individuals remain in about 19 populations that each contain between 1 and 25 individuals. The small number of extant plants in these populations makes the species more vulnerable to certain threats. The limited gene pool may result in depressed reproductive vigor, although there is no evidence that there is such a problem today. A single man-caused or natural environmental disturbance could destroy a significant percentage of the known extant individual plants.

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 propose this rule. Based on this evaluation, the preferred action is to list *Geranium arboreum* as endangered. Only 290 individuals remain in the wild, and these face threats from habitat degradation and competition from exotic species of plants, as well as other lesser factors. Given these circumstances, the determination of endangered status seems warranted. See the following "Critical Habitat" section for a discussion of why critical habitat is not being proposed.

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 threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Such a determination would result in no known benefit to the species. Government agencies and the few private land owners can be alerted to the presence of the plant without the publication of critical habitat descriptions and maps. The publication of such descriptions and maps, necessary for a proposal to determine critical habitat, potentially would increase the degree of threat from taking or vandalism because *Geranium arboreum* is an attractive plant and live specimens would be of interest to curiosity seekers or collectors of rare plants. A proposal to designate critical habitat would, therefore, make *Geranium arboreum* more vulnerable to collection and increase enforcement problems. All involved parties and principal 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 consultation process. Therefore, it would not now be prudent to determine critical habitat for *Geranium arboreum.*

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 activities. 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 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)(4) of the Act 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. Although some individuals occur on land managed by the National Park Service, it is unlikely that this species would be adversely affected by any Federal action.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plant species set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. With respect to *Geranium arboreum* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 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. In addition, the Act would prohibit the malicious damage or destruction of the species on any area under Federal jurisdiction, or the removal, cutting, digging up, damaging or destroying of the plant on any other area in knowing violation of any State law or regulation or in the course of any violation of a 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 plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild.

As noted above, section 9(a)(2)(B) of the Act, as amended, prohibits the removal and reduction to possession as well as the malicious damage or destruction of endangered plant species from any area under Federal jurisdiction. This provision would apply to *Geranium arboreum* growing in Haleakala National Park if the species is listed as endangered.

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, 4401 North Fairfax Drive, room 432, Washington, DC 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, comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, or any other interested party concerning 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 this species;

(2) The location of any additional populations of this 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, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Any final determination on this proposal to list *Geranium arboreum* will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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 received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Station Supervisor (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

Funk, E.J. 1982. Unpublished status survey of *Geranium arboreum* A. Gray (Hawaiian red-flowered geranium). U.S. Fish and Wildlife Service. 34 pp.

Funk, E.J. 1988a. The notes of William Brackenridge made during his Sandwich Islands sojourn 1840–1841. Hawaiian Botanic Society Newsletter 27(1): 3–35.

Funk, E.J. 1988b. Distribution, population structure and reproductive biology of a narrow endemic species: *Geranium arboreum* A. Gray. Doctoral dissertation, University of Hawaii. 200 pp.

Gray, A. 1854. United States Exploring Expedition during the years 1838, 1839, 1840, 1841, 1842, under the command of Charles Wilkes, U.S.N. Botany, vol. 15, Phanerogamia, part 1, C. Sherman. Philadelphia. 315 pp.

Author

The primary author of this proposed rule is Dr. Derral R. Herbst, Honolulu Field Station (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

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 for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; 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 under the family Geraniaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Geraniaceae—Geranium family:						
*	*	*	*	*	*	*
Geranium arboreum	Hawaiian red flowered geranium	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	*

Dated: December 21, 1990.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 91–1497 Filed 1–22–91; 8:45 am]

BILLING CODE 4310–55–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AB52

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for a plant, Stenogyne kanehoana (No Common Name)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list a plant, *Stenogyne kanehoana,* as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended (Act). This species is known only from one small population located on the island of Oahu, Hawaii. The greatest immediate threat to the survival of this species is the encroachment and competition from naturalized, exotic vegetation. The extremely small size of the population also is a considerable threat as the limited gene pool may repress reproductive vigor, or a single environmental disturbance could destroy the only known remaining individuals. A determination that *Stenogyne kanehoana* is endangered would implement the Federal protection and recovery provisions provided by the Act. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by March 25, 1991. Public hearing requests must be received by March 11, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to Ernest F. Kosaka, Field Station Supervisor, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Derral R. Herbst, at the above address (808/541–2749 or FTS 551–2749).

SUPPLEMENTARY INFORMATION:

Background

Stenogyne kanehoana was first collected on the east ridge of Puu Kanehoa, Waianae Mountains, Oahu, Hawaii, by Harold St. John in 1934. The second collection was from the same area and made by Otto Degener in 1939. Degener and Earl Sherff described the taxon (Sherff 1941) and named it after the type locality. All subsequent collections have been from near the summit of the ridge connecting Puu Kanehoa with Puu Hapapa to the north and Puu Kaua to the south, a total distance of approxmiately 1.75 miles. Today one population consisting of two to four plants remains under a canopy of mesic forest trees on a ridge leading to the summit of Puu Kanehoa (Center for Plant Conservation Task Force report of September 27, 1989; Hawaii Heritage Program Global Element Ranking Form dated June 10, 1987; Hawaii Heritage Program Element Occurrence Record dated February 28, 1989; Obata 1977; J. Lau, The Nature Conservancy, Hawaii, pers. comm. 1989; J. Obata, retired school teacher and amateur naturalist pers. comm. 1989; S. Perlman, National Tropical Botanical Garden, pers. comm. 1989;, and S. Weller, University of California at Irvine, pers. comm. 1989). The plants occur on privately owned land.

Stenogyne kanehoana is a scandent vine in the mint family (Lamiaceae) with stems weakly 4-angled, hairy, and 3 to 6 feet (1 to 2 meters) long. The leaves are oppositely arranged and are narrowly ovate to oblong-ovate, thin but densely hairy, about 4 inches (10 centimeters) long and 1.5 inches (3.5 centimeters) wide. The flowers are in clusters of 3 to 6 per leaf axil; the petals are fused into a strongly falcate tube about 1 to 1.5 inches (27 to 42 millimeters) long, white or pale yellow with short, pink, corolla lobes. The fruit consists of 4 fleshy, black, nutlets (Wagner, *et al.* 1990). *Stenogyne kanehoana* is distinguished from the other member of its genus that occurs on Oahu, and also in the Waianae mountains, *Stenogyne kaalae*, primarily by the size and color of its flowers. Whereas, the flowers of *S. kaalae* are small and deep purple, *S. kanehoana* bears large, white to yellow, pink tipped flowers. *Stenogyne kanehoana* occurs on an open ridge top in mesic forest. Associated species include *Metrosideros polymorpha*, *Acacia koa* (tree species), *Freycinetia* (a woody vine), and *Dicranopteris* (a fern).

The greatest immediate threat to the survival of this species is the encroachment and competition from naturalized, exotic plants (Obata, personal communication, as cited by Wagner, *et al.* 1990). The extremely small size of the population and its restricted distribution also compound the threats to the species. The limited gene pool may result in depressed reproductive vigor, or a single stochastic environmental disturbance could destroy all extant individuals. Other potential threats suggested include fire and deforestation (St. John 1981), but these presently probably are not serious threats in the *Stenogyne* habitat.

Federal government action on this species began when the Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480), and included *Stenogyne kanehoana* as a category 1 candidate, meaning that the Service had substantial information on biological vulnerability and threats to support a proposal to list it as endangered or threatened. The plant also was included as a catetory 1 candidate species in the September 27, 1985 (50 FR 39526), and February 21, 1990 (55 FR 6184) notices of review.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement 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 *Stenogyne kanehoana* Degener and Sherff (no common name) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Encroachment and competition from naturalized, exotic plants probably is the single greatest threat to this species. Koster's curse (*Clidemia hirta*), a rapidly spreading bush, has recently invaded the *Stenogyne kanehoana* habitat (J. Lau, personal communication, November 14, 1989). Lantana (*Lantana camara*) also is common in the area along with some Christmas berry (*Schinus terebinthifolius*) (Stephen Weller, personal communication, November 22, 1989); all three species have invaded former native habitat in Hawaii to the exclusion or detriment of the native vegetation.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a factor, but unrestricted scientific collecting or excessive visits resulting from increased publicity could seriously affect the species. Disturbance to the area by trampling would promote greater ingress by competing exotic species.

C. *Disease or predation.* Not known to be applicable.

D. *The inadequacy of existing regulatory mechanisms.* There are no State laws or existing regulatory mechanisms at the present time to protect *Stenogyne kanehoana* or prevent its further decline. However, Hawaii's Endangered Species Act (HRS, sect. 195D–4(a)) states that, "Any species of wildlife or plant that has been determined to be an endangered species pursuant to the Endangered Species Act (of 1973) shall be deemed to be an endangered species under the provisions of this chapter * * *." Further, the State may enter into agreements with Federal agencies to administer and manage an area required for the conservation, management, enhancement, or protection of endangered species (sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Act (State Cooperative Agreements) if the species were listed as threatened or endangered. Listing of this plant therefore would protect the species and reinforce and supplement the protection available to the species under State law. The Federal Act also would offer additional protection to the species in that it is now a violation of the Act if any person removes, cuts, digs up, damages or destroys an endangered plant in an area not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law.

E. *Other natural or manmade factors affecting its continued existence.* The small number of extant plants and the species' restricted distribution makes the species more vulnerable to certain threats. The limited gene pool may result in depressed reproductive vigor, and an absence of observations of seedlings and plants producing seeds alludes to possible reproductive failure of this small population (Center for Plant Conservation Task Force report of September 27, 1989; Hawaii Heritage Program Global Element Ranking Form dated June 10, 1987). A single stochastic environmental perturbation could destroy the only remaining individuals 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 propose this rule. Based on this evaluation, the preferred action is to list *Stenogyne kanehoana* as endangered. Only two to four individuals remain in the wild, and these face threats from the encroachment and competition from

exotic species of plants, especially lantana and Koster's curse, particularly aggressive weeds. In addition, the plants are known from a small area and a single random event could destroy all known individuals. Given these circumstances, the determination of endangered status seems warranted. See the following "Critical Habitat" section for a discussion of why critical habitat is not being proposed.

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 threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Such a determination would result in no known benefit to the species. The few known individuals are on privately owned land zoned as conservation land; all involved parties and the landowner have been notified of the general location and importance of protecting this species' habitat. The publication of such descriptions and maps in a proposed critical habitat designation would potentially increase the degree of threat from taking or vandalism, because *Stenogyne kanehoana* is an attractive plant, and live specimens would be of interest to curiosity seekers or collectors of rare plants. The designation of critical habitat would make *Stenogyne kanehoana* more vulnerable and increase enforcement problems. Protection of the species' habitat will be addressed through the recovery process. Therefore, it would not now be prudent to determine critical habitat for *Stenogyne kanehoana*.

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 activities. 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)(4) of the Act 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. No Federal involvement with *Stenogyne kanehoana* is anticipated.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plant species set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to *Stenogyne kanehoana* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 would apply. These prohibitions, in part, make it illegal with respect to any endangered plant 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 in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any endangered plant species on any such area; or remove, cut, dig up, damage or destroy any endangered plant species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a 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 plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not known to be in cultivation and is uncommon in the wild.

Section 9(a)(2)(B) of the Act, as amended, prohibits the removal and reduction to possession or the malicious damaging or destruction of endangered plant species in areas under Federal jurisdiction. If listed as endangered, this provision would apply to *Stenogyne kanehoana* if any individuals were subsequently found growing in the Laulualei Naval Reservation which lies a short distance west of the existing population.

Request 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, 4401 North Fairfax Drive, room 432, 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, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning 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 this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by seciton 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Any final decision on this proposal concerning *Stenogyne kanehoana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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 received within 45 days of the date of publication of the proposal. Such requests must be made in writing and should be addressed to the Field Station Supervisor in Honolulu, Hawaii (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

Obata, J.K. 1977. Native plants: *in* Palmer, D.D. (ed.) Hawaiian plants—notes and news. Newslett. Hawaiian Bot. Soc. 16: 74–75.

St. John, H. (C.A. Corn, ed.). 1981. Rare endemic plants of the Hawaiian Islands. Hawaii, Dept. Land Nat. Resources, Honolulu, 74 unnum. pp.

Sherff, E.E. 1941. Additions to our knowledge of the American and Hawaiian floras. Field Mus. Nat. Hist., Bot. Ser. 22: 407–441.

Wagner, W.L., D.R. Herbst, and S.H. Sohmer, 1990. Manual of the flowering plants of Hawaii. University of Hawaii Press and Bishop Museum Press.

Author

The primary author of this proposed rule is Dr. Derral R. Herbst, of the Honolulu Field Station (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, exports, imports, reporting and recordkeeping requirements, and transportation.

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 for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; 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 under the family Lamiaceae, 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					
Laiaceae—Mint family						
*	*	*	*	*	*	
Stenogyne kanehoana	None	U.S.A. (HI)	E		NA	NA
*	*	*	*	*	*	

Dated: December 21, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91–1496 Filed 1–22–91; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 910108-1008]

American Lobster Fishery

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes this rule to specify the mechanisms necessary to comply with the degradable escape panel requirement approved under Amendment 3 to the American Lobster Fishery Management Plan (FMP). Amendment 3 required the New England Fishery Management Council (Council) to specify, and the Northeast Regional Director to publish, at least 12 months prior to January 1, 1992, a list of acceptable degradable escape panels. The purpose of the panel is to allow for the escapement of lobster, 12 months after the trap has been abandoned or lost.

This proposed rule also adds a definition of a "v-shaped notch" to improve enforceability of this requirement.

DATES: Comments on the proposed rule must be received on or before February 22, 1991.

ADDRESSES: Comments on the proposed rule should be sent to Richard Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, Massachusetts 01930. Mark the outside of the envelope "Comments on the Lobster Regulations."

Copies of the environmental assessment (EA) and the regulatory impact review (RIR) for Amendment 3 are available from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01960.

FOR FURTHER INFORMATION CONTACT: Patricia A. Kurkul, Resource Policy Analyst, Plan Administration Branch, NMFS Northeast Regional Office, 508/281–9331.

SUPPLEMENTARY INFORMATION: The FMP is implemented by regulations appearing at 50 CFR part 649. The objective of the FMP is to support and promote the development and implementation, on a continuing basis, of a unified regional management program for American lobster (*Homarus americanus*). The management program is designed to promote conservation, to reduce the possibility of recruitment failure, and to allow full utilization of the resource by the United States fishing industry. Amendment 1 to the FMP was approved and implemented in 1986 (51 FR 19210, May 28, 1986), Amendment 2 in 1987 (52 FR 46088, December 4, 1987), and Amendment 3 in 1989 (54 FR 48617, November 24, 1989).

Amendment 3 and its implementing regulations include a requirement that lobster traps contain a degradable escape panel (ghost panel) to allow for the escapement of lobster, 12 months after a trap has been abandoned or lost. Ghost fishing describes the action of gear that continues to fish after all control of that gear is lost. The regulations implementing Amendment 3 (54 FR 48617) specified an effective date for this requirement of 12 months after a list of acceptable mechanisms has been published in the **Federal Register**; the effective date cannot be prior to January 1, 1992.

After consulting with all of the East Coast lobster-producing states, the Council on August 8, 1990, unanimously approved proposed specifications for compliance with the ghost panel requirement. This rule proposes to amend the American lobster regulations to include these specifications. On January 1, 1992, all lobster traps must

contain one of the following: (1) A rectangular escape vent compatible with an unobstructed opening not less than 1 15/16 inches high (49.2mm) by 6 inches wide (152.2mm), if the escape vent is made by cutting meshes on a wire mesh trap, the width will be measured from center to center on the wires. (2) two circular escape vents with unobstructed openings not less than 2 7/16 inches (61.9 mm) in diameter; or (3) any other type of escape vent which the Regional Director finds to be consistent with the specifications. The scope and intent of the ghost panel requirement approved under Amendment 3 is not affected.

A definition for "v-shaped notch" is also proposed to be added to the implementing regulations to improve enforceability of the prohibition on retention of v-notched lobster. The State of Massachusetts requested that the Council adopt a definition to address confusion expressed by enforcement agents and lobster harvesters concerning identification of v-notched lobster. The addition of this definition should improve identification, and therefore, enforceability of this prohibition.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has preliminarily determined that this proposed rule is consistent with the American Lobster FMP.

This proposed rule does not change the scope or intent of the regulations implementing Amendment 3 to the FMP, and is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

Based on the RIR prepared by the Council for Amendment 3, the Under Secretary for Oceans and Atmosphere, NOAA, determined a regulatory impact analysis under Executive Order 12291 (E.O. 12291) was not required. The RIR concluded that this requirement is expected to provide annual net benefits of $1.05-1.52 million in revenues to lobster harvesters in the exclusive economic zone.

Administrative, enforcement, and paperwork and recordkeeping requirements would remain unchanged. Thus, there would be no impacts on Federal, state, or local government agencies.

The proposed action is expected to have no impact on vessel safety, consistent with section 303(a)(6) of the Magnuson Act, as amended, 16 U.S.C. 1853(a)(6).

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this requirement will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of the affected states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Connecticut, Maine, Delaware, and North Carolina agreed with the Council's determination. None of the other states commented within the statutory time period, and therefore, consistency is automatically inferred. This proposed rule does not change the scope or intent of Amendment 3; therefore, this determination remains applicable.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirements.

Dated: January 16, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is proposed to be amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for 50 CFR part 649 continues to read as follows:

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

2. In § 649.2, definitions of "*ghost panel*" and "*v-shaped notch*" are added in alphabetical order to read as follows:

§ 649.2 Definitions.

* * * * *

Ghost panel means a panel, or other mechanism, which is designed to allow for the escapement of lobster 12 months after a trap has been abandoned or lost.

* * * * *

V-shaped notch means a straight-sided triangular cut, without setal hairs, at least ¼ inch (.64 cm) in depth and tapering to a point.

* * * * *

3. In § 649.7, paragraph (a)(6) is revised to read as follows:

§ 649.7 Prohibitions.

(a) * * *

(6) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any gear not identified, marked, vented, and panelled in accordance with the requirements specified in § 649.21.

* * * * *

4. In § 649.21, the section heading is revised, paragraph (c)(3) is removed, paragraph (d) is redesignated paragraph (e), and a new paragraph (d) is added to read as follows:

§ 649.21 Gear identification and marking, escape vent, and ghost panel requirements.

* * * * *

(d) *Ghost panel.* On January 1, 1992, lobster traps not constructed entirely of wood must contain a ghost panel.

(1) The specifications of this requirement are as follows:

(i) The opening to be covered by the ghost panel must be rectangular and shall not be less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(ii) The panel must be constructed of, or fastened to the trap with, one of the following untreated materials: Wood lath, cotton, hemp, sisal, or jute twine not greater than 3⅛ inches (8.04 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (.24 cm) in diameter.

(iii) The door of the trap may serve as the ghost panel if fastened with a material specified in paragraph (d)(1)(ii) of this section.

(iv) The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

(2) The Regional Director may at the request of, or after consultation with, the Lobster Oversight Committee of the Council, approve by publication in the **Federal Register** any other design, mechanism, material, or specification not described in the regulations in this part that serves to create an escape portal not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

* * * * *

[FR Doc. 91-1487 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 15
Wednesday, January 23, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-91-002]

Public Hearing Regarding Establishment of New Tobacco Auction Markets

Notice is hereby given of a public hearing regarding an application to designate Waldorf, Upper Marlboro, and Hughesville, Maryland, as tobacco auction markets.

Date: January 25, 1991.

Time: 10 a.m. local time.

Place: Meeting Room of the Southern Maryland Electric Cooperative on Route 231 in Hughesville, Maryland.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection services to the markets of Waldorf, Upper Marlboro, and Hughesville, Maryland. The application was made by Steven H. Walter, President, Southern Maryland Tobacco Board, Inc., Charlotte Hall, Maryland.

This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection services to new markets and to additional sales on designated markets (7 CFR 29.1-29.3).

Dated: January 17, 1991.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91-1594 Filed 1-22-91; 8:45 am]

BILLING CODE 3410-03-M

Farmers Home Administration

Housing Demonstration Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Housing Demonstration Program.

SUMMARY: The Farmers Home Administration (FmHA) of the U.S. Department of Agriculture (USDA) will accept, in fiscal year 1991, proposals for a Housing Demonstration program under section 506(b) title V of the Housing Act. Under section 506(b), FmHA may provide loans for innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies. The intended effect is to increase the availability of affordable housing for low-income families, through innovative designs and systems.

FOR FURTHER INFORMATION CONTACT: Mathias J. Felber, Branch Chief, Special Programs Branch, Single Family Housing Processing Division, Farmers Home Administration, 14th and Independence Avenue SW., room 5334, South Building, Washington, DC 20250, telephone 202-382-1474 or Ray McCracken, Senior Loan Officer, Special Programs Branch, Single Family Housing Processing Division, Farmers Home Administration, 14th and Independence Avenues SW., room 5334, South Building, Washington, DC 20250, telephone 202-382-1486.

SUPPLEMENTARY INFORMATION: Under current standards, regulations and policies, some low-income rural families lack sufficient incomes to qualify for loans to obtain adequate housing. Section 506(b) of title V of the Housing Act of 1949 authorizes a housing demonstration program that could result in housing that these families can afford. The Congress of the United States made two conditions:

(1) That the health and safety of the population of the areas in which the demonstrations are carried out will not be adversely affected; and

(2) That the aggregate expenditures for the demonstration may not exceed $10 million in any fiscal year.

FmHA State Directors are authorized in fiscal year 1991 to continue to accept proposed demonstration concept proposals from nonprofit organizations, profit organizations and individuals as announced in 51 FR 19240 on May 28, 1986.

The State Directors will evaluate the proposal on a first-come, first-served basis. An acceptable proposal is to be sent to the National Office for concurrence of the Assistant Administrator, Housing before the State Director may approve it. If the proposal is not selected, the State Director will so notify the applicant, in writing, giving specific reasons why the proposal was not selected.

The funds for the demonstration program are section 502 funds, and are available to housing applicants that may wish to purchase an approved demonstration dwelling. However, there is no guarantee that a market exists for demonstration dwellings and applicants for such a section 502 RH loan must be eligible for the program in all other respects.

This program activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410. For the reasons set forth in final rule related to notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (December 23, 1983), this program/activity is excluded from the scope of Executive Order 12372 which requires the intergovernmental consultation with state and local officials.

All interested parties must make a written request for a proposal package. The request must be made to the State Director in the state in which the proposal will be submitted for evaluation. The Government will not reimburse or be liable for any expenses incurred by respondents in the development and submission of applications. Following is a list of State Directors and the adresses:

Alabama—State Director, Farmers Home Administration, room 717, Aronov Building, 474 South Court Street, Montgomery, Alabama 36104.

Alaska—State Director, Farmers Home Administration, suite 103, 634 South Bailey, Palmer, Alaska 99645.

Arizona—State Director, Farmers Home Administration, 201 East Indianola, suite 275, Phoenix, Arizona 85012.

Arkansas—State Director, Farmers Home Administration, 700 W. Capitol, Post Office Box 2778, Little Rock, Arkansas 72203.

California/Nevada—State Director, Farmers Home Administration, suite F, 194 West Main Street, Woodland, California 95695-2915.

Colorado—State Director, Farmers Home Administration, room E 100, 655 Parfet Street, Lakewood, CO 80215.

Delaware/Maryland—State Director, Farmers Home Administration, 2319 South DuPont Highway, Dover, Delaware 19901.

Florida—State Director, Farmers Home Administration, room 214, Federal Building, 401 SE. First Avenue, Gainesville, Florida 32602-1310.

Georgia—State Director, Farmers Home Administration, Stephens Federal Building, 355 E. Hancock Avenue, Athens, Georgia 30610.

Hawaii—State Director, Farmers Home Administration, room 311, Federal Building, 154 Waianuenue Avenue, Hilo, Hawaii 96720.

Idaho—State Director, Farmers Home Administration, 3231 Elder Street, Boise, Idaho 83705.

Illinois—State Director, Farmers Home Administration, Illini Plaza, suite 103, 1817 South Neil Street, Champaign, Illinois 61820.

Indiana—State Director, Farmers Home Administration, 5975 Lakeside Boulevard, Indianapolis, Indiana 46278.

Iowa—State Director, Farmers Home Administration, room 873 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Kansas—State Director, Farmers Home Administration, room 176, Federal Building, 444 South East Quincy Street, Topeka, Kansas 66683.

Kentucky—State Director, Farmers Home Administration, 333 Waller Avenue, Lexington, Kentucky 40504.

Louisiana—State Director, Farmers Home Administration, 3727 Government Street, Alexandria, Louisiana 71302.

Maine—State Director, Farmers Home Administration, 444 Stillwater Avenue, suite 2, P.O. Box 405, Bangor, Maine 04402-0405.

Mass/Conn./RI—State Director, Farmers Home Administration, 451 West Street, Amherst, Massachusetts 01002.

Michigan—State Director, Farmers Home Administration, room 209, 1405 South Harrison Road, East Lansing, Michigan 48823.

Minnesota—State Director, Farmers Home Administration, 410 Farm Credit Service Bldg., 375 Jackson Street, St. Paul, Minnesota 55101.

Mississippi—State Director, Farmers Home Administration, suite 831, Federal Building, 100 West Capital Street, Jackson, Mississippi 36269.

Missouri—State Director, Farmers Home Administration, 555 Vandiver Drive, Columbia, Missouri 65202.

Montana—State Director, Farmers Home Administration, room 210, Federal Building, 10 East Babcock Street, Post Office Box 850, Bozeman, Montana 59771.

Nebraska—State Director, Farmers Home Administration, room 308, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508.

New Jersery—State Director, Farmers Home Administration, Tarnsfield Plaza, suite 22, Tarnsfield and Woodlane Roads, Mount Holly, New Jersey 08060.

New Mexico—State Director, Farmers Home Administration, room 3414, Federal Building, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.

New York—State Director, Farmers Home Administration, James M. Hanley Federal Building, 100 S. Clinton Street, Syracuse, New York 13260.

North Carolina—State Director, Farmers Home Administration, suite 260, 4405 Bland Road, Raleigh, North Carolina 27609.

North Dakota—State Director, Farmers Home Administration, room 208, Federal Building, Third and Rosser Post Office Box 1737, Bismarck, North Dakota 58502.

Ohio—State Director, Farmers Home Administration, room 507, Federal Building, 200 North High Street, Columbus, Ohio 43215.

Oklahoma—State Director, Farmers Home Administration, USDA Agricultural Center Bldg., Stillwater, Oklahoma 74074.

Oregon—State Director, Farmers Home Administration, room 1590, Federal Building, 1220 SW. 3rd Avenue, Portland, Oregon 97204.

Pennsylvania—State Director, Farmers Home Administration, suite 330, Federal Building, One Credit Union Place, Harrisburg, Pennsylvania 17110-2996.

Puerto Rico—State Director, Farmers Home Administration, room 501, New San Juan Office Bldg., 159 Carlos E. Chardon Street, Hato Rey, Puerto Rico 00918-5481.

South Carolina—State Director, Farmers Home Administration, Strom Thurmond Federal Building, room 1007, 1835 Assembly Street, Columbia, South Carolina 29201.

South Dakota—State Director, Farmers Home Administration, room 308, Federal Building, 200 4th Street, SW., Huron, South Dakota 57350.

Tennessee—State Director, Farmers Home Administration, room 538, Federal Building, US Courthouse, 801 Broadway, Nashville, Tennessee 37203.

Texas—State Director, Farmers Home Administration, suite 102, Federal Building, 101 South Main, Temple, Texas 76501.

Utah—State Director, Farmers Home Administration, room 5438, Wallace F. Bennett, Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Vermont/N.H.—State Director, Farmers Home Administration, 141 Main Street, Montpelier, Vermont 05602.

Virgina—State Director, Farmers Home Administration, room 8213, Federal Building, 400 North Eighth Street, Richmond, Virginia 23240.

Washington—State Director, Farmers Home Administration, room 319, Federal Office Building, Post Office Box 2427, Wenatchee, Washington 98807.

West Virginia—State Director, Farmers Home Administration, 75 High Street, Post Office Box 678, Morgantown, West Virginia 26505.

Wisconsin—State Director, Farmers Home Administration, 1257 Main Street, Stevens Point, Wisconsin 54481.

Wyoming—State Director, Farmers Home Administration, room 1005, 100 East B, Federal Building, Post Office Box 820, Casper, Wyoming 82602.

Authorities: 42 U.S.C. 1480, 7 CFR 2.23, 7 CFR 2.70.

Dated: December 18, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91-1515 Filed 1-22-91; 8:45 am]

BILLING CODE 3410-07-M

Forest Service

Bunker Salvage, Tahoe National Forest, Sierra County, CA

AGENCY: Forest Service, USDA.

ACTION: Cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: On April 26, 1990, a notice was published in the **Federal Register** [55 FR 17652] stating that an environmental impact statement would be prepared for proposed salvage and fuels treatment of insect killed and infested trees in three areas previously considered in roadless area reviews (RARE I or II), but released for non-wilderness uses in the California Wilderness Act of 1984. The three areas are the West, East, and Middle Yuba areas on the Downieville Ranger District, Tahoe National Forest.

That notice is hereby cancelled.

DATES: This action is effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Larry Svalberg at the Downieville Ranger District, 15924 Highway 49, Camptonville, CA 95922-9707; (916) 288-3231.

SUPPLEMENTARY INFORMATION: Through the analysis and public participation process, it has been determined that the project objectives cannot be met under current conditions. Factors identified during the analysis were low value timber species, high logging costs associated with helicopter logging, rapid deterioration rates (much of this timber would be dead up to two years before removal could occur), declining market value of timber, scattered nature of the overall mortality, and less mortality than predicted by an entomologist.

The key issues raised through public participation centered around the relatively pristine and primitive character of the salvage area and how various salvage methods and fuel treatments might impact that character. Questions regarding economic viability as it related to the recovery of timber value and fire hazard reduction were also raised by the public.

Monitoring of future mortality will continue in this area.

John H. Skinner,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 91-1503 Filed 1-22-91; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Piney Creek Watershed, MS

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969: the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Services Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Piney Creek Watershed, Yazoo County, Mississippi.

FOR FURTHER INFORMATION CONTACT: L. Pete Heard, State Conservationist, Soil Conservation Service, 100 West Capitol Street, suite 1321, Federal Building, Jackson, Mississippi 39269, telephone 601-965-5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, L. Pete Heard, State Conservationist, has determined that the preparation and review of an environmental imapct statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include two (2) grade control structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting L. Pete Heard.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

"(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)"

Dated: January 2, 1991.

L. Pete Heard,

State Conservationist.

[FR Doc. 91-1450 Filed 1-22-91; 8:45 am]

BILLING CODE 3410-06-M

DEPARTMENT OF COMMERCE

International Trade Administration

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the Federal Republic of Germany; Preliminary Results of an Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of an antidumping duty administrative review.

SUMMARY: In response to a request by a respondent, the Department of Commerce is conducting an administrative review of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as "industrial belts"), from the Federal Republic of Germany. We preliminarily determine that industrial belts are being, or are likely to be, sold in the United States at less than fair value.

Interested parties are invited to comment on the preliminary results of the administrative review.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Jonathan Freilich or Alain Letort, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. and Constitution Ave., NW. Washington, DC 20230; telephone (202) 377-3793 or telefax (202) 377-1388.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department published in the Federal Register an antidumping duty order on industrial belts from the Federal Republic of Germany (54 FR 25316). On June 19, 1990, we published in the **Federal Register** a notice of opportunity to request an administrative review of this order for the period from February 1, 1989 through May 31, 1990 (55 FR 24916). On June 27, 1990, the American Volkmann Corporation and its parent company, Volkmann GmbH, respondents, requested an administrative review of this order. We initiated the review, covering the period beginning on February 1, 1989 and ending on May 31, 1990, on July 26, 1990 (55 FR 30490). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"). This review covers one exporter of industrial belts from the Federal Republic of Germany to the United States. The exporter covered by this review is Volkmann GmbH ("Volkmann").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted from the Tariff Schedules of the United States, Annotated (TSUSA) to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption, on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of industrial belts from the Federal Republic of Germany. The Department defines such merchandise as industrial belts, other than V-belts and synchronous belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or

steel wire, cord or strand, and whether in endless (*i.e.*, closed loop) belts, or in belting in lengths or links. Until January 1, 1989, this merchandise was classifiable under item numbers 358.0610, 358.0690, 358.0800, 358.0900, 358.1100, 358.1400, 358.1600, 657.2520, 773.3510 and 773.3520 of the TSUSA. Since that date, industrial belts have been classifiable under HTS item numbers 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. As was the case with the TSUSA numbers, the HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

Preliminary Results of the Review

Because Volkmann did not respond to the Department's questionnaire, the Department, using the best information available, will use the rate from the petition, which is 100.60%.

As a result of our review, we preliminarily determine that the following dumping margin exists:

Manufacturer/ exporter	Time period	Margin (percent)
Volkmann.....	02/01/89-05/31/90	100.60

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, the Customs Service shall require a cash deposit of estimated antidumping duties based on the above margin for Volkmann. For any shipments of this merchandise produced or exported by the remaining known producers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the antidumping duty order for this firm. For any future entries of this merchandise from a new producer and/or exporter not covered in the original investigation or this administrative review, whose first shipment occurred after May 31, 1990, and which is unrelated to the reviewed firms or any previously investigated firm, the Customs Service will require a cash deposit of 100.60 percent *ad valorem*.

We preliminarily determine that the cash deposit rate applies to all entries from the former German Democratic Republic, entered or withdrawn from warehouse for consumption on or after October 3, 1990.

Public Comment

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: January 15, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-1549 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-489-501]

Certain Standard Welded Carbon Steel Pipe and Tube From Turkey; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain standard welded carbon steel pipe and tube from Turkey. The review covers one manufacturer/exporter of this merchandise to the United States and the period May 1, 1988 through April 30, 1989. We preliminarily determine the dumping margin to be 0.11 percent, or *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 1990, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (54 FR 18918) of the antidumping duty order on certain standard welded carbon steel pipe and tube from Turkey for the period May 1, 1988 through April 30, 1989. On May 31, 1989, the Standard Pipe Subcommittee of the Committee on Pipe and Tube Imports (CPTI) requested an administrative review covering the period May 1, 1988 through April 30, 1989. We initiated the review on June 21, 1989 (54 FR 26069). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of certain Turkish welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thinkness. Through 1988, such merchandise was classifiable under Tariff Schedules of the United States Annotated item numbers 610.3231, 610.3234, 610.3242, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products are currently classified under item numbers 7306.30.50 and 7306.30.10 of the Harmonized Tariff Schedule (HTS). These products, commonly referred to in the industry as standard pipe and tube, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A-120, A-53, or A-135. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter to the United States of the subject merchandise, the Borusan Group, and the period May 1, 1988 through April 30,1989.

United States Price

In calculating United States price, the Department used purchase price and

exporter's sales price, as defined in section 772 of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act. In those cases where sales were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate determinant of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyers, without being introduced into the inventory of a related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as a processor of sales-related documentation and as a communication link with the unrelated U.S. buyers. See Final Determination of Sales at Less Than Fair Value; Color Picture Tubes from Korea, 52 FR 44186 (1987).

Where all the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States.

Where sales to the first unrelated purchaser occurred after importation into the United States, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Tariff Act. Purchase price sales were based on the packed, C&F and CIF duty paid price to unrelated purchasers in the United States. ESP was based on the packed ex-U.S. warehouse price to unrelated purchasers in the U.S.

We made adjustments, where applicable, for foreign inland freight, ocean freight, marine insurance, brokerage and user fees, customs duties, stevedore charges, wharfage fees, port charges, indirect selling expenses, credit, taxes not collected by reason of exportation of the merchandise to the United States, and duty drawback.

We made an upward adjustment to the United States (USP) for the amount of countervailing duties imposed on this product, in accordance with section 772(d)(1)(D) of the Tariff Act. A corresponding downward adjustment was then made to the USP for the rebate Borusan provides to the importer, compensating the importer for the amount of countervailing duties paid on imports of the subject merchandise.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, ex-factory price to related and unrelated purchasers in the home market. Where applicable, we made adjustments for credit expenses, discounts, internal taxes, differences between home market and U.S. packing, home market indirect selling expenses up to the amount of U.S. indirect selling expenses, and physical differences in the merchandise.

Preliminary Results of the Review

As a result of our comparison of United States price with foreign market value, we preliminarily determine the margin to be:

Manufacturer/ exporter	Time period	Margin (percent)
BORUSAN	5/01/88–4/30/89	0.11

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such written comments or oral argument.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, the cash deposit of estimated antidumping duties will be waived for Borusan. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of review for those firms (53 FR 39632; October 11, 1988). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1989 and who is unrelated to the reviewed firm or any previously reviewed firm, no cash deposit shall be required. These deposit requirements and waiver are effective for all shipments of Turkish welded carbon steel pipe and tube entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 15, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–1550 Filed 1–22–91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the California Cherry Export Association. Notice of issuance of the Certificate was published in the **Federal Register** on September 3, 1987 (52 FR 33465) and notice of issuance of a previous amendment was published on September 6, 1989 (54 FR 37015).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any

person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 87-00009 was issued to the California Cherry Export Association (CCEA) on August 27, 1987. Notice of issuance of the Certificate was published in the **Federal Register** on September 3, 1987 (52 FR 33465). An amendment to the Certificate was issued on August 29, 1989, and the notice of issuance of that amendment was published in the **Federal Register** on September 6, 1989 (54 FR 37015).

CCEA has amended its Certificate by (1) adding the following companies as "Members" of the Certificate: All State Packers, Inc., Lodi, CA; Felix Costa & Sons, Lodi, CA; and Hillview Packing Company, Lodi, CA; (2) expanding the covered export markets to include all parts of the world except the U.S.; and (3) revising the list of directors of CCEA to include the General Manager and representatives of the new Members.

EFFECTIVE DATE: October 15, 1990.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: January 14, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-1551 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Western Pacific Bottomfish and Seamount Groundfish Fisheries

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

ACTION: Notice of approval of Amendment 3 to the fishery management plan for western Pacific bottomfish and seamount groundfish fisheries.

SUMMARY: NOAA issues this notice that Amendment 3 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) has been approved. Amendment 3, which defines overfishing in compliance with national standards 1 and 2 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), was submitted by the Western Pacific Fishery Management Council (Council) for Secretarial review on October 19, 1990. No rulemaking is involved in this action.

EFFECTIVE DATE: January 16, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Southwest Region (213) 514-6660, or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, Hawaii, (808) 955-8831.

SUPPLEMENTARY INFORMATION: A notice of availability of Amendment 3 was published in the **Federal Register** on November 9, 1990 (55 FR 47102), and comments were invited until December 31, 1990.

The guidelines to the national standards (50 CFR part 602) attendant to the Magnuson Act were revised in 1989 (54 FR 30711) to require the Councils to amend all fishery management plans to include definitions of overfishing for their respective fisheries.

Amendment 3 defines overfishing in terms of Spawning Potential Ratio (SPR). SPR is calculated as spawning stock biomass per recruit (SSBR) of the fished population divided by the SSBR of the unfished population. SPR decreases as fishing mortality increases and ranges from 1.0 to 0.0. A bottomfish species is considered overfished when the SPR is equal to or less than 0.2.

Pelagic armorhead, a seamount species, is considered overfished when its SPR, measured for all seamounts, is equal to or less than 0.2 or when its SPR on the Southeast Hancock Seamount alone is equal to or less than 0.4.

Amendment 3 includes a process by which the Council will evaluate annually the status of stocks and conditions in the fishery to determine if any stock is overfished relative to the overfishing definitions. The Council's intent is to manage the bottomfish and seamount groundfish fisheries at a higher optimum level of productivity than the level defined by overfishing.

Only one minor comment was received, which was transmitted to the Council.

Classification

The Director, Southwest Region, NMFS, determind that Amendment 3 is necessary for the conservation and management of the bottomfish fishery and is consistent with the Magnuson Act and other applicable law.

The Council included an environmental assessment (EA) in Amendment 3, and the Assistant Administrator for Fisheries, NOAA, concluded that there will be no significant impact on the human environment resulting from this amendment.

Because this amendment requires no implementing regulations, 5 U.S.C. section 553 of the Administrative Procedure Act, E.O. 12291, and the Regulatory Flexibility Act do not apply to this notice of approval. There will be no impact on marine mammals or endangered species.

This amendment does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments of Hawaii, American Samoa, and Guam and has asked for concurrence with this determination. The governments did not respond; therefore, concurrence is inferred.

Amendment 3 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Dated: January 16, 1991.

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

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-1488 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-22-M

[CFDA No. 11.431]

NOAA Climate and Global Change Program; Notice Inviting Research Proposals

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: NOAA Climate and Global Change Program; Notice inviting research proposals.

SUMMARY: In 1989, the National Oceanic and Atmospheric Administration (NOAA) began a new Program entitled Climate and Global Change. This Program represents a NOAA contribution to the evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program, coordinated by the interagency Committee on Earth and Environmental

Sciences and is designed to complement other agency contributions to that national effort, including particularly the Earth System Science activities of the National Aeronautics and Space Administration and the Global Geosciences Program of the National Science Foundation.

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that 30–35% of the resources available ($47 million in Fiscal Year 1991) will support extramural efforts, particularly those involving the broad academic community. A total of $7.5 million will be applied toward extramural proposals already in progress. This Program Announcement is for short duration projects to be conducted by investigators both inside and outside of NOAA. Approximately $9.9 million is available for new starts under this announcement, the majority of which will be applied to extramural grants.

PROGRAM OBJECTIVES: The long term objective of the Climate and Global Change Program is to provide reliable predictions of global climate change and associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that these time scales can be studied with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will characterize NOAA's role in a successful national effort to deal with observed or anticipated changes in the global environment.

Program Authority: 49 U.S.C. 1463; 15 U.S.C. 313; 15 U.S.C. 2901.

SELECTION CRITERIA: Selection criteria, with approximate weights, are as follows:

- Scientific Merit (40%): Intrinsic scientific value of the study; import and relevance to the goal of the Climate and Global Change Program and to the research areas listed below.
- Methodology (20%): Focused scientific objective and strategy, including measurement strategies and data management considerations where appropriate; time line and milestones, products.
- Readiness (20%): Nature of the problem; relevant history and status of existing work; level of planning, including existence of supporting documents; strength of proposed scientific and management team; past performance record of proposers.
- Linkages (10%): Connections to existing or planned national and intrnational programs; partnerships with other agency or NOAA participants, where appropriate.
- Costs (10)%: Adequacy of proposed resources; appropriate share of total available resources; prospects for joint funding; identification of long term commitments. Joint funding is encouraged but is not required.

Both NOAA and extramural investigators are eligible to apply for this announcement. Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Non-academic proposers are urged to seek collaboration with academic institutions. Funding for non-U.S. investigators is not available under this announcement. Awards are made on the basis of competitive review. Each proposal receives independent mail review and is evaluated by one or more independent review panels. The time from closing date to grant award varies with program area. Generally, awards are made within 5–6 months of the closing date. Applicants will be notified within that time frame.

PROGRAM PRIORITIES: In FY 1991, NOAA will give priority attention to individual proposals in the areas described below. Investigators are asked to indicate clearly which of these areas is being pursued. The names, affiliations and phone numbers of relevant Climate and Global Change project managers are provided and prospective applicants are encouraged to contact these individuals for further information. Proposals should be sent to the NOAA Office of Global Programs rather than to individual Project Managers. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

- Atmospheric Chemistry—The Atmospheric Chemistry Project focuses on process-oriented laboratory and field studies and theoretical modeling to help improve the predictive understanding of the atmospheric trace gases that influence the Earth's chemical and radiative balance. For further details, contact: Daniel L. Albritton or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO; (303) 497–5785 or –5819, OMNET D.Albritton.
- Surface and Upper Ocean Observations—This program focuses on long-term, *in situ* measurements of upper ocean temperature, salinity and circulation and air/sea momentum flux which contribute to greater understanding of the role of the ocean in climate change. For further information contact: William Woodward, NOAA/National Ocean Service, Rockville, MD; (301) 443–8105, OMNET W.Woodward.
- Global Sea Level—Proposals for research and development are sought to support NOAA's responsibilities in the area of global sea level monitoring. For further information contact: Bruce Douglas, NOAA/National Ocean Service, Rockville, MD; (301) 443–8858, OMNET NOAA.GEOSAT
- Marine Ecosystem Response—The principal objective of this project is to determine how large aquatic ecosystems may be or have been significantly altered by long-term global change in atmospheric gases, solar radiation, temperature, precipitation and sea level. For further information contact: Jim Nance, NOAA/National Marine Fisheries Service, Silver Spring, MD; (301) 427–2239.
- Data Base Development—Proposals are sought in support of NOAA responsibilities for climate and global change data base development and information management. For further information contact: Gregory Withee, NOAA/National Oceanographic Data Center, Washington, DC; (202) 673–5594, OMNET G.Withee.
- Atlantic Climate Change—The goal of this project is to determine the nature and influence of the interactions between the meridional circulation of the Atlantic Ocean, sea surface temperature and salinity, and the global atmosphere. For further information contact: David Goodrich, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427–2474, OMNET D.Goodrich.
- Tracers and WOCE Hydrography—As part of NOAA's contribution to the World Ocean Circulation Experiment (WOCE), proposals are sought for tracer observations on upcoming WOCE hydrographic cruises. Fur further information contact: David Gooodrich, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427–2474, OMNET D.Goodrich.
- Ocean-Atmosphere Carbon Fluxes—As part of NOAA's contribution to the Joint Global Ocean Flux Study (JGOFS), proposals are sought which will enhance our understanding of oceanic carbon and nutrient budgets for the planned Joint NOAA/JGOFS Equatorial Pacific Study in 1992. For further information contact: James Todd, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427–2474, OMNET: J. TODD.

• Tropical Oceans and Global Atmosphere (TOGA)—Proposals dealing with NOAA's contributions to the international Tropical Oceans and Global Atmosphere (TOGA) Program are handled separately from this announcement. For further information contact: Kenneth Mooney, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427-2478, OMNET K. Mooney.

• Climate Dynamics and Experimental Prediction—This program encourages efforts in the analysis of climate data sets to assess the evolution of climate trends and fluctuations and in the development and application of models that will enhance existing skill in understanding and prediction of climate variations and changes on monthly, seasonal, interannual and interdecadal time scales. For further information contact: Phillip Arkin, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427-2474, OMNET P. Arkin.

• Operational Measurements—The goal of this project is to develop and generate continuing climate and global change information products from NOAA operational measurement systems including environmental satellite *in situ* observing systems. For further information contact: Phillip Arkin, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427-2474, OMNET P. Arkin.

• Atmospheric and Land Surface Processes—Proposals are sought to support NOAA responsibilities associated with improving our understanding of those atmospheric and land surface processes through which the overall energy and water balance of the Earth's climate system is maintained. For further information contact: Michael Coughlan, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427-2474, OMNET M. Coughlan.

• Paleoclimatology—NOAA's contributions in the area of paleoclimatology focus on understanding interannual- to centennial-scale variability of the global climate system with an eye toward the development and testing of improved predictive climate models. The program will continue to support existing grants, but because of funding limitations will not solicit new projects in FY 1991. For further information contact: Matt Huston, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427-2474, OMNET M. Huston.

FOR FURTHER INFORMATION CONTACT: Office of Global Programs, National Oceanic and Atmospheric Administration, Silver Spring Metro Center #1, Fourth floor, 1335 East-West Highway, Silver Spring, MD 20910, (301) 427-2474.

SUPPLEMENTARY INFORMATION: Proposals submitted in response to this announcement should include the following:

1. An original and two copies of the proposal: Proposals must be limited to 30 pages (numbered), including budget, investigators' vitae, and all appendices, and should be limited to funding requests for one or two years duration. Proposals should be sent to the NOAA Office of Global Programs at the address above. The deadline for submission of proposals for the FY 91 funding cycle is April 1, 1991.

2. Signed title page and abstract: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should indicate which project area is being addressed. The PI and institutional representative should be identified by full name, title, organization, telephone number and address.

3. Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology and relevance to the goal of the Climate and Global Change Program and the program priorities listed above. An abstract must be included in the statement of work.

4. Budget: A detailed budget is required. Personnel costs, including salaries and fringe benefits, permanent equipment, expendable equipment, travel, publication costs, indirect costs and other costs such as those for supplies, printing, computer time or utilities must be included.

5. Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers.

6. Other requirements: Awards granted by this Program are subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards, including Executive Order 12372, "Intergovernmental Review of Federal Programs". Applicants are reminded that inclusion of false information on an application can provide grounds for denying or terminating funds. In addition, applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.

• Application for federal assistance should be submitted on Standard Forms 424, 424A and 424B.

• Applicants are subject to Governmentwide Debarment and Suspension requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a prior condition to receiving a grant or cooperative agreement.

• Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant or loan. A Certification for Contracts, Grants, Loans, and Cooperative Agreements and the SF-LLL, Disclosure of Lobbying Activities (if applicable) are required to be submitted with the application.

Dated: January 16, 1991.

J. Michael Hall,

Director, Office of Global Programs, National Oceanic and Atmospheric Administration.

[FR Doc. 91-1516 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-12-M

Marine Mammals; Issuance of Permit; Drs. Daniel P. Costa and Graham A.J. Worthy (P2271)

On July 25, 1990, notice was published in the **Federal Register** (55 FR 30262) that an application had been filed by the Dr. Daniel Costa, Institute of Marine Science, University of California Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95064, and Dr. Graham A.J. Worthy, Department of Marine Biology, Texas A&M University at Galveston, P.O. Box 1675, Galveston, TX 77553-1675, for a scientific research permit to conduct research on the behavior and energetics of California sea lions (*Zalophus californianus*) constrained to offshore foraging while raising offspring on land.

Notice is hereby given that on January 15, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., Silver Spring, Maryland 20910; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: January 15, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-1470 Filed 1-22-91; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc. Proposed Rule 4.XX and Conforming Rule Amendments Establishing a Large Order Execution Procedure

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new contract market rule.

SUMMARY: The Commodity Exchange, Inc. ("Comex" or "Exchange") has submitted proposed Rule 4.XX and conforming rule amendments to the Commodity Futures Trading Commission ("Commission") for its review and approval. The proposed rule would establish special procedures for the execution of large lot trades in gold futures contracts.

The proposed rule would permit a floor broker receiving an order to buy or sell 100 or more gold futures contracts (in multiples of 100) to bid or offer the order by open outcry at a price above the prevailing small lot bid price or below the prevailing small lot offer price. A broker having in hand orders for fewer than 100 lots could also execute a large lot trade by either batching the orders up to the 100 lot level or by combining his orders with a trade for his own account. The opposite side of the transaction could only be taken by a floor member bidding or offering for 100 or more (in multiples of 100) contracts. In addition to large lot orders, floor members could buy or sell 100 or more (in multiples of 100) gold futures contracts as large lot trades for their own accounts.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rule is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rule for public comment.

DA ES: Comments must be received on or before February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Brian Regan, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

A. Background

By letter dated October 30, 1990, Comex submitted proposed Rule 4.XX and conforming rule amendment under Commission Regulation 1.41(b). The proposed rule would establish special procedures for the execution of large lot trades in gold futures contracts. The proposed rule does not provide for any manner of off-floor negotiations.

In support of the proposal, COMEX represented that the procedures would facilitate the execution of large trades in gold futures contracts at a single price. Comex also stated that its proposed rule was designed to permit floor traders an opportunity to participate in such trades. Comex further suggested that this proposal could result in liquidity at a lower cost for customers with large orders and could bring in additional trading interest to the pit that may lessen price moves caused by such orders. Two members of the Comex Board of Directors opposed the adoption of the large lot execution procedures based upon their view that it would give an unfair market advantage to commercials to the potential detriment of local traders.

B. Proposed Large Order Execution Procedure

The proposed rule would define a "large lot order" as an order to buy or sell 100 or more (in multiples of 100) gold futures contracts; one or more orders which, if combined, call for the purchase or sale of 100 or more (in multiples of 100) gold futures contracts and which are or become executable at a single price; or one or more orders which are or become executable at a single price and which, if combined with an executing broker's transaction for his own account, call for the purchase or sale of 100 or more (in multiples of 100) gold futures contracts.[1] In addition to large lot orders, floor members could buy or sell 100 or more (in multiples of 100) gold futures contracts as large lot trades for their own accounts.

Under the proposed rule, a customer could submit an order to be executed only as a large lot order. In this instance, the customer would be required to so instruct the broker or firm and the broker or firm would be required to record these specific instructions on the order ticket. As most orders at the Exchange are submitted by telephone, the Exchange would not require customers to submit such orders in writing.

An executing broker would initiate a large lot trade in gold futures contracts by announcing to the pit the contract month, a designation of the trade as a large lot trade, and the price bid or offered. The price bid or offered could be above the small lot bid or below the small lot offer for the same futures contract. A large lot bid or offer could be accepted by another floor member who holds a large lot order or who chooses to execute a large lot trade for his own account. The selling broker would be responsible for reporting the details of the trade, including its designation as a large lot trade, to an Exchange floor reporter immediately upon execution of the trade.

The Exchange indicated that its proposed rule was designed to provide some flexibility to floor brokers. Specifically, the rule would give a broker the discretion to decide whether or not to execute a small order by means of a large lot trade. The Exchange intends to assure that this discretion is not used to disadvantage a customer, however, by permitting a broker to execute an order (or combined orders) through a large lot trade only if the order instructed the broker to execute the order as a large lot order or if the large lot price would be the best available price to fill the order by its terms. Thus, absent the express instructions discussed above to execute an order as a large lot trade, a broker would not be required to fill an order through the new procedure but could use the procedure if it would be advantageous to his customers.

The Exchange has represented that certain modifications would be made to its audit trail. Specifically, all large lot trades would be specially designated on the Exchange's time and sales register. In addition to its regular price report, the Exchange would also generate two new price reports, one report encompassing all large lot trades and another report merging large lot trades into the regular price report. The Exchange has represented that both floor and document surveillance with respect to large lot trades would be conducted as part of its existing surveillance programs.

II. Request for Comments

Acting pursuant to the authority delegated by Commission Regulation

[1] By contrast, a "small lot" bid or offer would be defined as a bid or offer for fewer than 100 gold futures contracts.

140.96, the Director of the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rule is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rule for public comment. Althought Division staff itself has questions about certain aspects of the proposed rule, the Division is publishing the rule for public comment at this time in order to expedite its review of this proposed rule.

The Commission requests comments on any aspect of proposed Rule 4.XX and the conforming rule amendments that members of the public believe may raise issues under the Act or Commission regulations, including, for example, those issues previously identified by the Commission as pertinent to large order execution procedures.[2] In addition, the Commission, invites comment on, among other issues, the following:

1. Whether it is appropriate to combine orders to create a large lot order;

2. Whether buying or selling 100 or more gold futures contracts (in multiples of 100) constitutes an appropriate level for large lot trades in those contracts; and

3. What measures would provide adequate surveillance over the execution as large lot trades of combined orders and trades executed by floor members for their own accounts.

Copies of the COMEX submission are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254-6314.

Any person interested in submitting written data, views, or comments on the proposed regulation 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 January 17, 1991.

Alan L. Seifert,

Deputy Director, Division of Trading and Markets.

[FR Doc. 91-1498 Filed 1-22-91; 8:45 am]

BILLING CODE 6351-01-M

[2] *See* 55 FR 50,267 (Dec. 5, 1989); 55 FR 23,127 (June 6, 1990).

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of Changes in Per Diem Rates: Correction, Bulletin Number 154 Effective 1 January 1991.

SUMMARY: This notice corrects the previous publication of per diem rate changes of the Per Diem, Travel and Transportation Allowance Committee that appeared in the **Federal Register**, 56, FR 519, 7 January 1991.

The rates for Ft. Richardson, Alaska was incorrectly printed in Civilian Personnel Per Diem Bulletin 154. The correct rates are during the period 05-16—09-15, $119 for Maximum Lodging Amount, $52 for M&IE Rate for a Maximum Per Diem Rate of $171, and, during the period 09-16—05-15, $79 for Maximum Lodging Amount, $54 for M&IE Rate for a Maximum Per Diem Rate of $133.

Dated: January 16, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Department of the Army

Intent To Prepare Draft Environmental Statement; Fox River Project, WI

AGENCY: Army Corps of Engineers, DOD.

ACTION: Intent to prepare a draft environmental impact statement (DEIS) for the Fox River Project, Wisconsin, Disposition Study.

SUMMARY: The Federal operations and maintenance responsibility for the Fox River Project, Wisconsin, involving locks, dams, channels, harbors and water levels/flows regulation is being reviewed. The DEIS will be part of a Disposition study and will examine environmental impacts of alternatives to continued operation and maintenance of project features. The Disposition study is being conducted to determine if continued operation and maintenance of the Fox River Project is in the Federal interest and/or to recommend an appropriate disposition plan.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Ms. Florence K. Bissel, U.S. Army Engineer District, Detroit, Environmental Analysis Branch, P.O. Box 1027, Detroit, Michigan 48231-1027. Telephone: (313) 226-3510, FTS 226-3510.

SUPPLEMENTARY INFORMATION: Section 216 of the Flood Control Act of 1970 (Pub. L. 91-611) provides the authority for the Corps of Engineers to review the operation of completed projects when found advisable due to significantly changed physical or economic conditions. The Fox River Federal project was originally acquired by the Federal Government primarily in the interest of commercial navigation. Commercial traffic on the Fox River has been almost non-existent since 1959 and a Disposition study is being conducted.

The proposed actions being considered for disposition at this time involve the navigation features of the project and include:

1. Transfer all navigation features of the project to a non-Federal entity that is willing to accept the responsibility of these features. The non-Federal entity would determine features operation.

2. Transfer some of the navigation features of the project to a non-Federal entity/entities willing to accept the responsibility of those features. The non-Federal entity/entities would determine features operation. The remaining navigation features of the project would be placed into a long-term inoperable condition which would include no further maintenance of project channels or harbors, filling of the remaining lock structures, and excessing of associated property.

3. Place all navigation features into a long-term inoperable condition which would involve no further maintenance of project channels or harbors, filling of the existing lock structures and excessing of property.

4. No action—the Corps of Engineers would continue the responsibilities for operation and maintenance of the navigation features, currently under caretaker status.

Significant issues related to disposition of navigation project features being considered include recreational and social impacts as well as maintenance of water quality, and fish and wildlife habitat. The Fox River corridor has a rich cultural heritage and impacts to those resources will also be evaluated.

The proposed actions will be reviewed for compliance with the following: Fish and Wildlife Act of 1956; Fish and Wildlife Coordination Act of 1958; National Historic Preservation Act of 1966; National Environmental Policy Act of 1969; Clean Air Act of 1970; Endangered Species Act of 1973; Water Resources Development Act of 1976; Clean Water Act of 1977; Executive Order 11990, Wetlands Protection, May 1977; Corps of Engineers, Department of Army 33 CFR part 230, Environmental Quality; and Corps of Engineers. Department of the Army, Policy and

Procedures for Implementing NEPA (ER 200-2-2).

All are invited to participate in the proposed project review including affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties. Coordination with Federal, state and local agencies has been and will continue to be maintained through a series of meetings and mailings. During the DEIS public comment period, a public hearing will be scheduled, if necessary. It is anticipated the Draft Disposition Report and Draft EIS would be made available for public review in April 1991.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-1452 Filed 1-22-91; 8:45 am]

BILLING CODE 3710-GA-M

Military Traffic Management Command, DOD; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and Army Regulation 15-1, Committee Management, attached is a notice of open meeting of the Military Personnel Property Claims Symposium. This meeting will be held on 21 February 1991, at the Best Western Old Colony Inn, Alexandria, Virginia, and will convene at 0830 hours and adjourn at approximately 1630 hours.

PROPOSED AGENDA: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation, DOD 5400.34R, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

FOR FURTHER INFORMATION CONTACT: All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MTPP-M, at telephone number (703) 756-1600, between the hours of 8 a.m. and 4:30 p.m. Topics to be discussed should be received on or before 10 February 1991.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-1451 Filed 1-22-91; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Meeting: Department of Defense Clothing and Textiles Board

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces the fourth meeting of the Department of Defense Clothing and Textiles (DoD C&T) Board.

DATES: February 7, 1991.

ADDRESSES AND TIMES:

US Marine Corps Clothing Initial Issue Point, Parris Island, South Carolina, 0900-1130.

US Army Clothing Initial Issue Point, Fort Jackson, South Carolina, 1430-1700.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine James; Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274-7141.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will focus on improvements to DoD acquisition of clothing and textile products.

Capt M.J. Schildwachter, USN,

Executive Secretary, DoD C&T Board.

[FR Doc. 91-1495 Field 1-22-91; 8:45 am]

BILLING CODE 3620-01-M

Department of the Navy

Government-owned Inventions; Availability for Licensing

AGENCY: Department of the Navy.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $1.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161. Copies also may be ordered by telephone request to (703) 487-4650. Request for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: January 23, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Patent 4,702,439: Support for Thermally Expanding Conical Heatshield; filed 20 January 1987; patented 27 October 1987.

Patent 4,704,925: Pneumatic Cable Stripper; filed 27 June 1987; patented 10 November 1987.

Patent 4,717,862: Pulsed Illumination Projector; filed 19 November 1984; patented 5 January 1988.

Patent 4,850,570: Unitized Portable Hoist; filed 3 March 1988; patented 25 July 1989.

Patent 4,850,571: Connector Assembly; filed 11 April 1988; patented 25 July 1989.

Patent 4,953,951: Method for Making Holograms With Coherent Radiation From a Stabilized Laser Diode That Has Been Actively Cooled; filed 13 January 1988; patented 4 September 1990.

Patent 4,953,986: Air/Sea Temperature Probe; filed 27 April 1989; patented 4 September 1990.

Patent 4,954,216: Process of Making Thin Film Vector Magnetometer; filed 26 December 1989; patented 4 September 1990.

Patent 4,954,328: Synthesis of Hydroxylamine Salts; filed 28 January 1983; patented 4 September 1990.

Patent 4,954,377: Load Bearing Connective Damper; filed 22 November 1988; patented 4 September 1990.

Patent 4,954,833: Method for Determining Astronomic Azimuth; filed 5 July 1989; patented 4 September 1990.

Patent 4,954,999: Double Phase-Lock-Loop Sonar; filed 28 August 1975; patented 4 September 1990.

Patent 4,955,003: Phase Accumulator-Bearing Tracker; filed 4 June 1984; patented 4 September 1990.

Patent 4,956,168: Synthesis of Hydroxylamine Salts; filed 28 January 1983; patented 11 September 1990.

Patent 4,957,027: Versatile Nonelectric Dearmer; filed 2 October 1989; patented 18 September 1990.

Patent 4,957,242: Fluid Mixing Device Having a Conical Inlet and a Noncircular Outlet; filed 6 October 1987; patented 18 September 1990.

Patent 4,957,413: Omnidirectional Variable Thrust Propeller; filed 14

May 1986; patented 18 September 1990.
Patent 4,958,072: Remote Fiber-Optic Angular-Orientation Sensor Using Phase Detection of Two Orthogonal Oscillating Polarization Vectors; filed 7 September 1988; patented 18 September 1990.
Patent 4,958,315: Solid State Electronic Emulator of a Multiple Track Motor Driven Rotating Magnetic Memory; filed 2 July 1985; patented 18 September 1990.
Patent 4,958,331: Towed Sonar Receiving Array: filed 25 February 1974; patented 18 September 1990.
Patent 4,958,763: Method of Soldering Aluminum; filed 29 August 1989; patented 25 September 1990.
Patent 4,958,970: Graduated-Load Spring Washer System for Screws and Threaded Fasteners; filed 17 August 1988; patented 25 September 1990.
Patent 4,959,304: Production of Monoclonal Antibodies to Treponema Denticola by Hydridoma TDIII, IBB2; filed 22 May 1989; patented 25 September 1990.
Patent 4,959,614: Apparatus for Determining Microwave Characteristics of Superconductive Materials Using a Resonant Cavity and Calibration Waveguides; filed 3 August 1989; patented 25 September 1990.
Patent 4,959,638: Combustion Efficiency Analyzer, Acoustic; filed 30 June 1989; patented 25 September 1990.
Patent 4,959,817: Intruder Target Monitoring Sonar Alarm System filed 26 August 1969; patented 25 September 1990.
Patent 4,960,817: High-Temperature, Corrosion-Preventive Coating; filed 31 March 1989; patented 2 October 1990.
Patent 4,960,916: Organometallic Antimony Compound Useful in Chemical Vapor Deposition Processes; filed 29 September 1989; patented 2 October 1990.
Patent 4,961,174: High Data Rate Continuous Wave Towed Sonar; filed 9 May 1977; patented 2 October 1990.
Patent 4,961,175: Low Frequency Sound Source for Acoustic Sweeps; filed 12 December 1967; patented 2 October 1990.
Patent 4,962,215: Preparation of Dineopentylcadmium; filed 29 September 1989; patented 9 October 1990.
Patent 4,962,371: CPS Alarm System; filed 14 November 1988; patented 9 October 1990.
Patent 4,962,477: Enhanced Random Access Memory Element and a Process for the Fabrication; filed 20 June 1983; patented 9 October 1990.
Patent 4,963,039: Vibration Reducing Thrust Bearing; filed 13 September 1989; patented 16 October 1990.
Patent 4,964,040: Computer Hardware Executive; filed 3 January 1983; patented 16 October 1990.
Patent 4,964,091: Electroacoustic Transducer; filed 5 October 1970; patented 16 October 1990.
Patent 4,964,356: Underwater Towed Body Stabilizing Device; filed 22 June 1989; patented 23 October 1990.
Patent 4,964,491: System for Limiting Snap Load Intensity; filed 11 July 1989; patented 23 October 1990.
Patent 4,965,055: Preparation of Ultra-Pure Metal Halides; filed 27 March 1990; patented 23 October 1990.
Patent 4,965,139: Corrosion Resistant Metallic Glass Coatings; filed 1 March 1990; patented 23 October 1990.
Patent 4,965,776: Planar End-Fire Array; filed 23 May 1969; patented 23 October 1990.
Patent 4,965,778: Planar End-Fire Array; filed 22 January 1969; patented 23 October 1990.
Patent Application 500,839: Bislactone Curing Agents for Epoxy Resins, and Polymers Obtained Therefrom; filed 29 March 1990.
Patent Application 531,721: Improved Fiber Optic Fluororescence Sensor; filed 1 June 1990.
Patent Application 532,251: Underwater Acoustic Waveguide Transducer for Deep-Ocean Depths; filed 31 May 1990.
Patent Application 545,005: Environmentally Stable Metal Powders; filed 28 June 1990.
Patent Application 546,818: Erbium Doped Flurozirconate Fiber Laser Pumped by a Diode Laser Producing 2.7 UM Laser Radiation; filed 2 July 1990.
Patent Application 548,655: Heading Sensor Alignment Device; filed 5 July 1990.
Patent Application 548,719: Epitaxial Synthesis of Diamond Crystals at High Growth Rates; filed 6 July 1990.
Patent Application 552,658: Nonlinear Optical Acrylic Polymers and use Thereof in Optoeletronic Devices; filed 16 July 1990.
Patent Application 560,700: Floating gate Magnetic Field Sensor; filed 31 July 1990.
Patent Application 560,959: High Efficiency Directional, Fast Neutron Detector; filed 1 August 1990.
Patent Application 565,784: Submarine Torpedo Tube Primary Seal Interlock; filed 13 August 1990.
Patent Application 566,920: Submarine Torpedo Tube Axial Weapon Restrainer; filed 14 August 1990.
Patent Application 574,182: Planar Imaging NMR; filed 29 August 1990.
Patent Application 574,858: Field Emitter Array Comparator; filed 30 August 1990.
Patent Application 579,455: Lightweight Deployable Antenna System: filed 7 September 1990.
Patent Application 580,012: Low Temperature Synthesis of High Purity Monoclinic Celsian Using Topaz; filed 7 September 1990.
Patent Application 582,269: Low Temperature Synthesis of High Purity Monoclinic Celsian; filed 13 September 1990.
Patent Application 582,277: Optically Stable, Large Time Bandwidth Acousto-Optic Heterodyne Spectrum Analyzer With Fixed Non-Zero Heterodyne Output; filed 14 September 1990.
Patent Application 584,221: System and Method for Minimizing Input Polarization-Induced Phase Noise in Interferometric Fiber Sensors Using Depolarized Input Light; filed 18 September 1990.
Patent Application 588,908: Metal-Coated, Ordered Void Piezoelectric Ceramic Material; filed 27 September 1990.
Patent Application 590,186: Heat Sink Device; filed 25 September 1990.
Patent Application 594,751: Power Terminal Protection Device; filed 9 October 1990.
Patent Application 597,127: Holmium Laser Pumped With a Neodymium Laser; filed 15 October 1990.

Dated: January 11, 1991.

W. T. Baucino,

Lt. JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 91-1502 Filed 1-22-91; 8:45 am]

BILLING CODE 3810-AE-M

Memm General, Inc.; Intent to Grant Exclusive Patent License

AGENCY: Department of the Navy; DOD.

ACTION: Intent to grant exclusive patent license; Memm General, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Memm General, Inc., a revocable, nonassignable, exclusive license to practice the Government-owned invention described in U.S. Patent No. 4,530,131, "Automatic Vacuum Recyclable System for Chemical-Thermo Cleaning of Ship Tanks and Bilges," issued July 23, 1985.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000.

DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (COde OOCCIP), 800 N. Quincy Street, Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Dated: January 11, 1991.

Wayne T. Baucino,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 91-1501 Filed 1-22-91; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Indian Nations At Risk Task Force; Meeting

AGENCY: Indian Nation At Risk Task Force, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Indian Nations At Risk Task Force. This notice also describes the functions of the Task Force. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend the meeting.

DATES AND TIMES: February 12, 1991, 9 a.m. to 5 p.m.; February 13, 1991, 9 a.m. to 5 p.m.

ADDRESSES: Bechtel International Center, First Floor Conference room, Stanford University, Palo Alto, California 94306, Telephone: (415) 723-1831.

FOR FURTHER INFORMATION CONTACT: Alan Ginsburg, executive Director, Indian Nations At Risk Task Force, room 3127, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-4244, Telephone: (202) 401-3132.

SUPPLEMENTARY INFORMATION: The Indian Nations At Risk Task Force was established by the Secretary of Education on March 8, 1990. Its purpose is to advise and make recommendations to the Secretary of Education on the condition of education of American Indians/Alaska Natives in the United States. The meetings of the Task Force are open to the public. The agenda for this meeting will included: A discussion of the content and format of the final report, a review of the commissioned papers, and a discussion of the recommendations to be presented to the Secretary of Education.

Records are kept of the proceedings of the Task Force and area available for public inspection at the staff offices of the Task Force, from 9 a.m. to 4:30 p.m., on weekdays, excluding Federal holidays, room 4010, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202-4244

Dated: January 16, 1991.

William D. Hansen,

Acting Deputy Under Secretary for Planning, Budget and Evaluation, U.S. Department of Education.

[FR Doc. 91-1492 Filed 1-22-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notices are provided:

I. A meeting of the Industry Advisory Board (IAB) to the international Energy Agency (IEA) will be held on Thursday, January 24, 1991, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 2 p.m., and continuing at 9 a.m. on Friday, January 25, if necessary. The agenda for the meeting is as follows:

1. Adoption of agenda and introductory remarks.
2. Approval of Record Note of the IAB meeting of October 18, 1990.
3. International oil supply/demand situation.
4. IAB organization.
5. Date of next IAB meeting.

II. A meeting of the IAB will be held Friday, January 25, 1991, at the offices of the OECD, at the above address beginning at 2:30 p.m., and continuing at 9 a.m. on Saturday, January 26, if necessary. This meeting is being held in order to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the offices of the OECD on the dates indicated. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the agenda.
2. Summary Record of SEQ meeting of December 5, 1990.
3. Follow-up to the decisions of the Governing Board meeting of January 11, 1991, including a review of procedures for implementing contributions to the IEA response.
4. Updating of emergency response profiles and review of oil supply/demand/stock situation of individual countries.
5. Preparations for Governing Board meeting of January 28, 1991.
6. Any other business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings are open only to representatives of members of the IAB, their counsel, representatives of the members of the SEQ, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, the SEQ, or the IEA.

The IAB and SEQ meetings originally were scheduled for January 21, 1991 and January 22, 1991, respectively. *See* 56 FR 1383, January 14, 1991. The IEA Secretariat has rescheduled the meetings for the dates indicated because of events in the Persian Gulf.

As permitted by section 5(c)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, the General Counsel, pursuant to a delegation from the Secretary of Energy, has approved the submission of the agenda less that 14 days in advance of the date of the meeting, because the draft agenda was not available from the IEA Secretariat until January 17, 1991. As permitted by 10 CFR 209.32, the usual 7-day period for publication of this notice in the **Federal Register** has been shortened because of the late availability of the draft agenda for the SEQ meeting.

Issued in Washington, DC, January 17, 1991.

Stephen A. Wakefield,

General Counsel.

[FR Doc. 91-1593 Filed 1-18-91; 10:27 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER91-206-000, et al.]

Boston Edison Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 14, 1991.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Co.

[Docket No. ER91-206-000]

Take notice that on January 8, 1991, Boston Edison Company (Boston Edison) tendered for filing a Notice of Cancellation of Supplement No. 1 to Rate Schedule FPC No. 148.

Boston Edison request and effective date of December 31, 1990 and a waiver of the sixty day notice requirement.

Comment date: January 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Georgia Power Co.

[Docket No. ER91-205-000]

Take notice that on January 8, 1991, Georgia Power Company (Georgia Power) tendered for filing a Coordination Services Agreement (the Agreement) dated as of November 12, 1990, between Georgia Power and Oglethorpe Power Corporation (An Electric Membership Generation & Transmission Corporation) (Oglethorpe Power).

Georgia Power states that pursuant to the Agreement, it will provide scheduling and dispatch services for Oglethorpe Power's units, regulating service and scheduling of Oglethorpe Power's off-system transaction with other utilities. Georgia Power seeks an effective date of March 1, 1991.

Comment date: January 28, 1991, in accordance with Standard Paragraph E end of this notice.

3. Florida Power & Light Co.

[Docket No. ER91-207-000]

Take notice that Florida Power & Light Company (FPL), on January 8, 1991, tendered for filing the following document: Amendment Number Three to Aggregate Billing Partial Requirements Service Agreement between Florida Power and Light Company and Seminole Electric Cooperative, Inc. (Rate Schedule FERC No. 77).

FPL states that under the above Amendment, FPL and Seminole have agreed to change the delivery voltage at two of the existing delivery points.

FPL requests that the waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective March 8, 1990. FPL states that copies of the filing were served on Seminole Electric Cooperative, Inc.

Comment date: January 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Missouri Public Service a Division of Utilicorp United, Inc.

[Docket No. ER91-208-000]

Take notice that Missouri Public Service, on January 8, 1991, tendered for filing a change in its FERC Electric Service Tariffs for wholesale firm power service to supersede and replace the contract which relates to the city of Odessa located in the state of Missouri. The contract reflects changes that will convert the city of Odessa from a partial requirements customer to a full requirements customer. Missouri Public Service is also requesting a waiver of the Commission's Regulations in order to permit the contract to become effective as of the date of filing, January 8, 1991.

The changes are in compliance with a request received from the city of Odessa. The extension in the term of the contract is to assure a long-term source of power to the city of Odessa and to justify the additional expenditures required by the Company to provide the increase in capacity.

Copies of the filing were served upon the city of Odessa whose contract would be affected thereby and upon the Public Service Commission of Missouri.

Comment date: January 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washinton, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-1472 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER91-213-000, et al.]

Commonwealth Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 15, 1991.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Electric Company

[Docket No. ER91-213-000]

Take notice that on January 11, 1991 Commonwealth Electric Company (Commonwealth) filed pursuant to section 205 of the Federal Power Act and the implementing provisions of § 35.13 of the Commission's Regulations, a proposed change in rate under its currently effective Rate Schedule FERC No. 6.

Said change in rate under Commonwealth's Rate Schedule FERC No. 6 has been computed according to the provisions of section 6(b) of its Rate Schedule FERC No. 6. Such change is proposed to become effective January 1, 1990, thereby superseding the 23KV Wheeling Rate in effect during calendar 1989. Commonwealth has requested that the Commission's notice requirements be waived pursuant to § 35.11 of the Commission's Regulations in order to allow the tendered rate change to become effective as of January 1, 1990.

Copies of this filing have been served upon Boston Edison Company and the Massachusetts Department of Public Utilities.

Comment date: January 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. The Detroit Edison Company

[Docket No. ER91-211-000]

Take notice that The Detroit Edison Company (Detroit Edison) on January 11, 1991, tendered for filing a Belle River Participation Agreement Between The Detroit Edison Company and Michigan Public Power Agency, dated December 1, 1982, as amended.

The Agreement establishes provisions for the supply by Detroit Edison of back-up Electric Capability and Energy to the Michigan Public Power Agency (MPPA) when Unit Nos. 1 and 2 of the Belle River Power Plant, which is jointly owned by Detroit Edison and MPPA, are totally or partially out of service.

Comment date: January 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Monongahela Power Company

[Docket No. ER91-212-000]

Take notice that Monogahela Power Company, on January 11, 1991, tendered

for filing proposed changes in its FERC Electric Tariff. The proposed changes would increase revenues from jurisdictional sales and service by approximately $63,769, based on projected kilowatt-hour sales for 1991. The proposed effective date for the increased rates in November 1, 1990.

The changes proposed are for the sole purpose of recovering increased tax expense incurred by the Company.

Copies of the filing were served upon the jurisdictional customers and the Pennsylvania Public Utility Commission.

Comment date: January 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-1476 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-870-000, et al.]

Transwestern Pipeline Co., et al.; Natural Gas Certificate Filings

January 15, 1991.

Take notice that the following filings have been made with the Commission:

1. Transwestern Pipeline Co.

[Docket No. CP91-870-000]

Take notice that on January 9, 1991, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-870-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for NGC Transportation, Inc., a marketer, under the blanket certificate issued in Docket No. CP88-133-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transwestern states that, pursuant to an agreement dated November 21, 1990, under its Rate Schedule ITS-1, it proposes to transport up to 400,000 MMBtu per day equivalent of natural gas. Transwestern indicates that the gas would be transported from Arizona, New Mexico, Oklahoma, and Texas, and would be redelivered in New Mexico. Transwestern further indicates that it would transport 300,000 MMBtu on an average day and 146,000,000 MMBtu annually.

Transwestern advises that service under Section 284.223(a) commenced December 1, 1990, as reported in Docket No. ST91-6024-000.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Florida Gas Transmission Co.

[Docket No. CP91-786-000]

Take notice that on December 31, 1990 Florida Gas Transmission Company (Applicant) 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188 pursuant to sections 7(b) and 7(c) of the Natural Gas Act filed to amend the existing certificate by which the Applicant provides service to Peoples Gas System, Inc. (Peoples) under Rate Schedules G and I of Applicant's FERC Gas Tariff, authority to revise Peoples existing FTS-1 Service Agreement and authority to abandon Southern Gas Company's (Southern) service under Rate Schedules G, I, and FTS-1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it requests authority to revise the existing firm sales agreement under Rate Schedule G by; (1) Increasing the Maximum Daily Contract Quantities (MDCQs) and the Maximum Annual Contract Quantities (MACQs) for Phase I and Phase II by an amount equal to the MDCQs and MACQs of Southern's firm sales service agreement for Phase I and Phase II as appropriate, on the date authorization is granted; and (2) adding a new Sarasota division that consists of the delivery points of Oneco and Sarasota with Maximum Daily Quantities (MDQs) as set forth in Southern's firm sales service agreement for Phase I and Phase II on the date that this authorization is granted.

Applicant states that it requests authority to revise People's preferred sales service agreement under Rate Schedule I by increasing the Annual Volumetric Entitlements (AVEs) for Phase I and Phase II by an amount equal to the AVEs of Southern's preferred sales service agreement for Phase I and Phase II, as appropriate, on the date authorization is granted.

Applicant requests authority to revise Peoples firm transportation service agreement under Rate Schedule FTS-1 by; (1) Increasing the Maximum Daily Transportation Quantities (MDTQs) and Maximum Annual Transportation Quantities (MATQs) for Phase I and Phase II by an amount equal to the MDTQs and MATQs of Southern's firm transportation service agreement for Phase I and Phase II, as appropriate, on the date authorization is granted; (2) adding a new Sarasota division that consists of the delivery points of Oneco and Sarasota with MDQs as set forth in Southern's firm transportation service agreement for Phase I and Phase II, on the date authorization is granted; and adding to the existing Peoples receipt points the Southern FTS-1 receipt points and the Southern receipt point MDQs for Phase I and Phase II on the date authorization is granted.

Applicant requests authority to waive the Commission's first-come first-served policy and its tariff as necessary, to permit Peoples to retain its existing priority in Applicant's first-come first-served transportation queue for firm transportation service, while granting the authority to add delivery and receipt points and MDTQs, MATQs, and MDQs respectively. Applicant also requests that if the Commission grants the authority requested in its Application that it be allowed to abandon service to Southern under Rate Schedules G and I, and FTS-1.

Comment date: February 5, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Columbia Gulf Transmission Co.

[Docket Nos. CP91-918-000, CP91-919-000, CP91-920-000]

Take notice that on January 11, 1991, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama, Houston, Texas 77027, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of three shippers under its blanket certificate issued in Docket No. CP86-239-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file

with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Columbia Gulf and is summarized in the attached appendix.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-918-000 (1-11-91)	Columbia Gas Development Corporation (Producer).	315,900 100,000 36,500,000	Offshore Louisiana	Louisiana	12-1-90, ITS-2, Interruptible.	ST91-6081-000, 12-1-90
CP91-919-000 (1-11-91)	Diamond Shamrock Offshore Partners Limited Partnership (Producer).	23,000 10,000 3,650,000	Offshore Louisiana	Offshore Louisiana	12-1-90, ITS-2, Interruptible.	ST91-6252-000, 12-1-90
CP91-920-000 (1-11-91)	Enserch Gas Company (Marketer).	100,000 40,000 14,400,000	Offshore Louisiana	Offshore Louisiana, Louisiana.	7-1-90, ITS-2, Interruptible.	ST91-6226-000, 12-1-90

4. Texas Eastern Transmission Corp.

[Docket No. CP91-872-000]

Take notice that on January 9, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP91-872-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas under its blanket authorization issued in Docket No. CP88-136-000 pursuant to section 7 of the Natural Gas Act, and a request pursuant to § 157.211 of the Commission's Regulations for authorization to operate delivery points which were originally installed under Section 311 of the Natural Gas Policy Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to transport natural gas on an interruptible basis for Santa Fe International Corporation (Santa Fe). Texas Eastern proposes to transport on a peak day up to 320,000 MMBtu; on an average day up to 320,000 MMBtu; and on an annual basis up to 116,800,000 MMBtu. Texas Eastern proposes to receive the subject gas from various points of receipt on its system and redeliver the gas to various delivery points on its system.

Texas Eastern also proposes to operate delivery points under the Commission's section 7(c) jurisdiction which originally were installed under section 311 of the Natural Gas Policy Act. Texas Eastern states that the list of section 311 facilities is set forth in Exhibit B-1 of Attachement A to its application.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Gas Transmission Corp., and Natural Gas Pipeline Co. of America

[Docket Nos. CP91-886-000, CP91-887-000 and CP91-888-000]

Take notice that Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301, and Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148 (Applicants), filed prior notice requests with the Commission in the above-referenced dockets pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket Nos. CP88-686-000 and CP86-582-000, respectively, pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.[2]

Information applicable to each transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day, and annual volumes; the service initiation date; related ST docket number of the 120-day transaction under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-886-000 (1-10-91)	Citizens Energy Corporation (Shipper).	75,000 75,000 27,375,000	AR, IL, IN, KY, LA, OLA, OH, TX, OTX.	LA	6-5-90, IT, Interruptible.	ST91-5767, 11-29-90
CP91-887-000 (1-10-91)	Tejas Hydrocarbons Company (Shipper.	100,000 20,000 36,500,000	ARK, IL, IN, KY, LA, OLA,OH, TN, TX, OTX.	LA	10-23-90, IT, Interruptible.	ST91-5765, 12-1-90

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-888-000 (1-10-91)	Tex/Con Gas Marketing Company (Marketer).	100,000 40,000 14,600,000	AR, CO, IL, IA, KS, LA, OLA, MO, NE, NM, OK, TX.	CO, IL, IA, KS, LA, OLA, NE, NM, OK, TX, OTX.	3-26-90, ITS Interruptible.	ST91-5747, 11-3-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

6. Texas Gas Transmission Corp.

[Docket Nos. CP91-864-000, CP91-865-000 and CP91-866-000]

Take notice that Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 4231, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average dav and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-864-000 (1-9-91)	Amerada Hess Corporation.	20,000 10,000 3,650,000	Various	Various	IT, Interruptible	ST91-5768, 11-30-90
CP91-865-000 (1-9-91)	Unocal Exploration Corporation.	150,000 150,000 55,000,000	Various	Various	IT, Interruptible	ST91-5766, 11-30-90
CP91-866-000 (1-9-91)	Mega Natural Gas Company.	50,000 20,000 7,300,000	Various	Various	IT, Interruptible	ST91-5764, 12-1-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

7. United Gas Pipe Line Co.

[Docket Nos. CP91-867-000, CP91-868-000 and CP91-869-000]

Take notice that United Gas Pipe Line Company, P.O. Box 1478, Houtson, Texas 77251-1478, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points / Delivery points	Contract date,	Related rate schedule, service type	Related docket, start up date
CP91-867-000 (1-9-90)	Transamerican Gas Transmission Corp. (Intrastate Pipeline).	154,500 154,500 56,392,500	LA, TX	LA, TX, MS, FL	4-23-86, ITS, Interruptible.	ST91-5234 11-13-90
CP91-868-000 (1-9-90)	Pennzoil Gas Marketing Company (Producer).	206,000 206,000 75,190,000	various	LA, TX, MS, FL, AL	12-31-86, ITS, Interruptible.	ST91-5825 11-12-90
CP91-869-000 (1-9-90)	Pennzoil Gas Marketing Company (Intrastate Pipeline).	206,000 206,000 75,190,000	various	LA, TX, MS, FL, AL	12-31-86, ITS, Interruptible.	ST91-5561 11-12-90

8. Panhandle Eastern Pipe Line Co.

[Docket Nos. CP91-871-000, CP91-873-000, CP91-874-000, CP91-875-000, CP91-876-000, and CP91-877-000]

Take notice that on January 9, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.23 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Panhandle and is included in the attached appendix.

Panhandle also states that each would provide the service for each shipper under an executed transportation agreement, and that Panhandle would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: March 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No.	Shipper name	Peak day, [1] avg. annual	Points of		Start up date, rate schedule	Related [2] dockets
			Receipt	Delivery		
CP91-871-000	Amgas, Inc.	34 17 6,205	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-7-90, PT	ST91-5490-000
CP91-873-000	Amgas, Inc.	270 135 49,275	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-17-90, PT	ST91-5486-000
CP91-874-000	Amgas, Inc.	100 50 18,250	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-7-90, PT	ST91-5492-000
CP91-875-000	Amgas, Inc.	100 50 18,250	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-7-90, PT	ST91-5485-000
CP91-876-000	Amgas, Inc.	84 42 15,330	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-7-90, PT	ST91-5487-000
CP91-877-000	Amgas, Inc.	120 60 21,900	CO, OH, IL, OK, KS, TX, MI, WY.	IL	11-7-90, PT	ST91-5621-000

[1] Quantities are shown in dekatherms unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a moton to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Louis D. Cashell,

Secretary.

[FR Doc. 91-1474 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[5] These prior notice requests are not consolidated.

[Docket Nos. CP88-760-002, et al.]

Transcontinental Gas Pipe Line Corp., et al.; Natural Gas Certificate Filings

January 14, 1991.

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pile Line Corp.

[Docket No. CP88-760-002]

Take notice that on January 8, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-760-006 a petition to amend the order issued May 14, 1990, in Docket No. CP88-760-000 pursuant to section 7(c) of the Natural Gas Act so as to add certain receipt points to the Southern Expansion customers' firm transportation service agreements, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued May 14, 1990, Transco was authorized to render a long-term, firm seasonal transportation service for 25 existing Transco customers located in Zones 4 and 5 of Transco's pipeline system, (Southern Expansion Project).

Transco requests authorization in Docket No. CP88-760-006 to add certain receipt points, at the specific request of the Southern Expansion customers, in order to provide service to those customers that is more clearly aligned with their current gas supplies. It is stated that Transco has submitted a revised Exhibit A page for each Southern Expansion customer's firm transportation service agreement with a comprehensive list of all receipt points, listed by capacity entitlement tier, and including those receipt points requested to be added to the transportation service agreement. It is further stated that Transco has not modified any customer's transportation contract demand quantity (TCDQ) or any customer's allocated capacity entitlement between Holmesville and Station No. 80 as originally allocated to each Southern Expansion customer. Transco states that the additional receipt points may be utilized by each Southern Expansion customer on a firm basis to the extent of the original capacity entitlement amounts for each tier, as provided on the Revised Exhibit A pages. Transco further states that if the Southern Expansion customer had no allocated entitlement, such receipt point may only be utilized on an interruptible basis to the extent capacity is available as a result of non-use of firm capacity by the other Southern Expansion customers, thus assuring protection of priority of service as authorized in the May 14, 1990 order. In addition, Transco states that the total aggregate firm capacity utilized in all tiers may not exceed the capacity entitlement amount provided in Tier III, which amount is equal to each Southern Expansion customer's TCDQ. Transco states that the addition of receipt points will have no effect on Transco's peak day or annual volumes provided to Transco's customers.

Comment date: February 4, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. United Gas Pipe Line Co.

[Docket Nos. CP91-827-000,[1] CP91-829-000 and CP91-830-000]

Take notice that on January 4, 1991, United Gas Pipe Line Company (Applicant), filed in the above referenced dockets, prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: February 28, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No.[2] (date filed)	Applicant	Shipper name	Peak day[1] avg. annual	Points of		Start up date rate schedule	Related dockets
				Receipt	Delivery		
CP91-827-000 (1-4-91)	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77251-1478.	Midcon Marketing Corp.	150,174 150,174 54,813,510	LA	FL, MS	11-19-90, FTS	CP88-6-000, ST91-5558-000.
CP91-829-000 (1-4-91)	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77251-1478.	Lear Gas Marketing Co.	10,300 10,300 3,759,500	LA	LA	11-1-90, ITS	CP88-6-000, ST91-4365-000.
CP91-830-000 (1-4-91)	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77251-1478.	Midcon Marketing Corp.	721,000 721,000 263,165,000	Off LA, LA, MS, AL, Off TX, UT, OK, TX.	LA, TX, MS, Al, FL, Off LA, Off TX.	11-2-90, ITS	CP88-6-000, ST91-5550-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Southern Natural Gas Co.

[Docket Nos. CP91-845-000, CP91-846-000 and CP91-847-000]

Take notice that Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: February 28, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-845-000 (01-07-91)	Petroleum Source and Systems Group, Inc. (Marketer).	8,000 6,849 2,500,000	Various	Various	10-01-90, IT, Interruptible.	ST91-5230-000, 11-02-90.
CP91-846-000 (01-07-91)	Phibro Energy, Inc. (Marketer).	100,000 10,000 3,650,000	Various	Various	10-25-90, IT, Interruptible.	ST91-3020-000, 11-01-90.
CP91-847-000 (01-07-91)	Chevron U.S.A., Inc. (Marketer).	15,000 15,000 5,475,000	Various	Various	10-18-90, IT, Interruptible.	ST91-3018-000, 11-02-90.

4. Southern Natural Gas Co., Southern Natural Gas Co., and Equitrans, Inc.

[Docket Nos. CP91-881-000, CP91-882-000 and CP91-883-000]

Take notice that Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-3563, and Equitrans, Inc., 3500 Park Lane, Pittsburgh, Pennsylvania 15275, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-316-000 and Docket No. CP86-553-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: February 28, 1991, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-881-000 (1-9-91)	Alabama Gas Corporation (local distribution company).	1,000 1,000 365,000	TX, OLA, OTX, LA, MS, AL.	AL	5-2-90, FT, firm	ST91-5792-000, 11-1-90.
CP91-882-000 (1-9-91)	City of Cartersville, Georgia (local distribution).	1,000 1,000 365,000	TX, OLA, OTX, LA, MS, AL.	GA	4-17-90, FT, firm	ST91-5321-000, 11-10-90.
CP91-883-000 (1-9-91)	Columbia Gas of Pennsylvania, Inc.	18,026MMBtu 18,026MMBtu 3,605,000 MMBtu	WV, PA	PA	6-25-90, FTS, firm	ST91-62023-000, 12-1-90.

5. Colorado Interstate Gas Co., Trunkline Gas Co.

[Docket Nos. CP91-913-000 and CP91-917-000]

Take notice that on January 11, 1991, Colorado Interstate Gas Company, P.O. Box 1987, Colorado Springs, Colorado 80944, and Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of two shippers under the blanket certificates issued in Docket No. CP86-589, *et al.* and Docket No. CP86-586-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation

[4] These prior notice requests are not consolidated.

service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: February 28, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket (date filed)	Shipper name (types	Peak day, average day, annual Mcf	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP-913-000 (1-11-91)	Enron Gas Marketing, Inc. (Marketer).	25,000 20,000 7,300,000	WY, CO	KS	10-5-90, TI-1, Interruptible.	ST91-3157-000, 10-11-90.
CP-917-000 (1-11-91)	National Fuel Supply Corporatin (LDC).	7,039 7,039 2,569,235	OLA, OTX, LA, IL, TN, TX.	IL	11-1-90, PT, Firm	ST91-5085-000, 11-1-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

Standard paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 91-1475 Filed 1-22-91; 8:45 am]
BILLING CODE 6717-01-M

Office of Energy Research

Experimental Program to Stimulate Competitive Research (EPSCoR), 91-6

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy (DOE), in keeping with its energy-related mission to assist in strengthening the Nation's human resource infrastructure through the support of science, engineering and mathematics education at all levels of education, announces its interest in receiving special research grant applications for the support of planning and/or training grants. The Conference Committee recommendation for the Fiscal Year 1991 Energy Water and Development Appropriations Bill directs DOE to provide a total of $4.0 million dollars for planning grants and graduate traineeships to those state organizations previously chosen for participation in the Expiermental Program to Stimulate Competitive Research (EPSCoR) program at the National Science Foundation (NSF). The Department's response to this recommendation is the Department of Energy's Experimental Program to Stimulate Competitive Research (DOE/EPSCoR). The purpose of the DOE/EPSCoR program is to enhance the capabilities of the designated States to develop science and engineering manpower in energy-related areas and to conduct nationally competitive energy-related research. In accordance with 10 CFR 600.7(b)(1), and due to the Congressionally directed limitations, it has been determined that eligibility for these grants will be restricted to the designated NSF EPSCoR planning committees for the following states and territory: Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming and the Commonwealth of Puerto Rico. The EPSCOR planning committees within the eligible states are encouraged to apply for special research grants that will support the planning and training efforts. However, separate applications must be submitted; one for the graduate traineeship portion and one for the planning grant portion of the DOE/EPSCoR program. Planning grant applications must contain information that details development of a state-wide infrastructure improvement plan for energy-related research and human resources development. Training grant applications must detail the need for energy-related graduate traineeships in energy-related scientific and technical educational disciplines. Applications for planning grants under the DOE/EPSCoR program will be considered for support by DOE for the development of a comprehensive five-year state-wide plan that seeks to strengthen and enhance energy-related research and human resources development in the EPSCoR states.

A total of $4.0 million will be available for grant awards under the DOE/EPSCoR program in FY 1991, of

which an estimated $2.0 million will be available for graduate traineeships in energy related science and engineering disciplines, and it is expected that $2.0 million will be available for the planning grants. However, each planning grant will not exceed $100,000.

DATES: Applications for grants under this notice should be received by 4:30 p.m. eastern local time March 20, 1991.

ADDRESSES: Application kits and guides are available from and the completed applications, must be submitted to: U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, ER-64, Washington, DC 20585. Telephone requests may be made by calling (202) 586-8949. The personal or courier delivery address is: U.S. Department of Energy, Division of Acquisition and Assistance Management, ER-64, Office of Energy Research, 19901 Germantown Road, Germantown, MD 20874. Each application submitted must reference Notice No. 91-6, and must clearly indicate whether the support requested is for planning or training. Telephone and telefax numbers must also be included in any application.

FOR FURTHER INFORMATION CONTACT: Ms. Donna J. Prokop, Education Programs Manager, Office of University and Science Education Programs, Office of Energy Research, ER-82, Department of Energy, Washington, DC 20585, (202) 586-8949.

SUPPLEMENTARY INFORMATION:

Planning Grant

The DOE/EPSCoR planning awards will be limited to a maximum of $100,000 for a grant to prepare a compehensive five-year energy research and human resources development plan. Applications for planning grants shall include a narrative description which addresses the state's strategies for activities which will lead to a comprehensive five-year state plan for strengthening and enhancing energy research science and engineering programs and improving the state's human resource base for science, mathematics and engineering. An application for the planning grant should include plans to:

1. Develop a comprehensive inventory of the existing research and research-related assets within a state that could be brought to bear upon energy research development (including human resources, equipment, facilities, and resources available in industry and in state or federal facilities);

2. Identify a set of priority areas for energy research development;

3. Develop strategies for linking appropriate communities and institutions (e.g., other colleges, universities, disciplinary subfields, other disciplines, nonprofit research organizations, federal laboratories, or industries) to enhance involvement and knowledge transfer. Examples of such linkages that are encouraged, but are not be limited to, are: exploratory research initiatives in energy related fields; young faculty awards in energy-related research areas; summer faculty or sabbatical appointments at DOE multiprogram or energy-related industrial laboratories; energy-related conferences, workshops, technical institutes, or meetings to develop stronger ties with industry; hands-on summer research experiences at DOE multiprogram or energy-related industrial laboratories for students (high school through graduate level, including opportnities for pre-service science and mathematics teachers); expands opportunities for undergraduate students through exising DOE education programs; summer research opportunities for faculty of two-year colleges; faculty/teacher student teams; or improved science teaching at the precollege and postsecondary levels, including energy-related workshops and institutes hosted by colleges/universities or energy industry or DOE multiprogram laboratories. These linkages should involve significant intellectual exchange as well as resource commitments, funds and facilities;

4. Formulate implementation strategies such as budgets, timelines and specific activities for strengthening the state energy-related research and research infrastructure;

5. Identify the projected impact on the science and engineering pipeline in terms of the number of faculty and precollege teachers, and undergraduate/graduate students to be affected, including underrepresented minorities, women and the disabled;

6. Define strategies for attracting and involving high-quality students in hands-on research (undergraduate, graduate, postdoctoral), with energy industries or the DOE multiprogram laboratories (delineate mechanisms to increase the participation of women, underrepresented minorities, and students with disabilities); and

7. Develop a detailed management plan that will explain the interaction of all participating organizations involved in the project, and the capability of the project's organizations and personnel to successfully carry out its planned objectives. The management plan should also include a discussion of leadership efforts that will improve the State's human resources and schedules for implementing the proposed plan and achieving self-sufficiency over a period of five years.

Each application submitted for planning grant support under this notice must include a minimum of 20 percent cost sharing from non-Federal sources.

Traineeship Support

Traineeship grant applications must be limited to $250,000 per year and may not exceed a period of five years, subject to the availability of appropriated funds in subsequent years. The amount available per year per student under this grant award is anticipated to be $25,000.

The primary objectives for the traineeship appointments are to:

1. Increase the number and quality of EPSCoR state U.S. graduates with advanced training in energy-related disciplines;

2. Provide doctoral-level training and research experience through active participation in established, ongoing programs of energy research at selected universities; and

3. Ensure that the trainees obtain a broader understanding of the development and application of energy-related research and technologies through close involvement with researchers and research programs in energy industries and/or the Department's major multiprogram laboratories.

The traineeship appointments may be offered only to students who are U.S. citizens or permanent resident aliens who have been admitted to full graduate standing in an energy-related field. Applicants are encouraged to supplement each traineeship in conjunction with other energy-related research or education activities which will contribute to the trainee(s) academic progress. The application to the DOE/EPSCoR program, shall include a narrative description which addresses the points listed below:

1. Identify academic institutions, departments and disciplines to be included in the traineeship program. Summarize the qualifications of the institution, including current energy research activities and available facilities. Discuss the potential of the proposed traineeship program to enhance the State's energy-related science and engineering manpower capabilities and to attract additional high quality trainees to energy-related research;

2. Identify and describe the energy-related research program(s) on which

the traineeship request is based, including the number of degrees awarded to graduate students associated with the identified energy research area(s), a summary of accomplishments, and the record of doctoral degree productivity of participating departments over the past five years, by year;

3. Describe plans for recruiting high quality trainee candidates (include the selection criteria to be used) and strategies for insuring meaningful trainee interaction with the DOE multiprogram or energy-related industrial laboratories. Provide examples of the proposed trainee-industry/laboratory interaction arrangements, and include names and brief backgrounds of the groups involved in developing the program;

4. List the qualifications of key faculty committed to the traineeship program as measured by such elements as research projects, publications, number of Ph.D. dissertations supervised over the last five years and support for energy research projects from non-campus sources; and

5. Provide a detailed budget, outlining the total amount requested, the amount requested per trainee, i.e., stipend, tuition and fees, and plans, if any, for augmenting or supplementing trainee costs from other non-Federal sources. The average cost of the traineeship is anticipated to be $25,000, inclusive.

Indirect costs may not be requested for the DOE/EPSCoR program traineeship grants. Although no formal cost sharing is required for the DOE/EPSCoR traineeship program, information about funding sources other than Federal funds should be provided and may be considered in selecting which of the most meritorious applications should be supported.

DOE expects to make several grants in FY 1991 to meet the objectives of this program. However, DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted. Additional information may be subsequently requested by DOE during evaluation of a submitted application.

Each EPSCoR planning committee may request a list of active DOE grant/contract awards for its state to assist with the planning effort. Contact Ms. Donna J. Prokop telephone number (202) 586-8910 for this listing. General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the ER Special Research Grant Application Kit and Guide. This notice requests further that the "Detailed Description of Research Work Proposed" component of a complete grant application as established by 10 CFR part 605 should not exceed 30 double-spaced, typed pages, excluding curriculum vitae.

This application kit and guide is available from the U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, ER-64, Washington, DC 20585. Telephone requests may be made by calling (202) 586-8949. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued at Washington, DC on January 16, 1991.

James F. Decker,

Acting Director, Office of Energy Research.

[FR Doc. 91-1548 Filed 1-22-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TM91-5-20-001]

Algonquin Gas Transmission Co., Proposed Changes in FERC Gas Tariff

January 15, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 11, 1991, tendered for filing proposed corrections to previously filed tariff sheets of its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the tariff sheets:

Proposed To Be Effective February 1, 1991

Sub 25 Rev Sheet No. 214, Sub 6 Rev Sheet No. 220.

Algonquin states that it is making the instant filing to correct the effective date shown on Sheet No. 214 and Sheet No. 220 which were filed on January 8, 1991 in Docket Nos. TA91-1-20-000 and TM91-5-20-000. The substitute Sheet Nos. 214 and 220 filed herein contain the correct effective date of February 1, 1991.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

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 (1990). All such protests should be filed on or before January 23, 1991. 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. 91-1477 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-20-000 and TM91-5-20-000]

Algonquin Gas Transmission Co., Proposed Changes in FERC Gas Tariff

January 15, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 11, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective March 1, 1991

50 Rev Sheet No. 201
12 Rev Sheet No. 201A
51 Rev Sheet No. 203
47 Rev Sheet No. 204
44 Rev Sheet No. 205
2 Rev Sheet No. 216

Proposed To Be Effective Feburary 1, 1991

25 Rev Sheet No. 214
6 Rev Sheet No. 220

Algonquin states that the revised tariff Sheet Nos. 201 through 205 and 216, listed above, are being filed as part of Algonquin's regularly schedule annual Purchased Gas Adjustment ("PGA") and is made pursuant to Algonquin's PGA section 17 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Second Revised Volume No. 1 to reflect the standby service costs to be charged by Texas Eastern Transmission Corporation ("Texas Eastern") and purchased gas costs to be charged by its suppliers, Texas Eastern, National Fuel Gas Supply Corporation ("National") and CNG Transmission Corporation ("CNGT"). The proposed effective date for the listed revised tariff Sheet Nos. 201 through 205 and 216, above, is March 1, 1991.

Algonquin states that the effect of the change in rates is to increase the demand charges by $0.0730 per MMBtu and to decrease the commodity charges by 4.45¢ per MMBtu under all of Algonquin's firm sales rate schedules from those rates contained in Algonquin's Gas Research Institute tracker filing of November 30, 1990 in Docket No. TM91-4-20-000. In addition, the rate under (i) Rate Schedule I-1 has decreased by 4.45¢ per MMBtu, (ii) Rate Schedule WS-1 excess commodity has

decreased by 2.29¢ per MMBtu and Rate Schedule E-1 has decreased by 4.21¢ per MMBtu.

Algonquin further states that it is also filing Sheet No. 214 and 220, above, pursuant to section 9 of Rate Schedule SS-III and section 4 of Rate Schedule ATAP, Algonquin is filing Sheet Nos. 214 and 220, respectively, to concurrently track and change made by Texas Eastern in the rates underlying Algonquin's subject Rate Schedules. The proposed effective date Sheet Nos. 214 and 220 is February 1, 1991 to coincide with the effective date of Texas Eastern's filing.

Algonquin states that the effect of the revision in rates under: (i) Rate Schedule SS-III is to increase the Non-FDDQ Withdrawal rate by $0.0027 per MMBtu and (ii) Rate Schedule ATAP is to decrease the Commodity (Maximum, Mimimum and Interruptible) rates by 1.97¢ per MMBtu.

Algonquin states that it is also filing to revise its Surcharge Adjustment for the 12 month period beginning March 1, 1991 and continuing through February 29, 1992. Algonquin is proposing a Commodity Surcharge Adjustment of $0.0022 per MMBtu and a Demand Surcharge Adjustment of $0.0370 per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to itervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests in Docket No. TM91-5-20-000 should be filed on or before January 23, 1991. All such motions or protests in Docket No. TA91-1-20-000 should be filed on or before February 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-1483 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[RP90-143-002 TQ91-1-22-002 TM91-4-22-0C3]

CNG Transmission Corp.; Compliance Filing and Motion

January 15, 1991

Take notice that CNG Transmission Corporation ("CNG") on January 9, 1991, tendered for filing Second Substitute Fifth Revised First Revised Sheet No. 31, to be effective January 1, 1991. CNG also tendered for filing Substitute Second Revised Sheet No. 31, Substitute First Revised Sheet No. 32 and Substitute First Revised Sheet No. 33, Alternate Substitute Second Revised Sheet No. 31, Alternate Substitute First Revised Sheet No. 32 and Alternate Substitute First Revised Sheet No. 33, all to First Revised Volume No. 1 of CNG's FERC Gas Tariff, to become effective January 10, 1991, subject to refund. Also take notice that CNG moved to make the revised tariff sheets effective on January 10, 1991, at the close of the suspension period in this case.

CNG states that the proposed alternate tariff sheets comply with the Commission's suspension order issued August 10, 1990 and the rate design principles specified in Appendix F of CNG's October 9, 1990. Stipulation and Agreement in Docket No. RP88-211. CNG further states that the primary tariff sheets reflect a voluntary reduction in rates from the compliance filing level.

Second Substitute Fifth Revised First Revised Sheet No. 31 is filed in compliance with a Commission order dated November 30, 1990, in Docket Nos. TQ91-1-22-000 and TM91-4-22-000.

CNG states that a copies of this filing were served upon CNG's jurisdictional customers, parties to Docket No. RP90-143-000 and interested state commissions.

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 (1990). All such protests should be filed on or before January 23, 1991. 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. 91-1484 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-63-004]

Carnegie Natural Gas Co.; Compliance Filing

January 15, 1991.

Take notice that on January 8, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Fourth Substitute Ninth Revised Sheet No. 8
Fourth Substitute Ninth Revised Sheet No. 9

Carnegie states that these revised tariff sheets are being filed to revise the Surcharge Adjustments applicable to the Commodity and DCA components of its sales rates in compliance with a Commission order issued on September 13, 1990, in Docket Nos. TA90-1-63-000, -001, and -002. Although the revised tariff sheets reflect an effective date of September 1, 1990, Carnegie states that the adjusted rates shown in these tariff sheets will not be collected by Carnegie as a result of superseding rates filed in Carnegie's Out-of-Cycle PGA filing in Docket No. TQ90-8-63-000. In support of its filing, Carnegie has included certain schedules and working papers which Carnegie states conform to the refiling requirements set forth in the Commission's September 13, 1990, order issued in Docket Nos. TA90-1-63-000, *et al.*

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 (1990)). All such protests should be filed on or before January 23, 1991. 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. 91-1473 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-8-63-001]

Carnegie Natural Gas Co.; Compliance Filing

January 15, 1991.

Take notice that on January 8, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Revised Second Substitute Ninth Revised Sheet No. 8
First Revised Second Substitute Ninth Revised Sheet No. 9

Carnegie states that these revised tariff sheets are being filed to revise the Surcharge Adjustments applicable to the Commodity and DCA components of its sales rates in compliance with the Commission's order issued in Docket No. TQ90-8-63-000 on September 28, 1990, and in conformance to the refiling requirements set forth in the Commission's September 13, 1990, order issued in Carnegie's underlying Annual PGA proceeding in Docket Nos. TA90-1-63-000, -001, and -002. Carnegie further states that schedules and workpapers supporting the revised Surcharge Adjustments have been included in a separate compliance filing submitted this same date in Carnegie's Annual PGA dockets, Docket Nos. TA90-1-63-000, *et al.* In addition, Carnegie states that the revised tariff sheets reflect corrected Current Adjustments based on revisions from its Annual PGA filing, also in compliance with the Commission's September 28, 1990 order in Docket No. TQ90-8-63-000. The proposed effective date of the revised tariff sheets is September 1, 1990.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 (1990)). All such protests should be filed on or before January 23, 1991. 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. 91-1478 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-4-24-000]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

January 15, 1991.

Take notice that Equitrans, Inc. (Equitrans) on January 19, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective February 1, 1991:

Twenty-Third Revised Sheet No. 10
Thirteenth Revised Sheet No. 34

This filing implements an Out-of-Cycle Purchased Gas Cost Adjustment (PGA) to reflect an increase in Equitrans' pipeline suppliers rates under Texas Eastern Transmission Corporation's (TETCO) Rate Schedule CD-1 filed in Docket No. TA91-1-17-000 on November 30, 1990, Tennessee Gas Pipeline's Rate Schedule CD-4 filed in Docket No. TA91-1-9-000 on November 1, 1990, and Kentucky West Virginia Gas Company's Rate Schedule PLS-1 filed in Docket No. TQ91-2-46-000 on December 31, 1990. The filing is necessary in order to have the rates charges to Equitrans' jurisdictional customers more closely reflect the experienced cost of gas being incurred by the Applicant.

The changes proposed in this filing to the purchased gas cost adjustment under Rate Schedule PLS is an increase in the demand cost of $0.0776 per dekatherm (Dth) and an increase in the commodity cost of $0.0621 per Dth. The purchased gas cost adjustment to Rate Schedule ISS is an increase $0.0646 per Dth.

Pursuant to § 154.51 of the Commission's regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on February 1, 1991.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-1479 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-63-001]

Carnegie Natural Gas Co.; Compliance Filing

January 15, 1991.

Take notice that on January 8, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Substitute Twelfth Revised Sheet No. 8
First Substitute Twelfth Revised Sheet No. 9

Carnegie states that these revised tariff sheets are being filed to revise the Surcharge Adjustments applicable to the Commodity and DCA components of its sales rates in compliance with the Commission's order issued in Docket No. TQ91-3-63-000 on November 28, 1990, and in conformance to the refiling requirements set forth in the Commission's September 13, 1990, order issued in Carnegie's underlying Annual PGA proceeding in Docket Nos. TA90-1-63-000, -001, and -002. Carnegie further states that schedules and workpapers supporting the revised Surcharge Adjustments have been included in a separate compliance filing submitted this same date in Carnegie's Annual PGA dockets, Docket Nos. TA90-1-63-000, *et al.* In addition, Carnegie states that the revised tariff sheets reflect Carnegie's ACA rate on a dekatherm (Dth) basis as required by the Commission's October 26, 1990 order in Docket No. TM91-1-63-001. The Tariff sheets indicate an ACA rate of $0.0021 per Dth, as compared to the $0.0022 per Mcf previously stated. The proposed effective date of the revised tariff sheets is December 1, 1990.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 (1990)). All such protests should be filed on or before January 23, 1991. 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. 91-1480 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-63-002]

Carnegie Natural Gas Co.; Compliance Filing

January 15, 1991.

Take notice that on January 8, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Third Substitute Tenth Revised Sheet No. 8]
Third Substitute Tenth Revised Sheet No. 9]

Carnegie states that these revised tariff sheets are being filed to revise the Surcharge Adjustments applicable to the Commodity and DCA components of its sales rates in compliance with the Commission's order issued in Docket No. TQ91-1-63-000 on October 26, 1990, and in conformance to the refiling requirements set forth in the Commission's September 13, 1990, order issued in Carnegie's underlying Annual PGA proceeding in Docket Nos. TA90-1-63-000, -001, and -002. Carnegie further states that schedules and workpapers supporting the revised Surcharge Adjustments have been included in a separate compliance filing submitted this same date in Carnegie's Annual PGA dockets, Docket Nos. TA90-1-63-000, *et al.* In addition, Carnegie states that the revised tariff sheets reflect Carnegie's ACA rate on a dekatherm (Dth) basis as required by the Commission's October 26, 1990 order in Docket No. TM91-1-63-001. The tariff sheets indicate an ACA rate of $0.0021 per Dth, as compared to the $0.0022 per Mcf previously stated. The proposed effective date of the revised tariff sheets is October 1, 1990.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 (1990)). All such protests should be filed on or before January 23, 1991. 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. 91-1481 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-2-63-001]

Carnegie Natural Gas Co.; Compliance Filing

January 15, 1991.

Take notice that on January 8, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Substitute Eleventh Revised Sheet No. 8]
First Substitute Eleventh Revised Sheet No. 9]

Carnegie states that these revised tariff sheets are being filed to revise the Surcharge Adjustments applicable to the Commodity and DCA components of its sales rates in compliance with the Commission's order issued in Docket No. TQ91-2-63-000 on November 23, 1990, and in conformance to the refiling requirements set forth in the Commission's September 13, 1990, order issued in Carnegie's underlying Annual PGA proceeding in Docket Nos. TA90-1-63-000, -001, and -002. Carnegie further states that schedules and workpapers supporting the revised Surcharge Adjustments have been included in a separate compliance filing submitted this same date in Carnegie's Annual PGA dockets, Docket Nos. TA90-1-63-000, *et al.* In addition, Carnegie states that the revised tariff sheets reflect Carnegie's ACA rate on a dekatherm (Dth) basis as required by the Commission's October 26, 1990 order in Docket No. TM91-1-63-001. The tariff sheets indicate an ACA rate of $0.0021 per Dth, as compared to the $0.0022 per Mcf previously stated. The proposed effective date of the revised tariff sheets is November 1, 1990.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 (1990)). All such protests should be filed on or before January 23, 1991. 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. 91-1482 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP91-5-000]

DeNovo Oil & Gas, Inc.; Protest and Complaint

January 15, 1991.

Take notice that on December 21, 1990, DeNovo Oil and Gas, Inc. (DeNovo) filed a protest pursuant to 18 CFR 271.1104(h) and a complaint pursuant to 18 CFR 271.1105(d)(3) and 271.1105(d)(4), and Rules 206, 211 and 217 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, 385.211 and 385.217. DeNovo requests the Commission to interpret its regulations at 18 CFR 271.1104(h)(4)(ii) so as not to bar the protest, or in the alternative to waive the regulations, and requests the Production Related Costs Board (Board), upon referral, to find that Mid Louisiana Gas Company (Mid Louisiana) is in violation of the Commission's regulations by refusing to reimburse DeNovo $209,179.55 in National Gas Policy Act (NGPA) section 110 costs for compression and dehydration services performed between July 1980 through December 1984.

DeNovo states that Mid Louisiana has rejected its invoices on the ground that the area rate clause in the governing contract does not provide for the recovery of NGPA section 110 allowances for compression and dehydration, and submits extrinsic evidence on the point as called for in the Production-Related Cost Board's order of November 21, 1988, at 45 FERC ¶ 62,150 (1988).

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest or with the Federal Energy Regulation 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. All such protests or motions should be filed on or before February 14, 1991. All protests filed will be considered, 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 the Commission's rules. Copies of this protest and complaint are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before February 14, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91-1485 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-82-000]

Viking Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

January 15, 1991.

Take notice that on December 31, 1990, Viking Gas Transmission Company (Viking) Filed its Twelfth and Thirteenth Revised Sheets No. 6 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1 and February 1, 1991, respectively.

Viking states that the current Purchased Gas Cost Rate Adjustments reflected on Thirteenth Revised Sheet No. 6 consist of a (3.5) cents per dekatherm adjustment applicable to the gas component of Viking's sales rates, and a 72 cents per dekatherm adjustment applicable to the Demand D-1 component.

Twelfth Revised Sheet No. 6 is being filed to reflect the new GRI Rate Adjustment effective January 1, 1991.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest or 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 petitions or protests should be filed on or before January 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D.Cashell,

Secretary.

[FR Doc. 91-1486 Filed 1-22-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3899-5]

Science Advisory Board Radiation Advisory Committee Open Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Radiation Advisory Committee of the Science Advisory Board will meet February 4-6, 1991 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. On the 4th and 5th the meeting will be held in room 2, South Conference Area and on the 6th, in North Conference room 13, North Conference Area, Waterside Mall, 401 M Street, SW., Washington, DC. The meeting will begin at 9 a.m. Monday and adjourn no later than 5 p.m. Wednesday.

PURPOSE: The Committee will (1) review the Idaho Radionuclide Exposure Study. Copies of this document may be obtained by calling or writing Wayne Bliss (702) 798-2476 at the Office of Radiation Programs, Post Office Box 98517, Las Vegas, NV 89193-8517, (2) be briefed on issues relating to how the RCRA, Superfund, and TSCA materials treat radioactive materials, (3) discuss issues relating to the Citizen's Guide to Radon, (4) consider draft commentaries on residual radioactivity and environmental transport models for radionuclides and (5) be briefed on the first meeting of the Nonionizing Electric and Magnetic Fields Subcommittee.

FOR FURTHER INFORMATION: The meeting is open to the public; however seating is limited and is on a first come basis. Members of the public wishing to provide oral public comment or have written comment sent to the Committee in advance of the meeting should contact Mrs. Kathleen Conway, Designated Field Official, or Mrs. Dorothy Clark, Staff Secretary at (202) 382-2552 by 3 p.m. February 1.

Dated: January 15, 1991.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 91-1652 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30302B; FRL-3846-6]

Eastman Kodak Co; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Eastman Kodak Co; to register the pesticide products F-Stop Biological Fungicide Concentrate and F-Stop Biological Fungicide Seed Protectant containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lewis, Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 22, 1989 (54 FR 48313), which announced that Eastman Kodak Co., 343 State St., Rochester, NY 14650, had submitted applications to register the pesticide products F-Stop Biological Fungicide Concentrate and F-Stop Biological Fungicide Seed Protectant, containing the active ingredient *Trichoderma harzianum* Rifai strain KRL-AG2 both at 98 percent; an active ingredient not included in any previously registered products.

These applications were approved on November 27, 1990, for F-Stop Biological Fungicide Concentrate for manufacturing use only (EPA Reg. No. 59441-1) and F-Stop Biological Fungicide Seed Protectant for seed treatment on

beans (green and dry), cabbage, corn, (field and sweet), cotton, cucumbers, peanuts, sorghum, soybeans, sugarbeets, and tomatoes (EPA Reg. No. 59441-2).

The Agency has considered all required data on risks associated with the proposed use of *Trichoderma harzianum* Rifai strain KRL-AG2, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of *Trichoderma harzianum* Rifai strain KRL-AG2 when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on *Trichoderma harzianum* Rifai strain KRL-AG2.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Docket, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM #2, Arlington, VA 22202 (703-557-4456). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: January 9, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-1143 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-F

[FRL-3899-3]

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ["CERCLA"], 42 U.S.C. 9622(i), notice is hereby given that a proposed administrative cost recovery settlement concerning the Cummings Salvage Yard Site, Sedalia, West Virginia was issued by the Agency on December 21, 1990. The settlement resolves an EPA claim under Section 107 of CERCLA, 42 U.S.C. 9607, against Publicker Industries Inc. The settlement requires the settling party to pay $93,923.22, of which $1,597.76 is pre-judgment interest, to the Hazardous Substances Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will recieve written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

DATES: Comments must be submitted on or before February 22, 1991.

AVAILABILITY: The proposed settlement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed settlement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, PA 19107. Comments should reference the "Cummings Salvage Yard Site" and "EPA Docket No. III-91-19-DC" and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia C. Miller (3RC22), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107 (215) 597-340.

Dated: January 8, 1991.

Edwin B. Erickson,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 91-1535 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3899-4]

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice request; for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, ["CERCLA"], 42 U.S.C. 9622(i), notice is hereby given that a proposed administrative cost recovery settlement concerning the Oakland Drum Site in Oakland, Maryland, was issued by the Agency on December 21, 1990. The settlement resolves an EPA claim under Section 107 of CERCLA, 42 U.S.C. 9607, against Publicker Industries Inc. The settlement requires the settling party to pay $311,886.69, of which $8,079.87 is pre-judgment interest, to the Hazardous Substances Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

DATES: Comments must be submitted on or before February 22, 1991.

AVAILABILITY: The proposed settlement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed settlement may be obtained from Suzanne Canning, U.S. Environmental Protection Agency, Regional Docket Clerk (3RC00), 841 Chestnut Building, Philadelphia, PA 19107. Comments should reference the "Oakland Drum Site" and "EPA Docket No. III-91-20-DC" and should be

forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia C. Miller (3RC22), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107 (215) 597-3440.

Dated: January 8, 1991.

Edwin B. Erickson,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 91-1536 Filed 1-22-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

1. The Commission has before it the following mutully exclusive applications for 5 new FM stations:

Applicant, city and state	File No.	MM docket No.
I		
A. Mountain-High; Highlands, NC.	BPH-890426MH	90-540
B. Charisma Radio Corp.; Highlands, NC.	BPH-890504MA	
C. Benchmark Communications Corporation; Highlands, NC.	BPH-890504ME	
Issue heading and applicants		
1. Misrepresentation, C		
2. Comparative, A through C		
3. Ultimate, A through C		
II		
A. Edmission/Eubank Communications, Inc.; Dickson, Tennessee.	BPH-890117MM	90-559
B.T&M Broadcasting, Inc.; Dickson, Tennessee.	BPH-890119MF	
C. Bayard H. Walters; Dickson, Tennessee.	BPH-890119MG	
Issue heading and applicants		
1. Air Hazard, B		
2. Financial, B		
3. Comparative, A-C		
4. Ultimate, A-C		
III		
A. White Construction Co., Inc.; Chiefland, FL.	BPH-880816NYT	90-560
B. John K. McCanless; Chiefland, FL.	BPH-880816OG	
C. John Norman & Donald Lesko; Chiefland, FL.	BPH-880816OU	
Issue heading and applicants		
1. Comparative, A, B, C		
2. Ultimate, A, B, C		
IV		
A. Susan H. Bay; Lebanon, Tennessee.	BPH-890111MA	90-572
B. Louis M. Anzek and Leisa M. Anzek; Lebanon, Tennessee.	BPH-890112MJ	
C. Pointe Broadcasting, Inc.; Lebanon, Tennessee.	BPH-890112ML	
D. Native American Broadcasters, Inc.; Lebanon, Tennessee.	BPH-890112MM	
E. High Level Ventures; Lebanon, Tennessee.	BPH-890112MN	
Issue heading and applicants		
1. See Appendix; D		
1. Air Hazard; E		
2. Comparative; A-E		
3. Ultimate; A-E		
V		
A. Clover Communications, Inc.; Farmington, NH.	BPH-880713MH	90-573
B. Stephen E. Powell; Farmington, NH.	BPH-880714MJ	
C. Snapp Broadcasting, Inc.; Farmington, NH.	BPH-880714MX	
D. TBM Limited Partnership; Farmington, NH.	BPH-880714NC	
E. S&J Associates, Inc.; Farmington, NH.	BPH-880713MM (Previously Returned)	
Issue heading and applicants		
1. See Appendix; B		
2. Financial Qualifications; C		
3. Air Hazard; C		
4. Comparative; A-D		
5. Ultimate; A-D		

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 are any non-standardized issues 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 (Lebanon, Tennessee)

Additional Issue Paragraphs

1. (a) To determine whether D's (Native) filing of the instant application constituted a violation of the Commission's multiple ownership rules, 47 CFR 73.3555; and

(b) If so, whether the filing of D's (Native) application constituted a violation of the Commission's inconsistent application rule, 47 CFR 73.3518 which, if so, would warrant dismissal of the application.

Appendix (Farmington, New Hampshire)

1. To determine whether Stephen E. Powell made misrepresentations to the Commission or lacked candor when he stated in his testimony in the Berlin (New Hampshire, WMOU-FM) proceeding that Robert R. Powell, Sr. would not be employed at WMOU-FM and that Stephen Powell would serve as Sales Manager, and to determine the impact of these misrepresentations and lack of candor, if any, on the basic and/or comparative qualifications of Stephen E. Powell to be a licensee in this proceeding.

[FR Doc. 91-1554 Filed 1-22-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 91-03]

Trans Senko Corp. v. Diversified Specialist, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Trans Senko Corporation ("Complainant") against Diversified Specialist, Inc. ("Respondent") was served January 16, 1991. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by declining to pay duly invoiced charges after demand for payment had been made on six shipments of electronic equipment from Hong Kong to Houston, Texas between June 22 and July 9, 1990.

This proceeding has been assigned to Administrative Law Judge Norman D.

Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the intial decision of the Presiding Officer in this proceeding shall be issued by January 16, 1992, and the final decision of the Commission shall be issued by May 15, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 91-1493 Filed 1-22-91; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Implementation of the FIRMR Improvement Project; All-Agency Briefing

AGENCY: Information Resources Management Service, GSA.

ACTION: All-agency briefing regarding republication of the Federal Information Resources Management Regulation (FIRMR), 41 CFR Chapter 201.

SUMMARY: The General Services Administration (GSA) will be conducting an all-agency briefing on the newly republished FIRMR on Wednesday, February 27, 1991, from 9:30 am until 12 Noon, in the GSA Auditorium.

DATES: The GSA all-agency briefing will be held on Wednesday, February 27, 1991, from 9:30 am until 12 Noon.

ADDRESSES: The briefing will be held in the GSA Auditorium at 18th and F Streets NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Contact Paul Whitson, GSA, Office of Information Resources Management Policy, telephone (202) 501-3194 or FTS 241-3194 (v) or (202) 501-0657 or FTS 241-0657 (tdd).

SUPPLEMENTARY INFORMATION: Seating at the all-agency briefing will be on a first-come basis. On request, GSA will conduct briefings on the new FIRMR at requesting agency facilities.

Dated: January 11, 1991.

Fred L. Sims,

Deputy Assistant Commissioner for Information Resources Management Policy.

[FR Doc. 91-1455 Filed 1-22-91; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Open Meeting on the Risks of Transmission of Bloodborne Pathogens to Patients During Invasive Procedures

ACTION: Notice of public meeting.

SUMMARY: The Centers for Disease Control (CDC) will convene a meeting to review the risks of HIV and hepatitis B virus (HBV) transmission to patients during certain invasive medical and dental procedures. This meeting will allow representatives of various groups and organizations and members of the public to review and comment on available risk assessment data and the implications of these risks. Background data will be provided upon request prior to the meeting.

TIME AND DATES: The 2-day meeting will begin at 8:30 a.m. on Thursday, February 21, 1991, and will conclude at 4 p.m. on Friday, February 22, 1991.

Persons interested in making oral comments at the meeting should provide written notification, as specified below, for receipt by the meeting organizer, PACE Enterprises, no later than close of business on Wednesday, February 13, 1991.

Persons wishing to provide written comments for the record may do so at any time, as long as such written comments are received by the meeting organizer, PACE Entrprise, by close of businesss on Friday, March 22, 1991.

MEETING LOCATION: Hyatt Regency Hotel, 265 Peachtree Street, NE., Atlanta, Georgia 30303, telephone 404/577-1234.

STATUS: Open to the public, limited only by the space available. The meeting room will accommodate 1,000.

FOR FURTHER INFORMATION CONTACT: PACE Enterprises, 17 Executive Park Drive, suite 200, Atlanta, Georgia 30329, telephone 404/633-8610.

SUPPLEMENTARY INFORMATION:

A. In General: The purpose of this meeting is (1) to review the risks of HIV and HBV transmission to patients during certain invasive medical and dental procedures, and (2) to allow representatives of various groups and organizations and members of the public to review and comment on available risk assessment data and on the implications of these risks.

The first day of the meeting is scheduled to consist of presentations of risk assessment data by CDC and presentations from invited speakers that represent various viewpoints concerning the implications of the data available.

The second day of the meeting will provide an opportunity for representatives of groups and organizations and members of the public to comment on the risk assessment data, the implications of these risks, and the previous day's presentations.

Persons interested in attending the meeting and/or obtaining an updated agenda, background data, and additional information should contact the CDC meeting organizer, PACE Enterprises, 17 Executive Park Drive, Suite 200, Atlanta, Georgia 30329, telephone 404/633-8610.

B. Oral Comments: Persons interested in providing oral comments at the meeting should notify the meeting organizer, PACE Enterprises, at the above address in writing. Such written request must be received by the meeting organizer no later than close of business Wednesday, February 13, 1991.

All requests for making oral comments at the meeting should contain the name, address, telephone number, and any organizational affiliation of the person desiring to give oral comments.

Depending upon the time available and the number of requests to present oral comments, it may be necessary to restrict the length of time for each commenter. Accordingly, CDC may request that oral comments be limited to five minutes.

Requesters will be notified by mail or telephone of the length of time available to the person and the approximate time on the agenda when the person's comments are scheduled to begin.

If a person is not present when his or her comments are scheduled to begin, the remaining commenters will be heard in order. At the conclusion, an attempt will be made to hear any scheduled commenters who missed their assigned time. Interested persons who did not request an opportunity in advance to provide oral comments may be given an opportunity to do so, at the discretion of the presiding officer.

C. Written Comments: Anyone wishing to submit written comments concerning the available risk assessment data, the implications of these risks, or the oral presentations made at the public meeting should provide such written comments to PACE Enterprises, 17 Executive Park Drive,

suite 200, Atlanta, Georgia 30329, telephone 404/633-8610.

Such written comments must be received by the meeting organizer, PACE Enterprises, no later than close of business Friday, March 22, 1991.

D. Transcript: The proceedings of this meeting will be transcribed. Any interested person may, consistent with the orderly conduct of the meeting, record or otherwise make a transcript of the meeting.

Dated: January 17, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91-1602 Filed 1-18-91; 10:59 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91N-0019]

American Therapeutics, Inc.; Withdrawal of Approval of Nine Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of nine abbreviated new drug applications (ANDA's) held by American Therapeutics, Inc. (ATI), 75 Carlough Rd., Bohemia, NY 11716. These consist of three ANDA's for different strengths of Clonidine Hydrochloride Tablets, three ANDA's for different strengths of Lorazepam Tablets, and three ANDA's for different strengths of Prednisone Tablets. ATI has requested that approval of these applications be withdrawn, thereby waiving its opportunity for a hearing. This action stems from discoveries that the applications contain untrue statements and that there are discrepancies and missing information at ATI related to production and testing of batches used to support approval of these ANDA's.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Walter A. Brown, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: FDA has become aware of new information concerning the reliability of the nine ANDA's listed below, all held by ATI. This new information shows that the applications contain untrue statements and that there are discrepancies and missing information related to the production and testing of batches used to support approval of the ANDA's. The ANDA's are:

ANDA 70-727, Lorazepam Tablets, 0.5 milligram (mg),
ANDA 70-728, Lorazepam Tablets, 1 mg,
ANDA 70-729, Lorazepam Tablets, 2 mg,
ANDA 70-881, Clonidine Hydrochloride Tablets, 0.1 mg,
ANDA 70-882, Clonidine Hydrochloride Tablets, 0.2 mg,
ANDA 70-883, Clonidine Hydrochloride Tablets, 0.3 mg,
ANDA 89-387, Prednisone Tablets, 5 mg,
ANDA 89-388, Prednisone Tablets, 10 mg,
ANDA 89-389, Prednisone Tablets, 20 mg

This new information was derived in part from an FDA inspection of ATI conducted during the period May 12 to September 19, 1989, and from letters submitted by ATI in response to that inspection. Based on that information, FDA notified ATI, by letter of December 27, 1989, that it intended to initiate proceedings to withdraw approval of these nine ANDA's. The agency also notified ATI that it intended to change the therapeutic equivalence evaluation codes for the products covered by these ANDA's in FDA's publication "Approved Drug Products with Therapeutic Equivalence Evaluations." FDA then informed ATI by letter of January 19, 1990, that the agency was changing the therapeutic equivalence ratings of these products from "AB" (shown to be therapeutically equivalent) to "BX" (not shown to be therapeutically equivalent). The agency changed the code based on a determination that the data it had reviewed were insufficient to determine therapeutic equivalence for these products. ATI furnished additional new information by letter of October 19, 1990, concerning audits it had performed of certain data in these ANDA's. The new information derived from the FDA inspection and the firm's submissions reveals the following examples of untrue statements, discrepancies, and missing information.

The three Clonidine Hydrochloride Tablet ANDA's contain batch records that do not accurately report how the batches used to support approval were actually made. Records found at the firm concerning these batches contain information in conflict with the records submitted to the ANDA's. There are various additional discrepancies and/or missing information regarding the triturating steps, identification and quantities of materials used, tablet weights, specifications, yields, dates, times, individuals performing and checking operations, and equipment used.

The three Lorazepam Tablet ANDA's contain stability data for one container size that do not agree with the data recorded in laboratory notebooks at ATI. There are various additional discrepancies and/or missing information regarding other stability data, quality control data on raw materials and finished products, the lack of batch records to establish the composition and manufacture of some batches, tableting operations, yields, markings on tablets, thickness specifications, the quantity of a triturate used, the quantity of an excipient used, the date of weighing a raw material, and the lack of raw material inventory records.

The three Prednisone Tablet ANDA's contain false information concerning the identification and/or quantities of the active ingredient and certain excipients used in the batches manufactured to conduct tests necessary for approval. There are various additional discrepancies and/or missing information regarding raw material inventory records, the use of additional batch numbers that were not accounted for or explained, weighing records, tableting records, markings on tablets, and yields.

On November 13, 1990, ATI requested that approval of each of the nine ANDA's be withdrawn, thereby waiving its opportunity for a hearing. ATI previously adivsed that it voluntarily discontinued shipment of these products in early February 1990.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective January 23, 1991.

Dated: January 10, 1991.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 91-1432 Filed 1-22-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91N-0018]

Drug Export; ORTHO ™ HCV ELISA Test System Second Generation Assay

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc., has

filed an application requesting approval for the export of the biological product ORTHO ™ HCV ELISA Test System Second Generation Assay to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: 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 future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. 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 Ortho Diagnostic Systems Inc., Route 202, Raritan, NJ 08869, has filed an application requesting approval for the approval of the biological product ORTHO ™ HCV ELISA Test System Second Generation Assay to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The ORTHO ™ HCV ELISA Test System Second Generation Assay is a qualitative enzyme-linked, immunosorbent assay for the detection of antibody to hepatitis C virus (anti-HCV) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on January 3, 1991, 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 February 4, 1991 in the Federal Register), and to provide an additional copy of the submission directly to the contact 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 (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 Biologics Evaluation and Research (21 CFR 5.44).

Dated: January 11, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91-1431 Filed 1-22-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90N-0432]

Towne, Paulsen & Co., Inc., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 47 abbreviated new drug applications (ANDA's). The holders of the ANDA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: February 22, 1991.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA No.	Drug	Applicant
80-120	Isoniazid Tablets, 100 milligrams (mg)	Towne, Paulsen & Co., Inc., 14527 S. San Pedro St., Gardena, CA 90248.
80-285	Propylthiouracil Tablets, USP, 50 mg	Anabolic, Inc., 17802 Gillette Ave., Irvine, CA 92713-9508.
80-341	Cortisone Acetate Tablets, 25 mg	Towne, Paulsen & Co., Inc.
80-342	Prednisone Tablets, 5 mg	Do.
80-343	Prednisone Tablets, 5 mg	Do.
80-344	Hydrocortisone Tablets, 10 mg and 20 mg	Do.
80-496	Hydrocortisone Cream, 1 %	Do.
80-516	Sodium Succinate Injection, USP	Elkins-Sinn, Inc., 2 Esterbrook Lane, Cherry Hill, NJ 08003-4099.
80-691	Folic Acid Tablets, 1 mg and .025 mg	Towne, Paulsen & Co., Inc.
80-723	Reserpine Tablets, 0.1 mg, 0.25 mg, and 1 mg	Do.
80-800	Diphenhydramine Hydrochloride Capsules, 50 mg	Do.
83-215	Bromopheniramine Maleate Tablets, 4 mg	Cord Laboratories, Inc., 2555 W. Midway Blvd., Broomfield, CO 80020-0446.
83-325	Butabarbital Sodium Tablets, 15 mg	Towne, Paulsen & Co., Inc.
83-337	Butabarbital Sodium Tablets, 30 mg	Do.
83-338	Pentobarbital Sodium Capsules, 100 mg	Do.
83-441	Diphenhydramine Hydrochloride Capsules, 25 mg	Do.
83-442	Meprobamate Tablets, 400 mg	Do.
83-809	Hydrochlorothiazide Tablets, 25 mg and 50 mg	Do.
83-830	Meprobamate Tablets, 200 mg	Do.

ANDA No.	Drug	Applicant
83-997	Zipan (promethazine hydrochloride) Injection, 25 mg/mL and 50 mg/mL	Savage Laboratories, Division of Altana, Inc., 60 Baylis Rd., Melville, NY 11747.
84-104	Edetate Disodium Injection, USP, 150 mg per milliliter (mL)	Elkins-Sinn, Inc.
84-272	Butabarbital Sodium Tablets, 30 mg	Cord Laboratories
84-292	Butabarbital Sodium Tablets, 15 mg	Do.
84-327	Dexamethasone Tablets, 0.75 mg	Towne, Paulsen & Co., Inc.
84-360	Acetaminophen and Codeine Phosphate Tablets, 300 mg/30 mg	Do.
84-868	Circanol (ergoloid mesylates) Sublingual Tablets, 0.5 mg	Riker Laboratories, Inc., 270-3A-01 3M Center, St. Paul, MN 55144.
84-913	Prednisone Tablets, 2.5 mg and 20 mg	Towne, Paulsen & Co., Inc.
85-046	Orphenadrine Citrate Tablets, 100 mg	Cord Laboratories
85-338	Hydrochlorothiazide and Reserpine Tablets, 50 mg/0.125 mg	Towne, Paulsen & Co., Inc.
85-347	Hydrochlorothiazide Tablets, 100 mg	Do.
85-444	Quinidine Sulfate Tablets, 200 mg	Do.
85-607	Acetaminophen and Codeine Phosphate Tablets, 300 mg/60 mg	Do.
85-667	Vicodin (Hydrocodone Bitartrate and Acetaminophen) Tablets, 5 mg/500 mg (wet granulation).	Knoll Pharmaceuticals, 30 North Jefferson St., Whippany, NJ 07981.
85-798	Secobarbital Sodium Capsules, 100 mg	Towne, Paulsen & Co., Inc.
85-809	Circanol (ergoloid mesylates) Sublingual Tablets, 1.0 mg	Riker Laboratories, Inc.
86-333	Vicoprin Tablets	Knoll Pharmaceuticals
88-171	Fluotrex (fluocinolone acetonide solution USP), 0.01%	Savage Laboratories
88-172	Fluotrex (fluocinolone acetonide ointment USP), 0.025%	Do.
88-173	Fluotrex (fluocinolone acetonide cream USP), 0.025%	Do.
88-174	Fluotrex (fluocinolone acetonide cream USP), 0.01%	Do.
88-198	Trymex Cream, 0.5%, 15 gram tube	Do.
88-200	Reserpine, 0.125 mg/Hydrochlorothiazide 50 mg Tablets	Cord Laboratories
88-672	Amitriptyline Hydrochloride Tablets, 25 mg	American Therapeutics, Inc., 75 Carlough Rd., Bohemia, NY 11716.
88-673	Amitriptyline Hydrochloride Tablets, 50 mg	Do.
88-674	Amitriptyline Hydrochloride Tablets, 75 mg	Do.
88-675	Amitriptyline Hydrochloride Tablets, 100 mg	Do.
89-028	Prednisone Tablets, 10 mg	Towne, Paulsen & Co., Inc.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the abbreviated new drug applications listed above, and all supplements thereto, is hereby withdrawn, effective February 22, 1991.

Dated: January 15, 1991.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 91-1556 Filed 1-22-91; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting, National Kidney and Urologic Diseases Advisory Board's Health Care Issues Subcommittee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Health Care Issues Subcommittee of the National Kidney and Urologic Diseases Advisory Board on February 1, 1991, at the Dallas/Fort Worth Airport Marriott, 8440 Freeport Parkway, Irving, Texas 75063.

The meeting will begin at 8 a.m. and adjourn approximately 1 p.m. The meeting is being held to discuss the use of medical criteria for organ distribution and will be open to the public. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Dr. Ralph Bain, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496-6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: January 15, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-1489 Filed 1-22-91; 8:45 am]

BILLING CODE 4140-01-M

Meeting; Medical Rehabilitation Research Training Working Group

Notice is hereby given that the Working Group on Medical Rehabilitation Research Training, a group of consultants convened to advise the Advisory Committee to the Director, NIH, will meet in public session on February 4 and 5, 1991 on the NIH campus in Bethesda, Maryland, in Building 31, Conference Room 4. The meeting will begin at 9 a.m. and end at 5 p.m. on February 4, and begin at 8:30 a.m. and end at 12:15 p.m. on February 5.

The Working Group is being established in response to a recommendation by the Task Force on Medical Rehabilitation Research which met at Hunt Valley, Maryland, June 28 and 29, 1990. The Task Force was convened by the NIH to develop a comprehensive research plan for medical rehabilitation research. One of the panels of that Task Force, the Panel on Basic and Clinical Research Training, recommended that the NIH establish a subsequent working group to address how research training mechanisms would increase the number of active researchers in medical rehabilitation.

As part of its mandate, the Working Group will review and identify existing NIH training and research award mechanisms that would promote increasing opportunities for single-investigator and collaborative interdisciplinary studies in rehabilitation medicine; identify new research training programs and expand existing ones to increase the number of new and established investigators entering the field of medical rehabilitation and increase the diversity of research specialties represented in the field; and develop incentives to attract senior investigators in rehabilitation-related disciplines to actively pursue research in medical rehabilitation.

Subsequent to its deliberations, the Working Group will prepare a report of its conclusions and recommendations.

Comments and questions related to the proposed meeting of the Working Group should be addressed to Ms. Mary Demory, National Institutes of Health, Science Policy Analysis and Development Branch, Shannon Building,

room 218, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496-1454.

Dated: January 14, 1991.

William F. Raub,

Acting Director, NIH.

[FR Doc. 91-1490 Filed 1-22-91; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency for Health Care Policy and Research; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following advisory committees scheduled to meet during the month of February 1991:

Name: Health Care Technology Study Section.

Date and Time: February 11-13, 1991, 8 a.m.

Place: Holiday Inn—Crowne Plaza, Parklawn Room, 1750 Rockville Pike, Rockville, Maryland.

Open February 11, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures as well as applications in the area of information sciences relating to health decision sciences relating to health care delivery.

Agenda: The open session on February 11 from 8 a.m. to 9 a.m will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Dr. Alan E. Mayers, Agency for Health Care Policy and Research, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

* * * * *

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: February 20-22, 1991, 8 a.m.

Place: Holiday Inn—Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, Maryland.

Open February 20, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on February 20 from 8 a.m to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing research and demonstration grant applications relating ot the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Dr. Gerald E. Calderone, Agency for Health Care Policy and Research, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

* * * * *

Name: Health Services Research Dissemination and User Liaison Advisory Committee.

Date and Time: February 19, 1991, 8:30 a.m.

Place: Holiday Inn—Crowne Plaza, Rockville Room, 1750 Rockville Pike, Rockville, Maryland.

Open February 19, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: The Committee is charged to review and make recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and agency liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on February 19 from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed portion of the meeting, the Committee will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

* * * * *

Name: Health Services Research Review Subcommittee.

Date and Time: February 6-8, 1991, 8 a.m.

Place: Holiday Inn-Crowne Plaza, Woodmont Room, 1750 Rockville Pike, Rockville, Maryland.

Open February 6, 8 a.m. to 8:30 a.m

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on February 6 from 8 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Christine T. Parker, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: January 15, 1991.

J. Jarrett Clinton,

Assistant Surgeon General, Acting Administrator, Agency for Health Care Policy and Research.

[FR Doc. 91-1430 Filed 1-22-91; 8:45 am]

BILLING CODE 4160-90-M

[NTP-90-152 NTP-90-153]

National Toxicology Program; Fiscal Year 1990 Annual Plan

The National Toxicology Program (NTP) announces the availability of the NTP Annual Plan for Fiscal Year 1990, solicits comments on it, and urges all interested persons to propose chemicals for possible toxicological evaluation.

The twelfth NTP Annual Plan consists of two parts. First, the NTP Annual Plan

for Fiscal Year 1990 (NTP-90-152) describes current year NTP research, applied studies, methods development and validation efforts, resources and past year program accomplishments (Table of Contents follows this announcement). Second, the Review of Current DHHS, DOE and EPA Research Related to Toxicology (NTP-90-153) lists chemicals being studied by the various DHHS agencies, the Department of Energy, and the Environmental Protection Agency, and describes toxicology research and toxicology methods currently being developed by these agencies.

Background

The National Toxicology Program (NTP) was established within the Public Health Service of the Department of Health and Human Services (DHHS) in November 1978. The continuing broad goals of the NTP are to coordinate and strengthen DHHS basic and applied toxicology research and methods development and validation, and to provide toxicological information for use by health research and regulatory agencies and others in protecting the public health. Specific goals are to:

- Broaden the spectrum of toxicologic information obtained on selected chemicals.
- Increase the numbers of chemicals studied within funding limits.
- Develop and validate assays and protocols responsive to regulatory needs.
- Communicate Program plans and results to governmental agencies, the medical and scientific communities, and the public.

The NTP coordinates selected toxicology activities of the National Institute of Environmental Health Sciences, National Institutes of Health; the National Center for Toxicological Research, Food and Drug Administration; and the National Institute for Occupational Safety and Health, Centers for Disease Control.

Primary Program oversight is provided by the NTP Executive Committee which links DHHS health research institutes and centers with Federal health regulatory agencies to ensure that the basic and applied toxicology research and development activities are responsive to regulatory and public health needs.

Agencies represented on the Executive Committee are:

- Agency for Toxic Substances and Disease Registry.
- Consumer Product Safety Commission.
- Environmental Protection Agency.
- Food and Drug Administration.
- National Cancer Institute.
- National Institute for Occupational Safety and Health.
- National Institute of Environmental Health Sciences.
- National Institute of Health.
- Occupational Safety and Health Administration.

The NTP Board of Scientific Counselors provides scientific oversight, advising the NTP Director and the NTP Executive Committee on scientific content and policy and evaluating the scientific merit and overall quality of NTP science. The members (listed in the 1990 Annual Plan) are appointed by the Secretary, DHHS. For the purposes of the Program, the NTP Director reports to the Assistant Secretary for Health.

Scientific activities are divided into four major program areas: carcinogenesis; cellular and genetic toxicology; reproductive and developmental toxicology; and toxicological characterization. The latter area covers activities in cardiac, cutaneous, immunologic, neurobehavioral, and respiratory toxicologies, and includes programs in chemical diposition and chemical pathology. Program and project leaders, along with addresses and telephone numbers, are identified in the 1990 Annual Plan.

The chemical nomination and selection process is integral to the effective longterm operation of the NTP with respect to toxicological studies of chemicals using modern techniques and to the development and validation of new assay methods. Thus, the NTP welcomes nominations of chemicals for study from everyone. At a minimum, the nominator should give the name of the chemical or substance, the rationale for the nomination, and recommend the type study(s) to be considered. In addition, it is desirable, but not essential, to supplement each nomination with the following information, if known:

I. Chemical and physical properties.
II. Production, use, occurrence, and analysis data.
III. Toxicology information.
IV. Chemical disposition and structure-activity-relations.
V. Planned or ongoing or recently completed toxicological and environmental studies.

To receive the NTP Annual Plan for Fiscal Year 1990, and the FY 1990 Review of Current DHHS, DOE, and EPA Research Related to Toxicology, please write or telephone the NTP Public Information Office, P.O. Box 12233, Research Triangle Park, N.C. 27709, (telephone: (919) 541-3991 or FTS 629-3991).

Comments on the FY 1990 NTP Annual Plan are requested and welcome These should be addressed to Dr. Larry Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, N.C. 27709 (telephone: (919) 541-3971 or FTS 629-3971).

Dated: January 16, 1991.

David G. Hoel,

Acting Director, National Toxicology Program.

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[FR Doc. 91-1491 Filed 1-22-91; 8:45 am]
BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-91-3188]

Submission of Proposed Information Collection of OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 14, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Lender Approval Forms and Associated Recordkeeping.

Office: Housing.

Description of the need for the information and its proposed use: These forms will be used for approving lending institutions for participation in the Title I Property Improvement Home Loan Programs. The information will also be used for supervision and evaluation of the

lenders after approval, and maintenance of HUD's Institution Master File (IMF) which is a record of HUD-approved mortgagees and lending institutions.

Form Number: HUD-92001-L, LC LD, LB, LK, and LV.

Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of submission: Recordkeeping, On Occasion, and Annually.

Reporting burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-92001-L	300		1		1		300
HUD-92001-LC	300		1		1		300
HUD-92001-LD	300		1		1		300
HUD-92001-LB	300		1		1		300
HUD-92001-LK	1,400		1		.5		700
HUD-92001-LV	7,000		1		1		7,000
Recordkeeping	7,000		1		.25		1,750

Total estimated burden hours: 10,650.

Status: Reinstatement.

Contact: Sandra Allison, HUD, (202) 708-1824; Scott Jacobs, OMB, (202) 395-6880.

Date: January 14, 1991.

[FR Doc. 91-1435 Filed 1-22-91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3189]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Wendy Sherwin, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 4, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Monthly Report of Excess Income.

Office: Housing.

Description of the need for the information and its proposed use: Owners of section 236 insured and uninsured projects are required by law to pay to HUD the total rental charges collected that are in excess of the basic rents approved for all occupied units. Owners use the HUD-93104/A to compute any required payment due HUD.

Form number: HUD-93104 and 93104A.

Respondents: Businesses or Other For-Profit, Federal Agencies or Employees and Non-Profit Institutions.

Frequency of submission: Monthly.

Reporting burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Reporting Burden	4,523		12		.5		27,138

Total estimated burden hours: 27,138.

Status: Extension.

Contact: James J. Tahash, HUD, (202) 708-3944; Wendy Sherwin, OMB, (202) 395-6880.

Date: January 4, 1991.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Program Utilization—Section 8 Moderate Rehabilitation Program.

Office: Housing.

Description of the need for the information and its proposed use: The form is used by HUD to monitor Public Housing Agencies (PHAs) progress in implementing the Moderate Rehabilitation Program and as a means of approving PHA

requisitions for funds. Also, the form will assist HUD in identifying those projects where a reduction in the number of units under an Annual Contributions Contract (ACC) is required due to underutilization by the PHA.

Form number: HUD-52685.

Respondents: State or Local Governments.

Frequency of submission: Quarterly and Annually.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Public Housing Agencies	600		4		.50		1,200

Total estimated burden hours: 1,200.

Status: Extension.

Contact: Alfonso M. Bell, HUD, (202) 708-3050; Wendy Sherwin, OMB, (202) 395-6880.

Date: January 4, 1991.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Rental Rehabilitation Program (RRP)—Rent Verification Survey.

Office: Community Planning and Development.

Description of the need for the information and its proposed use: Investor owners participating in the RRP will be requested to supply information on rents charged on units rehabilitated with RRP funds. The results of the annual survey will be provided to Congress in the Department's annual report on the program.

Form number: None.

Respondents: Individuals or Households and Non-Profit Institutions.

Frequency of submission: Annually.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Rent Verification Survey	1,100		1		.25		275

Total estimated burden hours: 275.

Status: Extension.

Contact: Frances Bush, HUD, (202) 708-1296; Wendy Sherwin, OMB, (202) 395-6880.

Date: January 4, 1991.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgage Insurance—Single Family Claims Without Conveyance of Title: Bidding Requirements for Foreclosure Sales—HUD 91022.

Office: Housing.

Description of the need for the information and its proposed use: Public Law 83-181 authorizes the Secretary to allow mortgages to submit claims for insurance benefits without conveying title to the Secretary. Existing regulations allow mortgagees an option of conveying title if mortgagees are successful bidders at foreclosure sale.

Form number: HUD-91022.

Respondents: Businesses or Other For-Profit.

Frequency of submission: On Occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Mortgagees	8,470		1		.7		6,000

Total estimated burden hours: 6,000.

Status: Extension.

Contact: Ann Marie Sudduth, HUD, (202) 708-1719; Wendy Sherwin, OMB, (202) 395-6880.

Date: January 4, 1991.

Proposal: Application for Mortgage Insurance.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The data are submitted by multifamily project sponsors seeking a feasibility determination and by mortgagees applying for a conditional or firm commitment for mortgage insurance. This information is used by HUD to analyze appraisals, costs, architectural design, and mortgage credit to determine if a project mortgage should be insured.

Form Number: HUD-93201.

Respondents: Businesses or other for-profit.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Form HUD-93201	15		1		4.0		60

Total Estimated Burden Hours: 60.
Status: Extension.
Contact: Shirley Machonis, HUD, (202) 708-2556, Wendy Sherwin, OMB, (202) 395-6880.

Dated: January 4, 1991.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Appraiser Checksheet.
Office: Housing.
Description of the need for the information and its proposed use: This information is needed as part of HUD's Master Conditional Commitment procedure. The form is completed by fee appraisers when application for group appraisals are made. The form serves to record results of review for compliance with Federal Environmental law.
Form Number: HUD-54981.
Respondents: Businesses or other for-profit.
Frequency of Submission: On occasion.
Reporting Burden:

	Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Form HUD-54981	5,000		1		.75		3,750

Total Estimated Burden Hours: 3,750.
Status: Extension.
Contact: John Coonts, HUD, (202) 708-3046, Wendy Sherwin, OMB, (202) 395-6880.

Dated: January 4, 1991.

[FR Doc. 91-1436 Filed 1-22-91; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-090-01-6310-12: GP1-091]

Oregon; Closures and Restrictions; Travis M. Tyrrell Seed Orchard

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Closures and Restrictions of Public Land in Lane County, Oregon.

SUMMARY: Notice is hereby given that certain public lands and roads in Lane County, Oregon are closed to all public use, including vehicle operation, camping, shooting, hiking and sightseeing. This closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this closure comprise the Travis M. Tyrrell Seed Orchard and are described as follows:

Willamette Meridian, Oregon

T. 20 S., R. 5 W.,
Sec. 9: NE¼, E½NW¼, E½E½E½SW¼NW¼, W½SE¼SE¼SW¼NW¼, E½SW¼, E½E½NW¼SW¼, E½W½SE¼NW¼SW¼, E½SW¼SW¼, E½SE¼NW¼SW¼SW¼, E½SW¼SW¼SW¼, NE¼NE¼SE¼, W½NE¼SE¼, W½SE¼NE¼SE¼, W½SE¼, W½SE¼SE¼, W½W½E½SE¼SE¼.
Sec. 15: W½W½NW¼NE¼NE¼, NW¼NE¼, W½NE¼SW¼NE¼, W½SW¼NE¼, NW¼, N½N½SW¼.
Sec. 21: W½E½NE¼NE¼, W½NE¼NE¼, E½NW¼NE¼, E½W½NW¼NE¼.

All roads on the public lands listed above are closed as specified above, as is BLM Road No. 20-5-21 across private land in the SE¼NE¼, Sec. 21, T. 21 S., R. 5 W., W.M. from its beginning at the Siuslaw County Road to the north boundary of said SE¼NE¼.

This closure and restriction order does not apply to:

(1) Any Federal, state or local official or member of an organized rescue, medical or fire fighting unit while in the performance of fire emergency, law enforcement or other similar duty;

(2) Any Bureau of Land Management employee, agent, contractor or cooperator while in the performance of an official duty;

(3) Any person, employee or contractor of an organization or member of a group or institution expressly authorized by permit, license, agreement or other similar authorization while in the performance of activities covered by the authorization; and

(4) The owners of the non-federal lands crossed by BLM Road No. 20-5-21 and those residing on such lands to the extent necessary to access and manage their lands.

Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

A copy of this closure and restriction order is posted at the Bureau of Land Management, Eugene District Office, the Travis M. Tyrrell Seed Orchard office and at points of public access to the seed orchard.

Any person who violates this closure and restriction order may be subject to the penalties provided by 43 CFR 8360.0-7, which include a fine not to exceed $1,000.000 and/or imprisonment not to exceed 12 months.

DATES: This closure and restriction order is in effect immediately and shall remain in effect unless revised, revoked or amended.

ADDRESSES: Copies of this order and maps showing the location of the closed lands and roads are available from the Eugene District Office, P.O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440.

SUPPLEMENTARY INFORMATION: The purpose of this closure and restriction order is to protect valuable public improvements within the Travis M. Tyrrell Seed Orchard and to control access to and through the seed orchard which is fenced and gated.

FOR FURTHER INFORMATION CONTACT: John Hackbarth, South Valley Area Manager, at (503) 683-6987 or Fred Borchert, Seed Orchard Manager, at (503) 683-6445.

Dated: January 11, 1991.

John Hackbarth,
Area Manager.

[FR Doc. 91-1504 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-33-M

[NV-930-91-4214-11; Nev-067001]

Proposed Continuation of Withdrawals; Nevada

January 10, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy proposes that 2520 acres of a withdrawal made for the Mead Substation in connection with the Pacific Northwest-Pacific Southwest Intertie Project continue until December 31, 2094. The land will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

DATES: Comments should be received by April 23, 1991.

ADDRESSES: Comments should be sent to: Chief, Branch of Lands and Minerals

Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-785-6526.

The Department of Energy proposes that 2520 acres of the existing land withdrawal made by Public Land Order 4250 be continued until December 31, 2094 pursuant to section 204(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land proposed for continuation is described as follows:

Mount Diablo Meridian

T. 23 S., R. 64 E.,
Secs. 27-29;
Sec. 30, E½;
Sec. 33, NE¼NW¼, N½NE¼;
Sec. 34, N½N½.
The area described contains 2520 acres in Clark County.

The withdrawal was originally established for the Bureau of Reclamation to construct a substation and to reserve a corridor for transmission lines in connection with the Pacific Northwest-Pacific Southwest Intertie Project. Public Law 95-91 transferred the functions associated with the Intertie project to the Department of Energy effective October 1, 1977. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Fred Wolf,

Acting State Director, Nevada.

[FR Doc. 91-1505 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Denial of Permit for Marine Mammals

On March 6, 1990, a notice was published in the **Federal Register** (Vol. 55, No. 44) that an application had been filed with the Fish and Wildlife Service by Paul Jensen Arctic Museum (PRT 721041) for a permit to acquire the hide and tusks of one male walrus (*Odobenus rosmarus*), taken for subsistence by Eskimos on St. Lawrence Island in the North Bering Sea, for public display.

Notice is hereby given that on October 31, 1990, the Fish and Wildlife Service denied the requested permit.

Dated: January 17, 1991.

R.K. Robinson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 91-1545 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act [Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: February 12, 1991, 9:30 a.m.—12 noon, rm. S-2217, PHBldg., Department of Labor 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. Trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC this 16th day of January, 1991.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 91-1541 Filed 1-22-91; 8:45 am]

BILLING CODE 4510-28-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: February 27, 1991, 2 p.m.-4 p.m., S-5310, Seminar room 1-B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION, CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC this 15th day of January, 1991.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 91-1542 Filed 1-22-91; 8:45 am]

BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-90-208-C]

Western Fuels-Utah, Inc., Petition for Modification of Application of Mandatory Safety Standard

Western Fuels-Utah, Inc., P.O. Box 1067, Rangely, Colorado 81648, has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Deserado Mine (I.D. No. 05-03505) located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner proposed to ventilate two electrical installations and a pump into a belt entry where a return is not available for immediate use with specific equipment and procedures as outlined in the petition.

3. These installations are in the same general area previously approved in Petition for Modification No. M-89-160-C.

4. Petitioner states that the proposed alternate method will provide no less than the same measure of protection as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 22, 1991. Copies of the petition are available for inspection at that address.

Dated: January 15, 1991.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 91-1553 Filed 1-22-91; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Shipyard Employment Standards Advisory Committee

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Shipyard Employment Standards Advisory Committee, established under the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. I and section 7(b) of the Occupational Safety and Health Act, 29 U.S.C. 656(b)), will convene on February 20, 1991, at 8:30 A.M., at the Holiday Inn Hotel (Ballston), Route I-66 & Glebe Road, 4610 North Fairfax Drive, Arlington, Virginia 22203. This meeting is open to the public. The meeting will adjourn on February 21, 1991, at approximately 4 p.m. The agenda is as follows:

I. Call to Order.

II. Review Transcript of September 19, 1990, meeting.

III. Old Business. Discussion of the following standards:

(a) 29 CFR part 1915, subpart R, Commercial Diving, covering §§ 1915.231 to 1915.244.

(b) 29 CFR part 1915, subpart Z, Toxic and Hazardous Substances, covering § 1915.1000.

(c) 29 CFR part 1915, subpart Z, Asbestos, covering § 1915.1001.

IV. New Business. Discussion of the following standards, as time permits.

(a) 29 CFR part 1915, subpart P, Fire Protection.

(b) 29 CFR part 1915, subpart C, General Safety and Health Provisions, § 1915.21, Access to Employee Exposure and Medical Records.

(c) 29 CFR part 1915, subpart K, Machinery and Machine Guarding, §§ 1915.251 to 1915.257.

(d) 29 CFR part 1915, subpart Z, Methylene Chloride, covering § 1915.1102.

Time permitting, the Committee will consider oral presentations relating to agenda items. Persons wishing to address the Committee should submit a written request to Mr. Thomas Hall (address below) by the close of business, February 6, 1991. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

FOR FUTHER INFORMATION CONTACT: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, room N-3647, 200 Constitution Avenue NW., Washington, DC 20210. (202) 523-8617.

Signed at Washington, DC, this 16th day of January 1991.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 91-1471 Filed 1-22-91; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Expansion Arts Advisory Panel: Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Organizations: Visual Arts/Media/Design/Literary Arts Section) to the National Council on the Arts will be held on February 5, 1991 from 9:15 a.m. to 6 p.m., February 6 from 9 a.m. to 6 p.m. and February 7 from 9 a.m. to 5:30 p.m. in room 718 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on February 5 from 9:15 a.m. to 10:30 a.m. and February 7 from 3 p.m. to 5:30 p.m. The topics will be general program overview and policy discussion.

The remaining portions of this meeting on February 5 from 10:30 a.m. to 6 p.m., February 6 from 9 a.m. to 6 p.m. and February 7 from 9 a.m. to 3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of December 11, 1990, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested person may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 10, 1991.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-1499 Filed 1-22-91; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the

following meeting(s) to be held at 1800 G. Street, NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357-7363.

Dated: January 14, 1991.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Agenda	Date(s)	Times
Special Emphasis Panel in Mechanical and Structural Systems	Review & Evaluate Proposals	02/05/91 02/06/91	9 a.m.-5 9 a.m.-5

[FR Doc. 91-1441 Filed 1-22-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for the Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Mathematical Sciences.

Date & Time: February 7-9, 1991, 8:30 a.m. to 5 p.m., February 7 & 8, 8:30 a.m. to 12:30 p.m., February 9.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Part Closed (Friday; 8:30 a.m.-9:30 a.m.). Part Open (remainder of meeting).

Contact Person: Dr. Judith S. Sunley, Division Director, Division of Mathematical Sciences, room 339, National Science Foundation, Washington, DC 20550. Telephone (202) 357-9669. Electronic mail: Anyone planning to attend this meeting should notify Dr. Sunley no later than February 4, 1991.

Purpose of Committee: To provide advice and recommendations concerning support for research in the mathematical sciences.

Agenda

Thursday, February 7, 1991: 8:30 a.m.-5 p.m. (Open Session)

Welcome and Introduction
Status of Division
—Data on FY 1990
—FY 1991 Status
—FY 1992 Budget Request
—Experiments
—Issues
Historical Perspective
Agendas for Action in the Mathematical Sciences
Cross-disciplinary research and the Mathematical Sciences
Subcommittees
—Education and Human Resources
—Research Funding Modes
—Cross-disciplinary and other research directions

Friday, February 8, 1991: 8:30 a.m.-9:30 a.m. (Closed Session)

Examination of the review process on selected proposals.

Friday, February 8, 1991: 9:30 a.m.-5 p.m. (Open Session)

Long-range planning and strategy
Subcommittees (as above)
Subcommittee reports and recommendations
Formulation of Committee recommendations
Mathematical happenings
Discussion with Acting Director, NSF

Saturday, February 9, 1991: 8:30 a.m.-12:30 p.m. (Open Session)

Final discussion and voting on recommendations
The Advisory Committee and the mathematics community
Committee plans for future activities

Reason for Closing: The Committee's review of proposal actions will include privileged intellectual property and personal information that could harm individuals if it were disclosed and predecisional intra-agency records not available by law. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: January 14, 1991.

M. Rebecca Winkler,

Committee Management Officer.

Meeting; Studies, Evaluation, and Dissemination Advisory Panel

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Studies, Evaluation, and Dissemination.

Date and Time: February 6, 1991, 9 a.m.-4:30 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 638-A, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Kenneth J. Travers, Office Head, Office of Studies and Program Assessment, Directorate for Education and Human Resources, National Science Foundation.

Purpose of Meeting: Education and Human Resources Evaluation.

Agenda

9 a.m. Welcome (Ken Travers).
9:15 a.m. Introductions and Agenda (Tom Berger).
9:30 a.m. Briefing on EHR programs (staff).
10:30 a.m. Break.
10:45 a.m. Members perceptions and experience in evaluation.
11:15 a.m. Briefing on evaluation of the Teacher Enhancement Program.
12 a.m. Lunch.
1 p.m. Discussion of the Evaluation of the Teacher Enhancement Program.
1:30 p.m. Briefing and discussion of other EHR program evaluation.
2:30 p.m. Break.
2:45 p.m. Summary discussion of current evaluations.
3 p.m. Discussion of strategic plan for evaluation of educational programs of NSF.
4:30 p.m. Adjourn.

Dated: January 14, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-1443 Filed 1-22-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Third Quarter CY 1990; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). The following incidents at NRC licensees were determined to be abnormal occurrences (AOs) using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). The AOs are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol 13, No. 3 ("Report to Congress on abnormal Occurrences: July–September 1990"). This report will be available in the NRC's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. about three weeks after the publication date of this **Federal Register** notice.

Other NRC Licensees

90–16 Medical Therapy Misadministration

The overall AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—February 20 through March 12, 1990; Muskogee Regional Medical Center; Muskogee, Oklahoma.

Nature and Probable Consequences—On September 19, 1990, the licensee notified the NRC that a therapeutic misadministration had occurred involving a treatment administered from February 20 through March 12, 1990. The radiation oncologist had identified the treatment error on September 6, 1990, but had not immediately recognized it as a reportable misadministration. The treatment error involved administration of 2160 rads (from a cobalt-60 teletherapy unit) to the right posterior neck rather than the left posterior neck as prescribed.

The licensee reported that the oncologist had initially participated in the treatment simulation and had approved simulation radiographs prior to treatment; however, the physician failed to notice that the wrong side of the patient's neck had been the subject of the simulation. This error was attributed to the fact that the patient treatment was simulated in the prone position rather than the routine supine position. Several of the licensee's staff members, including the teletherapy physicists, therapy dosimetrist, technical staff, and oncologist, had reviewed the patient's chart and participated in treatment and followup observations although none had recognized the error. The oncologist had palpated an enlarged cervical lymph node on the patient's left side during the September 6, 1990 physical examination which prompted his subsequent review of the treatment chart and identification of the error. All treatment records indicated that the right side of the patient's neck was treated, although the prescription clearly indicated that treatment was to be given to the left side.

The licensee's radiation oncologist has advised the NRC that no adverse effects were observed during routine followup examinations, and that no significant effects are anticipated as a result of the misadministration.

Cause or Causes—The cause is attributed to human error by the licensee's staff and failure to perform independent chart reviews in sufficient detail to detect the error. The simulation technologist had prepared a treatment simulation for, and had tattooed the right side of the patient's neck, because the oncologist had assisted in simulating the patient treatment and fluoroscoped the patient's right side. The technologist assumed that the correct treatment field had been fluoroscoped, and transcribed the treatment plan for the right posterior neck. The simulation radiographs were approved by the oncologist although they had not been labeled "right" or "left" at the time.

The treatment plan was not reviewed until seven treatment fractions had been administered, although neither the teletherapy physicist or dosimetrist recognized the error during this or subsequent reviews of the patient's chart. Additionally, the technical staff did not routinely review the physician's prescription after the patient treatment was simulated, and therefore, did not recognize that the prescription indicated treatment for the left side rather than the right.

Actions Taken To Prevent Recurrence

Licensee—The licensee's corrective actions as of October 15, 1990, included reformatting the treatment chart to include the physician's prescription in an area routinely used by the technical staff, making the prescription more readily accessible for staff review during the course of treatment. The teletherapy physicist and dosimetrist plan to provide a more detailed review of the treatment plan, including verification of treatment field rather than focusing solely on dose calculations. Further corrective actions will be implemented pending the licensee's Radiation Safety Officer's full investigation and review.

NRC—An NRC Region IV inspector conducted a special safety inspection on October 3 and 5, 1990, of the circumstances associated with the misadministration, and identified violations of NRC requirements as well as deviations from the licensee's documented procedures. A Confirmatory Action Letter (CAL) was issued on October 10, 1990, to confirm commitments made by the licensee during this inspection. These commitments include conducting a retrospective review of patient treatments to determine if similar errors had been made. A decision regarding enforcement action is currently under consideration.

90–17 Medical Diagnostic Misadministration

The overall AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—May 14, 1990; Overlook Hospital; Summit, New Jersey.

Nature and Probable Consequences—On June 1, 1990, NRC Region I was notified by the licensee in writing that a diagnostic misadministration involving iodine-131 (I–131) had occurred at the hospital.

An outpatient was scheduled for a nuclear medicine study by the referring physician's office by telephone. The nuclear medicine department understood the doctor's office to request an appointment for an iodine-131 scan. The patient brought the written prescription to the outpatient department and then proceeded to the nuclear medicine department for the scheduled study. The written prescription was not received by the nuclear medicine department until after the study was completed. When the nuclear medicine department received the written prescription, it was noted that the referring physician's written prescription requested a thyroid scan, not an iodine-131 scan. (A thyroid can typically mean a study using approximately 100–500 microcuries of

iodine-123 as the imaging radionuclide. An iodine-131 scan usually refers to a whole body scan, utilizing a dose of approximately 1 to 5 millicuries.)

The patient involved in the misadministration had a benign tumor removed from a lobe of the thyroid in June 1989. Subsequent thyroid scans of the individual (an uptake study was performed in November 1989, after the thyroid lobectomy) indicated that the patient had a normally functioning thyroid.

The intended dose to the patient's thyroid was approximately 4 rads from 300 microcuries of iodine-123. The administered dose to the patient's thyroid, as a result of the misunderstanding of the physician's request, was approximately 1820 rads from 1.4 millicuries of iodine-131. The licensee does not expect any significant consequences to the patient.

Cause or Causes—The cause of the event is attributed to inadequate procedures. The verbal request for the nuclear medicine study had not been verified by a written prescription prior to the study being performed.

Actions Taken to Prevent Recurrence

Licensee—After a telephone call on September 21, 1990, from NRC Region I staff to the licensee in regard to the incident, the licensee convened a Radiation Safety Committee meeting on October 2, 1990, to review the cause of the administration and to determine the corrective actions required to prevent a recurrence. The licensee established a procedure requiring receipt of a written prescription by the nuclear medicine department prior to administering any iodine for studies. This information was communicated to NRC Region I by telephone on October 3, 1990.

NRC—NRC Region I inspectors will review the incident during the next routine inspection at this facility. The timeliness of the licensee's response (reviewing the cause and determining corrective actions following the May 14, 1990 incident) will also be reviewed.

90–18 Significant Breakdown in Management and Procedural Controls at a Medical Facility

The overall A0 criterion notes that an event involving a moderate or more severe impact on the public health or safety can be considered an abnormal occurrence. In addition, the third general A0 criterion notes that major deficiencies in management controls for licensed facilities or material can be considered an abnormal occurrence.

Date and Place—July 19–27, 1990; North Detroit General Hospital; Detroit, Michigan

Nature and Probable Consequences—This event involved the apparent use of fraudulent films from 30 diagnostic nuclear medicine studies that rendered all but one of them invalid. Such an event could have potentially resulted in significant adverse health effects to patients (e.g., a serious disease may not be diagnosed, or a correct diagnosis could be significantly delayed). The details of the event are as follows:

On August 14, 1990, the licensee reported to NRC Region III that films from diagnostic nuclear medicine studies were apparently fraudulent. The films involved 30 studies performed on 27 patients during the time period July 19–27, 1990. (Some patients had more than one diagnostic procedure.) During this time period, the licensee's staff nuclear medicine technologist was on leave and a replacement technologist was supplied by a temporary services contractor.

For the diagnostic procedures involved, a radioactive pharmaceutical is introduced into the patients by injection or inhalation. The movement and deposition of these radioactive pharmaceuticals is then recorded as a film image. The image is then evaluated by a physician as a diagnostic tool.

The licensee subsequently determined that the films for 29 of the 30 procedures were fraudulent or indeterminate and were, therefore, unreliable for patient diagnosis. The remaining film is from a procedure performed by the contract technologist under the supervision of the staff technologist. It appears to be accurate. The films in question show evidence of tampering (i.e., handwritten names and dates which do not match the computer-generated display in the film, and faint underlying and overwritten labels on the films). In addition, the licensee reported that about 100 old patient films and jackets were discovered to be missing from their file location.

The fraudulent films were discovered by the staff technologist by comparison with later films after the contract technologist had left. The licensee then reviewed the films from procedures performed by the contract technologist. The licensee's investigation determined "conclusively that [the individual] had doctored and provided fraudulent nuclear medicine studies for interpretation. [The technologist] had submitted nuclear medicine studies on patients who had previously been imaged within the Department during the past 2 years and altered the names on those images and placed the names of the patients he was to have performed studies on in their place."

The licensee was unable to determine, in most cases, whether the diagnostic procedures had actually been performed and whether the patients had been administered the prescribed radiopharmaceutical for the procedures. The diagnostic procedures, with one exception, were not considered to be valid, and therefore of no use in their intended diagnostic function. The licenseee offered to redo the procedures, although some patients or their physicians elected not to have the studies performed again.

In those instances where a second procedure was performed, the patient received additional radiation exposure as a result of the fraudulent films that rendered the first procedure unusable. Where the retest was refused, the patients may have received a radiation exposure without benefit of a valid diagnostic procedure. However, the radiation doses associated with diagnostic procedures are small.

Cause or Causes—The fraudulent films and resulting invalid studies were the result of the action by the contract technologist and the failure of the licensee to supervise and train the individual adequately.

A special NRC inspection, which reviewed the circumstances of the fraudulent films, identified 10 apparent violations of NRC requirements, some of which were directly associated with the work performed by the contract technologist. These violations were indicative of a breakdown of management control of the licensee's nuclear medicine program.

Actions Taken to Prevent Recurrence

Licensee—As a result of this occurrence, the licensee has strengthened its screening procedures for prospective employees, both temporary and permanent. Training procedures have also been broadened and intensified. There will be more ongoing supervision and review of work by new employees.

NRC—The NRC conducted a special inspection August 15 through September 7, 1990, to review the circumstances surrounding the fraudulent films. A number of violations were identified. On October 29, 1990, the NRC issued a Notice of Violation and proposed a civil penalty of $2,500 which was paid by the licensee on November 26, 1990.

90–19 Medical Diagnostic Misadministration

The overall AO criterion notes that an event involving a moderate or more severe impact on public health or safety

can be considered an abnormal occurrence.

Date and Place—August 7, 1990; Copley Hospital; Morrisville, Vermont.

Nature and Probable Consequences—On August 14, 1990, NRC Region I was notified by the licensee in writing that a diagnostic misadministration involving iodine-131 (I-131) had occurred at the hospital on August 7, 1990. Further information was obtained in a follow-up phone call to the licensee on September 24, 1990. A 63-year-old woman patient, undergoing I-131 treatment for primary hypothyroidism, was administered 112 mircocuries instead of a routinely prescribed 10 microcuries. The dose to the thyroid, based upon the results of an uptake scan, was calculated at 3.9% uptake, resulting in an estimated actual dose to the thyroid of 29 rads. The licensee does not expect any adverse consequences to the patient.

The hospital reported that a supply of I-131 capsules had been ordered with incorrect amounts of I-131. Instead of ordering 5 capsules with a total activity of 100 microcuries, the 5 capsules were ordered as 100 microcuries each. On the day of the event, the technologist measured the capsule in the dose calibrator prior to administration and incorrectly interpreted the dose calibrator reading of 112 microcuries as 11.2 microcuries. The error was identified by another technologist measuring the uptake by the patient's thyroid the following day.

Cause or Causes—The causes of the event were attributed to human errors. The wrong I-131 capsules had been ordered, and the technologist incorrectly interpreted the dose calibrator reading.

Actions Taken to Prevent Recurrence

Licensee—The licensee reviewed the policies and procedures for assaying doses with all nuclear medicine technologists. In addition, the licensee's procedure was revised to require that only the technologist who orders the iodine capsules is allowed to administer them to patients.

NRC—NRC Region I inspectors will review the incident during the next routine inspection at this facility.

90-20 Medical Diagnostic Misadministration

The overall AO criterion notes than an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—September 22, 1990; West Shore Hospital; Manistee, Michigan

Nature and Probable Consequences—On September 24, 1990, the licensee's consultant informed Region III that an 84-year-old female cancer patient received a 175 millicurie dose of a technetium-99m (Tc-99m) labeled radiopharmaceutical for an imaging scan of her gall bladder instead of the 8 millicurie dose prescribed in the Nuclear Medicine Department's procedures manual.

The misadministration occurred on Saturday, September 22, 1990, when the patient's physician ordered a hepatobiliary (liver and gall bladder) scan. The radiopharmaceutical was prepared and administered by a part-times technician who was on weekend call. The technician had received only two weeks of training in Nuclear Medicine Department procedures the previous February and had performed only two nuclear medicine procedures since then (during one procedure, she was directly supervised by the Radiology Manager; during the other, the Radiology Manager "coached" her through the procedure by telephone). After receiving the order on September 22, the technician telephoned the Radiology Manager at home for guidance. She was told to prepare the dose according to the Department's procedures manual, which stated that an 8 millicurie (mCi) dose of Tc-99m mebrofenin was needed for hepatobiliary scans. Tc-99m mebrofenin is prepared by adding free Tc-99m to a reagent kit containing the mebrofenin.

According to the technician, she eluted 392 mCi from the molybdenum-technetium generator, and then took 4 milliliters of the eluate and injected it into the reagent kit. After mixing, she withdrew 1 milliliter of the solution, put it on a dose calibrator, which she claimed read 8 mCi, and then injected the radiopharmaceutical into the patient. When she saw a "bright spot" forming on the scanning screen where the sharp image of the gall bladder should have been, she telephoned the Radiology Manager and informed him that something was wrong.

A reconstruction of the event by NRC and licensee consultants indicated that the dose to the patient was 175 mCi instead of the intended 8 mCi. The amount of Tc-99m mixed with the mebrofenin was probably around 440 mCi, instead of the manufacturer's maximum recommendation of 100 mCi. The NRC consultant concluded that the technician misread or misunderstood the activity reading on the dose calibrator prior to injecting the patient. The medical consultant also evaluated the medical consequences of the incident and concluded that no biological effects should be expected from the misadministration. It is estimated that the doses to the patient's bladder and upper large intestine were about 36 rads and 26 rads, respectively.

Cause or Causes—The cause of the event was the licensee's failure to properly train and supervise an inexperienced technician. The individual either misread or misunderstood instructions, and in some cases used guesswork in carrying out the procedure.

Actions Taken To Prevent Recurrence

Licensee—The licensee's corrective action includes more orientation and training of new employees; additions to the computerized quality assurance system to remind staff to hold required meetings and perform required tests; and additional oversight of the licensee's program by management and the Radiation Safety Officer. Also, the technician is no longer employed at the hospital.

NRC—NRC Region III conducted a special inspection on September 27, 1990, and identified 10 violations of NRC requirements. Seven of the 10 violations pertained to this incident, including failure to instruct the technician in NRC regulations and license requirements, and failure to prepare the reagent kit in accordance with manufacturer's instructions. The Region contacted a medical consultant who reviewed the case. On November 16, 1990, the NRC issued a Notice of Violation and proposed a civil penalty of $4,375. The licensee has paid the civil penalty. The corrective actions will be further reviewed during a future routine NRC inspection.

Dated at Rockville, MD this 16th day of January, 1991.

For The Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-1522 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear

Corporation, et. al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The amendment would revise Technical Specification Section 3.7 to allow draining of the 15,000 gallon Emergency Diesel Generator (EDG) fuel oil storage tank for the purpose of internal inspection and, if required replaced during the upcoming (13R) refueling outage. Inspection of the tank internals cannot be accomplished while it is filled, and draining of the tank will cause the EDG's to become inoperable, which is in conflict with Technical Specification 3.7.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated December 7, 1990.

Need for the Proposed Action

The proposed change to the Technical Specification is needed so that the 15,000 gallon Emergency Diesel Generator (EDG) fuel oil storage tank could be internally inspected, and if required replaced during the (13R) refueling outage.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to Technical Specification 3.7. The proposed revision would allow draining of the 15,000 gallon Emergency Diesel Generator (EDG) fuel oil storage tank for the purpose of internal inspection, and if required, replaced during the upcoming (13R) refueling outage. Inspection of the tank internals cannot be accomplished while it is filled, and draining of the tank will cause the EDG's to become inoperable, which is in conflict with Technical Specification 3.7.

Based on its review, the Commission concludes that the proposed change is acceptable. The staff has determined that the proposed change does not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems utilized to mitigate the design basis accidents.

The proposed change does not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the Technical Specification involves one component in the plant which is located within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives 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.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental 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, 1990, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, 20555, and the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland this 16th day of January 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1529 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation, et. al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The amendment would revise the Technical Specifications to accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for the Radioactive Noble Gas Monitors and the Effluent Flow Measuring Devices for the Main Stack Monitoring System and the Turbine Building Ventilation Monitoring System surveillance intervals.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated September 21, 1990. The remainder of the application was acted upon on December 27, 1990.

Need for the Proposed Action

The proposed change to the Technical Specifications is needed so that surveillance requirements for the Radioactive Noble Gas Monitors and the Effluent Flow Measuring Devices for the Main Stack Monitoring System and the Turbine Building Ventilation Monitoring System is extended to accommodate a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications. The proposed revision would accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for the Oyster Creek Radioactive Noble Gas Monitors and Effluent Flow Measuring Devices for the Main Stack Monitoring System and Turbine Building Ventilation Monitoring System. The surveillance interval is presently 18 months.

Based on its review, the Commission concludes that the proposed change is acceptable. The staff has determined

that the proposed change does not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems utilized to mitigate the design basis accidents.

The proposed change does not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve components in the plant which are located within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed actions, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternatuve Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental 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 September 21, 1990, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland this 16th day of January 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1530 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation, et. al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The amendment would revise the Oyster Creek Nuclear Generating Station Technical Specification Table 4.13-1, Item 1 to accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for the Primary and Safety Valve Position Indicator (Primary Detector), the Relief and Safety Valve Position Indicator (Backup Indications), and the Relief and Safety Valve Indicator (Common Header Temperature Element) surveillance intervals.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated December 17, 1990, as supplemented January 7, 1991.

Need for the Proposed Action

The proposed change to the Technical Specifications is needed so that surveillance requirements for the Primary and Safety Valve Position Indicator (Primary Detector), the Relief and Safety Valve Position Indicator (Common Header Temperature Element) are extended to accommodate a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Oyster Creek Nuclear Generating Station Technical Specification Table 4.13-1. The proposed revision would accommodate implementation of a 21-month operating cycle with a 3-month outage or a 24-month plant refueling cycle for the Oyster Creek Nuclear Generating Station Technical Specification Table 4.13-1, Item 1 to accommodate implementation for the Primary and Safety Valve Position Indicator (Primary Detector), the Relief and Safety Valve Position Indicator (Backup Indications), and the Relief Valve Position Indicator (Common Header Temperature Element) surveillance intervals. The surveillance interval is presently 18 months.

Based on its review, the Commission concludes that the proposed change is acceptable. The staff has determined that the proposed change does not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety system utilized to mitigate the design basis accidents.

The proposed change does not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve components in the plant which are located within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed actions, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental 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 17, 1990, as supplemented January 7, 1991, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555 and the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland this 16th day of January 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1531 Filed 1-18-91; 8:45 am]

BILLING CODE 7590-01-M

Application for License To Export Special Nuclear Material

Pursuant to 10 CFR 110.70 (b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC. 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export the special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of appl., date received, application No.	Material (in kilograms)				Country of destination
	Material type	Total element	Total isotope	End use	
Transnuclear, Inc., 12/19/90, 01/02/91, XSNM02580.	93.3% enriched uranium	69.345	64.699	Fuel for HFR Grenoble Reactor	France.

Dated this 11th day of January 1991 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Assistant Director for Exports, Security, and Safety Cooperation, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 91-1523 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Joint Subcommittees on Computers in Nuclear Power Plant Operations and Instrumentation and Control Systems; Notice of Meeting

The joint Subcommittees on Computers in Nuclear Power Plant Operations and Instrumentation and Control Systems will hold a meeting on February 6, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD, with representatives from the Atomic Energy of Canada Limited (AECL), ABB-Combustion Engineering (ABB-CE), Westinghouse Electric Corporation (*W*), General Electric Corporation (GE), Electric Power Research Institute (EPRI), and the NRC staff.

Most of the meeting will be open to public attendance. A portion of the meeting may be closed to discuss privileged and proprietary information (5 U.S.C. 552b(c)(4)).

The agenda for the subject meeting shall be as follows: *Wednesday, February 6, 1991—8:30 a.m. until the conclusion of business.*

The Subcommittees will discuss the use of computers and solid-state control logic in nuclear power plant operations.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairmen; 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 Subcommittees, their 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 Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of AECL, ABB-CE, *W*, GE, EPRI and the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, 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 therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Thomas S. Rotella (telephone 301/492-8972) or the Designated Federal Official, Mr. Medhat M. El-Zeftawy (telephone 301/492-9901) 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.

Dated: January 14, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-1519 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability Assurance; Notice of Meeting

The Subcommittee on Reliability Assurance will hold a meeting on February 5, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD with representatives from the ABB-Combustion Engineering (ABB-CE), Westinghouse Electric Corporation (*W*), General Electric Corporation (GE), Electric Power Research Institute (EPRI), and the NRC staff.

Most of the meeting will be open to public attendance. A portion of the meeting may be closed to discuss privileged and proprietary information (5 U.S.C. 552b(c)(4)).

The agenda for the subject meeting shall be as follows: *Tuesday, February 5, 1991—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss the reliability of safety related solid state devices used in nuclear powerplants.

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 ABB-CE, *W*, GE, EPRI and the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, 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 therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Elpidio Igne (telephone 301/492-8192) 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.

Dated: January 14, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-1520 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Safety Philosophy, Technology, and Criteria; Notice of Meeting

The Subcommittee on Safety Philosophy, Technology, and Criteria will hold a meeting on February 5, 1991, 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, February 5, 1991—3:00 p.m. until the conclusion of business.*

The Subcommittee will review a proposed SECY-90-405, "Formulation of a Large Release Definition and Supporting Rationale."

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, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, 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 therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Dean Houston (telephone 301/492-9521) 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.

Dated: January 15, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-1521 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 28, 1990 through January 10, 1991. The last biweekly notice was published on January 9, 1991 (56 FR 888).

Notice of Consideration of Issuance of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed

determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 8, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions,

supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: December 11, 1990

Description of amendment request: The proposed amendments revise the Arkansas Nuclear One, Units 1 and 2 (ANO 1&2) Technical Specifications (TS) to delete the Administrative Controls sections regarding Environmental Qualification. Specifically, ANO-1 TS 6.9 and 6.13 and ANO-2 TS 6.10 and 6.12 would be revised to remove an unnecessary specification which has been superseded by another regulatory requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Criterion 1 - Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As the Environmental Qualification of equipment is included in the Code of Federal Regulations this constitutes an Administrative Change and therefore does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2 - Does not create the possibility of a new or different kind of accident from any previously evaluated.

No new or different kind of accident from any previously evaluated is created as this is an Administrative Change. The Environmental Qualifications of equipment is required by the Code of Federal Regulations, 10CFR50.49.

Criterion 3 - Does not involve a significant reduction in the Margin of Safety.

No reduction in the Margin of Safety is incurred as Environmental Qualifications of equipment is required [sic] by 10CFR50.49. This supersedes the October 24, 1980 Order.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists. The proposed amendment most closely matches examples.

(i) "A purely administrative change to Technical Specification: for example, a change to achieve consistency throughout the Technical specifications, correction of an error or a change in nomenclature."

and

(vii) "A change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theordore R. Quay

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 7, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by removing the TS on radioactive effluents and radiological environmental monitoring and adding controls to include them in the Offsite Dose Calculational Manual (ODCM). Specifications on solid radioactive wastes will be relocated to the process Control Program (PCP). This action is in response to Generic Letter 89-01 dated January 31, 1989.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91 (a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed amendment relocates procedural details from the Waterford 3 TS to the ODCM or the PCP without revision. Administrative controls are to be placed in the TS to control these programs. As a result, all aspects of the FSAR safety analyses will remain unchanged and there will be no physical change to the facility. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change relocates conformance details from the TS to the ODCM and PCP. This relocation of the RETS program does not reduce the controls on radiological effluent. No plant design changes are necessary to implement these line-item improvements. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events, and analyzing the plant response and consequences, and the proposed amendment cannot create the possibility of a new and different kind of accident than previously evaluated.

Radiological regulatory requirements are established in 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a., and Appendix I to 10 CFR Part 50. The limits defined for Waterford 3 based on these requirements will be relocated from the TS to the ODCM and PCP, unchanged. All technical content will be preserved. Since there will be no change to the physical design or operation of the plant, the proposed amendment will not involve a reduction in a safety margin.

The NRC staff has reviewed the analysis and, based on this review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Ernest L. Blake, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., N.W., Washington, D.C. 20037

NRC Project Director: Theodore R. Quay

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: November 20, 1990

Description of amendment request: The proposed amendment would modify the Three Mile Island Unit 1 Technical Specifications to assure adequate protection of safety-related electrical equipment from loss of capability in the event of a sustained degraded voltage condition on the offsite electrical grid system for operation beyond Cycle 8 of operation. Specifically, the low voltage trip setpoint will be raised from 3595 volts to 3760 volts.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the

licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

GPU Nuclear Corporation has determined that this Technical Specification Change Request involves no significant hazards consideration as defined by NRC in 10CFR50.92.

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. Loss of Electric Load is the only previously evaluated design basis accident that is affected by the proposed amendment. The Loss of Electric Load may be caused by separation of the unit from the [electrical] transmission system. The revised undervoltage protection setpoint will result in a slight increase in the probability of a loss of offsite electric power during a postulated design basis accident coincident with single auxiliary transformer operation and a degraded grid condition. This slight increase is not considered significant since the postulated scenario involves the simultaneous occurrence of three (3) unrelated events. Existing Technical Specifications restrict single auxiliary transformer operation for only a period of 30 days. The revised undervoltage protection setpoint does not result in any significant increase in the probability of a loss of offsite electric power during normal plant operation with two (2) auxiliary transformers in operation. Loss of Feedwater (LOFW) and Loss of Coolant Flow (LOCF) accident analyses are also related to a Loss of Offsite Power (LOOP), but are not affected by this change. The LOFW and LOOP have been analyzed to verify the adequacy of Emergency Feedwater (EFW) flow. The most demanding event in terms of heat removal via EFW is the LOFW without LOOP since the event requires the removal of RCP heat as well as decay heat. The LOCF due to a loss of all offsite power has been analyzed to verify acceptable minimum DNBR. A complete loss of forced flow would occur only on a LOOP and failure of the runback feature. Natural circulation flow provides adequate flow after the pumps have stopped. Therefore, the proposed amendment does not significantly increase the probability of occurrence or the consequences of an accident previously evaluated.
2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The revised setpoint provides adequate protection of safety related electrical equipment, supplied by the power distribution system, from loss of capability in the event of a sustained degraded voltage condition on the offsite electrical grid system. Therefore, this change has no effect on the possibility of creating a new or different kind of accident from any accident previously evaluated.
3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The revised undervoltage protection setpoint provides continued protection for the safety related electrical loads for the maximum expected loading of the safety related buses. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, D.C. 20037.

NRC Project Director: John F. Stolz

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: June 14, 1988, and September 29, 1988, as superseded November 20, 1990.

Description of amendment request: The proposed amendment would revise Sections 4.0.3 and 4.0.4 of Nine Mile Point Unit 2 Technical Specifications and update the Bases applicable to Sections 3.0 and 4.0. These changes are consistent with the guidance provided in Generic Letter 87-09, "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements." This amendment also includes editorial corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

4.0.3: Although it is conceivable under this proposal that additional time could be provided for restoration of inoperable components, this occurs only when the component affected by the missed surveillance is found to be inoperable once the test is actually performed. Therefore, the effect of this change is to only allow entry into action statements when the component is *known* to be inoperable or when adequate (24 hours) test performance time is provided. This has an insignificant effect on previous analyses because the potential for an untested component to be inoperable is low and because the action (which must be within 24 hours) is entered as soon as the test is failed. Furthermore, very few missed surveillances are anticipated and, of these few cases, a smaller number will involve inoperable components. Based on the above, this change has no significant effect on the probability or consequences of previously analyzed accidents.

4.0.4: As stated in Generic Letter 87-09, "It is not the intent of Specification 4.0.4 to prevent passage through or to operational modes to comply with action requirements and it should not apply when mode changes are imposed by 'Action Requirements'." Therefore, this change can be interpreted as editorial clarification. Regardless, ensuring that performance of surveillance tests will not be required during shutdowns to comply with actions will reduce the probability of previously analyzed transients and accidents by minimizing activities which could challenge safety systems during a shutdown evolution.

Editorial: Those Technical Specification changes which are delineated as editorial in nature do not change the intent or meaning of the Technical Specification and accordingly, do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

4.0.3: The revised provisions of 4.0.3 modify existing constraints on previously analyzed conditions, as was analyzed above. They do not create the possibility for new or different accident scenarios.

4.0.4: The revision to Specification 4.0.4 reduces the probability of previously analyzed transients. This is accomplished by minimizing activities which could challenge safety systems during a shutdown evolution. The change has no features which could create the possibility of new or different scenarios.

Editorial: Editorial changes, by their nature, do not create the possibility of new or different scenarios.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin or safety.

4.0.3: The margin of safety provided by the action statements is subjectively improved for the following reasons:

1. Based on experience, the proposed change will minimize the potential for shutdowns due to the inability to perform a missed surveillance on components that are, in all probability, operable.

Therefore, unwarranted plant transients will be avoided and safety is improved.

2. The provision does not provide additional time when the situation does not warrant it. When greater than 24 hours exists, or when the component is known to be inoperable, the normal action applies.
3. The potential for misinterpretation of the new wording was reviewed, and it is believed that the improved Bases section for the proposed change (as well as the guidance in the Generic Letter, if needed) will mitigate any potential for problems in this area.

4.0.4: The margin of safety is based in part on the 'Action Requirements' as stated in the Technical Specifications. By assuring that Surveillance Requirements do not interfere with shutdowns required by Action Statements, the margin of safety is improved.

Editorial: Editorial changes improve the clarity of the Technical Specifications and, as such, do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of amendment request: November 20, 1990

Description of amendment request: The proposed amendment would revise Nine Mile Point Unit 2 Technical Specifications to remove a restriction that limits the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval. This change is based on the guidance provided in Generic Letter (GL) 89-14, "Line Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Interval." Additionally, the proposed amendment would delete Specification 4.0.2c which contains a one time exemption from the provisions of Specifications 4.0.2a and 4.0.2b for certain surveillance intervals and extends their surveillance intervals to September 30, 1990, and is no longer applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The removal of the 3.25 limit on extending surveillance intervals does not impact plant design or the operation of plant systems. It is not intended that this provision be routinely used to extend surveillance intervals beyond that specified in Technical Specifications. The provision is intended for use when plant conditions are not suitable for the conduct of surveillances due to safety systems being out-of-service for maintenance or due to other ongoing surveillance activities. In such cases, the safety benefit of extending a surveillance interval up to 25 percent would exceed the risk reduction derived by conforming to the 3.25 limitation. The removal of the exemption for those surveillances associated with the first refueling outage is administrative in nature and as such has no effect on the probability or consequences of any accident. Therefore, the proposed amendment will not involve a significant increase in the probability or consequence of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes introduce no new mode of plant operation nor do they require physical modification to the plant. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

Surveillance testing performed in accordance with Specification 4.0.2 and the maximum 25 percent interval extension criteria will continue to ensure adequate system reliability. The removal of the exemption associated with the first refueling outage is administrative in nature and does not affect any margin of safety. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esq., Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, DC 20006.

NRC Project Director: Robert A. Capra

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: November 14, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications, Section 3.10.G and its associated Bases, to allow continued operation for 72 hours for diagnosis and repair, with one or more control rods immovable due to an electrical problem in the rod control system, provided all affected control rods remain trippable.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addresses the above three standards in the amendment application.

(1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect the ability of the Control Rod Drive System to perform its intended safety function (reactor trip). The design of the Control Rod Drive System assures isolation of the elements required to insure reactor trip from the Rod Control System. Extending the allowed out of service time associated with electronic/electrical malfunctions of the Rod Control System is acceptable, since the safety function of the Control Rod Drive System

(reactor trip) is not affected by the change. Because the reactor trip function is not affected, the conclusions in the Prairie Island Updated Safety Analysis Report remain valid.

Therefore, based on the conclusions of the above discussion, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modifications in the operational limits or physical design of the involved systems. The change merely allows an extended time period for the diagnosis and repair of Rod Control System failures, thus reducing the probability of a plant transient because of insufficient time for proper corrective action or a hurried diagnosis.

As discussed above, the proposed changes do not result in any significant change in the configuration of the plant, equipment design or equipment use nor do they require any change in the accident analysis methodology. Therefore, no different type of accident is created. No safety analyses are affected. The accident analyses presented in the Updated Safety Analysis Report remain bounding.

(3) The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes do not affect any Technical Specification margin of safety. The proposed changes allow appropriate actions commensurate with the significance of Control Rod Drive or Rod Control System malfunctions, while not requiring plant transients in response to malfunctions that do not affect the capability of the Control Rod Drive System to perform its safety function. Therefore, the proposed changes will not result in a significant reduction in the plant's margin of safety.

The NRC staff has reviewed the licensee's no significant hazards determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the requested amendment involves no significant hazards determination.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: December 19, 1990.

Description of amendment request: The proposed amendment would revise the Fort Calhoun Station's Technical Specifications 2.9.1, 3.12.1 and Tables 3-3 and 3-12 concerning liquid and gaseous effluents to reflect the addition of the new Radioactive Waste Processing Building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed change does not involve a significant hazards consideration because operation of the Fort Calhoun Station in accordance with the proposed change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Updated Safety Analysis Report Section 14.20 "Waste Liquid Incident" provides evaluation for:

a) Release of liquid waste from components in the radwaste disposal system.

b) Release of liquid waste from one monitor tank, or one hotel waste tank to the circulating water discharge tunnel.

The proposed Radwaste Processing Building includes floor drains in locations with the possibility of pipe break/leakage. Pipes containing liquid radwaste will enter the new building in a coated concrete pipe chase. The pipe chase extends to the processing compartment which is seismically designed and includes floor drains and a lined sump. The entire floor of the compartment is covered with a steel liner for additional protection. The proposed liquid processing system (filtration and ion exchanger) will be located in this compartment. Therefore, in the event of a liquid radwaste pipe leak/break, the contaminated liquid will be collected in the sumps and pumped back to the existing radwaste disposal system in the Auxiliary Building. Also, in the event of a liquid processing system (ion exchangers) rupture, liquid radwaste will be contained in the seismic compartment.

Proposed revisions to the technical specifications include the addition of a new ventilation discharge from the Radioactive Waste Processing Building HVAC combined with the laboratory area of the chemical and radiation protection-locker facility. The ventilation stack will be equipped with a three channel (Particulate, Iodine, and Noble Gas) effluent monitor with indication in the main control room. The releases from the new discharge are anticipated to be insignificant compared with releases from the existing plant discharge stack.

Therefore, it can be concluded that the proposed amendment to the technical specifications does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

As described above, a liquid radwaste incident is evaluated under USAR Section 14.20. However, to determine off-site doses due to ion exchange system rupture in the Radioactive Waste Processing Building a calculation was performed. The results indicated 3.8 rem thyroid dose from iodines at the exclusion area boundary. This dose is approximately 1% of the 10 CFR 100 limit. The calculation used "As Received" iodine inventory from USAR Table 11.1-13. It was assumed a 70 gpm flow rate from the waste treatment system to the ion-exchange equipment located in the building. In the event of the ion-exchange equipment rupture it was assumed that 10% of the iodine collected on the resin bed will be released to the water. It was further conservatively assumed that 10% of the iodine in the water becomes airborne. Liquid radwaste processing and solidification/dewatering will be conducted in a seismically designed compartment and potential spills will be contained and routed back to the radwaste system. Ventilation discharge will be monitored for any airborne releases. The radioactive sources present in the Radioactive Waste Processing Building are identical to those currently in the Auxiliary Building.

Therefore, the possibility of a new or different kind of accident other than any evaluated previously in the Updated Safety Analysis Report would not be created.

(3) Involve a significant reduction in a margin of safety.

Due to close proximity of a Radioactive Waste Processing Building and the Auxiliary Building (a 6> gap separates the two structures) the entire frame of the building was seismically designed. Analysis has indicated no interaction between the two buildings will occur in a design basis earthquake.

The liquid radwaste system extended to the Radioactive Waste Processing Building is an extension of the existing system and is non-safety related as defined in Omaha Public Power District's Critical Quality Equipment List.

Therefore, the proposed changes to Technical Specification will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: Theodore R. Quay

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: December 21, 1990 (Reference LAR 90-13)

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to (a) allow operation of the subsystems of the Emergency Core Cooling System (ECCS) associated with the Centrifugal Charging Pumps (CCPs) with the recirculation (miniflow) lines open during the injection phase of ECCS operation, (b) provide additional margin between the minimum and maximum CCP and Safety Injection (SI) pump flow requirements, and (c) provide a surveillance requirement and additional margin for the difference between minimum and maximum individual injection line flows (flow imbalance) for both the CCP lines and the SI pump lines. The proposed flow rates are supported by an ECCS evaluation. The proposed flow rates provide a broader window between minimum and maximum flow rates which would allow explicit inclusion of the orifice uncertainties associated with the flow measurements. The proposed changes would also facilitate performance of the flow balance valve setting and associated surveillance test procedure. The specific TS changes proposed are as follows:

(1) Surveillance Requirements 4.5.2.h.1)a) and 2)a) for the sum of the injection line flow rates excluding the highest flow rate, would be reduced from 346 gpm to 299 gpm for the Centrifugal Charging Pumps (CCPs), and from 463 gpm to 427 gpm for the Safety Injection (SI) pumps.

(2) Surveillance Requirements 4.5.2.h.1)b) and 2)b) would be renumbered to 4.5.2.h.1)d) and 2)d), and the total pump flow rate requirements would be increased from 550 gpm to 560 gpm for the CCPs, and from 650 gpm to 675 gpm for the SI pumps.

(3) New Surveillance Requirements 4.5.2.h.1)b) and 2)b) would be added to require the total flow rate through all four injection lines be less than or equal to 461 gpm for the CCPs and 650 gpm for the SI pumps.

(4) New Surveillance Requirements 4.5.2.h.1)c) and 2)c) would be added to require the difference between the maximum and minimum individual injection line flow rates to be less than or equal to 15.5 gpm for the injection lines associated with the CCPs and 20.0 gpm for the injection lines associated with the SI pumps.

The associated Bases would be appropriately revised.

The Bases for TS 3/4.6.1.4 would also be revised to state that the maximum peak pressure expected after a Loss of Coolant Accident is less than 47 psig, which is the maximum design pressure of containment. The Bases for TS 3/4.6.1.6 would be revised to delete the analysis result.

The proposed revision to Surveillance Requirement 4.5.2.h of TS 3/4.5.2 would reduce unnecessary operation of the ECCS pumps, reduce unnecessary exposure of personnel, enhance compliance with the accident analysis assumptions, potentially reduce violation of the TS, and remove a potential operator action following ECCS initiation.

The current limits on minimum and maximum flow in Surveillance Requirement 4.5.2.h result in a narrow band for the adjustment of flow. Balancing both pumps individually to these requirements is difficult and may lead to several trials with different valve settings before the flow requirements are met. Balancing is made more difficult by any potential pump performance mismatch. The proposed license amendment would broaden the window between minimum and maximum total injection line flows and specify a maximum allowed flow imbalance between injection lines. This would make it easier to meet the balancing requirements and shorten the time required to perform the flow balancing. This would reduce the amount of time the ECCS pumps have to run while performing the tests and would also reduce the exposure time of the personnel who must perform the test.

The narrow band between minimum and maximum flow of the current surveillance requirement is not large enough for explicit inclusion of the flow orifice measurement uncertainties when comparing the test results to the surveillance requirements. The proposed changes to the surveillance requirements have a large enough difference between the minimum and maximum requirements that orifice uncertainties could be added to the test results for comparison with the maximum flow requirement, and orifice uncertainties could be subtracted from the test results for comparison with the minimum uncertainties. This would provide a higher degree of confidence of compliance of the plant configuration with the analysis assumptions.

The narrow range of the current surveillance requirement also provides little margin to accommodate minor system performance changes that may occur during plant operation. Compliance with the TS is therefore unduly sensitive to minor system perturbations and can result in the measured values being outside the TS limits. The proposed revision to the surveillance requirements will reduce the probability of system performance degradation resulting in a violation of the TS.

The current surveillance requirements are based on design and safety analysis ECCS flows which were calculated assuming zero miniflow during the ECCS injection phase for the CCPs. Therefore, the operators are instructed by the Emergency Operating Procedures to close the miniflow valves for the CCPs in the event ECCS flow is needed and RCS pressure is reduced. The flow limits in the proposed revision to the surveillance requirements are based on ECCS flow calculations performed assuming the miniflow valves remain open during the injection phase of ECCS operation. Therefore, approval of the proposed license amendment will allow deletion of the operator action to close the CCP miniflow valves.

The Safety Evaluation for these proposed changes shows acceptable ECCS performance is ensured with respect to the analyses in the FSAR Update. The proposed changes would enhance plant operation, enhance performance of the surveillance test, and would reduce the possibility of violating the TS due to a narrow band for allowable operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee, in its submittal of December 21, 1990, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the license has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The results of the evaluation of the FSAR Update accident analyses show that the acceptance criteria, such as PCT [peak cladding temperature], DNBR [departure from nucleate boiling ratio], peak containment pressure, and radiological doses would be met and the conclusions presented in the FSAR Update would remain valid with the proposed changes. Therefore, the consequences of an accident previously

evaluated would not be increased by the proposed license amendment.

The proposed changes would not alter the function or the operation of the plant and, in particular, the ECCS. The only equipment which could potentially be affected by the proposed changes would be the CCPs and the SI pumps. The proposed changes would allow higher maximum flows through the CCPs and SI pumps. The conclusion of the evaluation performed to determine the effect of the increased flows is that the proposed upper limit for ECCS flows would ensure that the ECCS flow is not sufficiently high to result in operation of any CCP or SI pump beyond its runout limit. Therefore, there would be no increased probability in failure of equipment important to safety and the probability of an accident would not be increased by the proposed changes.

The proposed changes would broaden the range for balancing the portions of the ECCS associated with the CCPs and SI pumps. This would make it easier to meet the balancing requirements and reduce the time required to perform the test. This would reduce the time the pumps would have to be run for performance of the test and also reduce any potential degradation of the pumps due to operation while performing the flow balancing.

The proposed changes would also eliminate the need for operator action to close the recirculation lines for the CCPs during the injection phase operation of the ECCS. This would reduce the potential for inadvertent closure of these valves which could potentially lead to pump damage at low flow conditions. The elimination of the operator action would also allow the operator to concentrate on other actions and reduce the potential for operator error.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The requested license amendment would not involve any physical changes to the plant and, in particular, the ECCS system. The [sic] upper flow limit [of the proposed change] would ensure the pump runout limits would be met. The proposed changes would allow a broader range for balancing ECCS flows to the RCS which would allow easier flow balancing and reduce potential degradation of the pump while performing the flow balancing. The only operational change of the system would be that the operators would not close the valves in the recirculation lines for CCPs during the injection phase of ECCS operation. This would reduce the potential for operator error and inadvertent closure of the recirculation valves which may lead to pump damage.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The effects of the proposed changes on the FSAR Update safety analyses and pump performance have been evaluated. The results of the evaluation show that the acceptance criteria for PCT, DNBR, peak containment pressure, and radiological doses are maintained with the proposed changes. The evaluation concluded that the safety analyses and pump performance evaluation conclusions presented in the FSAR Update would remain valid.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: James E. Dyer

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: December 21, 1990 (Reference LAR 90-15)

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to implement power-dependent Reactor Coolant System (RCS) flow rate limits. Also proposed are deletion of selected unit and cycle dependencies that are no longer applicable. The specific TS changes proposed are as follows:

A. TS 2.1 Changes

(1) A note regarding operation in the expanded regions of proposed Figures 3.2-3a and 3.2-3b would be added to Figure 2.1-1a, "Reactor Core Safety Limit (Units 1 and 2 Cycle 4 and After)". TS 2.1 requires that the combination of percent Rated Thermal Power (RTP), pressurizer pressure and highest loop Tavg not exceed the limits shown in Figure 2.1-1a. The margin between actual plant conditions and the appropriate safety limit curve is the margin existing to either the safety analysis Departure from Nucleate Boiling Ratio (DNBR) limit or saturation conditions at the reactor vessel exit. The DNBR limits are based upon a Nuclear Enthalpy Rise Hot Channel Factor equal to the 100 percent RTP TS limit and an RCS flow rate equal to the TS minimum acceptable value. The note would require using 100 percent RTP to determine margin if operation in the expanded regions were to become necessary. Using 100 percent RTP when power is restricted to less than 100 percent RTP would account for any downward shifting of the safety limit curves resulting from operation at reduced RCS flow rates. Proposed TS Figures 3.2-3a and 3.3-3b would also contain an appropriate note referencing the safety limit figure.

(2) The TS references to "Units 1 and 2 Cycle 4 and after" and "Unit 2 Cycle 3" would be deleted since these dependencies are no longer required.

(3) Figure 2.1-1b, "Reactor Core Safety Limit (Unit 2 Cycle 3)", would be deleted since this figure is no longer required. Figure 2.1-1a would become Figure 2.1-1 as a result of this deletion.

(4) The TS Bases would be revised to delete references to "Unit 2 Cycle 3" and "Cycle 4 and after", since these dependencies are no longer required.

B. TS 3/4.2.3 Changes

(1) The acceptable operation regions of Figures 3.2-3a and 3.2-3c, "RCS Total Flow Rate Versus R", would be expanded to require a 2 percent Rated Thermal Power (RTP) reduction for a 1 percent reduction in RCS flow rate. This tradeoff between percent RTP and flow could be applied to flow rate reductions of up to 5 percent, corresponding to a limitation on power of 90 percent RTP.

(2) The Unit 2 Cycle 3 TS requirements and the TS references to "Cycle 4 and after," would be deleted since these dependencies are no longer required.

(3) Figure 3.2-3b, "RCS Flow Rate Versus R (Unit 2 Cycle 3)", would be deleted since this figure is no longer required. Figure 3.2-3c would become Figure 3.2-3b as a result of this deletion.

(4) The TS Bases would be revised to reflect the power-dependent RCS flow rate limits and to delete references to "Unit 2 Cycle 3" and "Cycle 4 and after", since these dependencies are no longer required.

TS 3/4.2.3 requires power reduction to less than 50 percent RTP when the measured RCS flow rate falls below the acceptable operation regions of TS Figures 3.2-3a and 3.2-3c for Units 1 and 2, respectively. A further reduction to less than 5 percent RTP is required if the flow rate is not restored within 24 hours. The expanded acceptable operation regions of proposed Figures 3.2-3a and 3.2-3b would prevent plant unavailability by providing flexibility in meeting the TS requirements on measured RCS flow rate. Similar

changes to implement power-dependent RCS flow rate limits have been previously licensed at several other plants, including Sequoyah, V.C. Summer, McGuire, and Catawba.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee, in its submittal of December 21, 1990, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the license has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to implement power-dependent RCS flow rate limits does not change any of the FSAR Update results. The minimum DNBRs calculated in the present non-LOCA analyses remain the limiting values. The present small break and large break analyses continue to be bounding. The consequences of an accident previously analyzed are not increased because the inputs to the radiological dose calculations are not affected.

The proposed change to add a note to TS Figure 2.2-1 is a conservative method to account for any downward shifting in the safety limit curves, since the safety evaluation concluded that a 2 percent RTP reduction for a 1 percent reduction in RCS flow rate is conservative for steady state operation.

The proposed changes to delete the Unit 2, Cycle 3 requirements, Bases, and figures, and to delete references to "Cycle 4 and after" will simplify TS 3/4.2.3 and 2.1. These changes are administrative and are considered a human factors improvement.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to implement power-dependent RCS flow rate limits and to add a note to TS Figure 2.2-1 do not require physical alteration to any plant system nor do they change the method by which any safety-related system performs its functions.

The proposed administrative changes to delete the Unit 2, Cycle 3 requirements and figures, and to delete references to "Cycle 4 and after" will simplify TS 3/4.2.3 and 2.1. These changes are administrative and are considered a human factors improvement.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

c. Does the change involve a significant reduction in a margin of safety?

The proposed change to implement power-dependent RCS flow rate limits does not change any of the FSAR Update accident analyses initial conditions or results. The minimum DNBRs calculated in the present non-LOCA analyses remain the limiting values. The present small break and large break analyses continue to be bounding. The consequences of an accident previously analyzed are not increased because the inputs to the radiological dose calculations are not affected.

The proposed change to add a note to TS Figure 2.2-1 is a conservative method to account for any downward shifting in the safety limit curves, since the safety evaluation concluded that a 2 percent RTP reduction for a 1 percent reduction in RCS flow rate is conservative for steady state operation.

The proposed changes to delete the Unit 2, Cycle 3 requirements, Bases, and figures, and to delete references to "Cycle 4 and after" will simplify TS 3/4.2.3 and 2.1. These changes are administrative and are considered a human factors improvement.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: James E. Dyer

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 16, 1990 as revised April 2, August 7, and December 19, 1990.

Description of amendment request: By letters dated March 16 and April 2, 1990, the licensee submitted its request for changes to the Technical Specifications, on an exigent basis, to eliminate quick loading requirements of the diesel generators during surveillance. The licensee's request and the staff's proposed no significant hazards consideration determination were published in **Federal Register** on April 16, 1990 (55 FR 14150). On November 15, 1990 the staff responded to the licensee's request and issued Amendment No. 103 to Facility Operating License NPF-14 and Amendment No. 69 to Facility Operating License No. NPF-22 for Susquehanna Steam Electric Station, Units 1 and 2. In those Amendments the staff approved all proposed changes except (1) incorporation of a footnote to Technical Specification section 4.8.1.1.2.a, and (2) a revision to test the emergency diesel generators over a 10% load range.

By letters dated August 7 and December 19, 1990 the licensee proposed a revision to the two items that were not approved. The licensee revised the footnote by addressing the staff's concerns and revised the testing load range from 10% to 5%.

Since the changes proposed in the licensee's August 7 and December 19, 1990 submittal are bounded by the changes proposed in March 16 and April 2, 1990 applications, which were published in **Federal Register** on April 16, 1990 (55 FR 14150) and found to involve no significant hazards consideration, the Commission proposes to determine that the changes proposed in August 7 and December 19, 1990 submittal involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street N.W., Washington, D.C. 20037

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 17, 1990

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) of Appendix A of the licenses to revise Minimum Critical Power Ratio (MCPR) Safety Limits since the cores will be reloaded with a new fuel type, GE8X8NB, for Cycle 9 operation. The proposed amendments also involve miscellaneous administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analyses of the issue of no significant hazards consideration. With regard to the revisions to MCPR Safety Limits, the licensee's analysis was as follows:

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Because the MCPR Safety Limits are operational thresholds analytically selected using proven methods, they cannot, themselves, initiate an accident. The probability of occurrence of transients is determined by the frequency of operator errors and equipment failures, not by the adequacy of the MCPR Safety Limits selected. Because the proposed MCPR Safety Limits have been selected such that no fuel damage is calculated to occur during the most severe moderate frequency transient events, they will ensure that the consequences of these events are not increased.

The response of the plant to transients will be within the bounds of the discussion in Chapter 14 and Appendix G of the Updated Final Safety Analysis Report since the proposed MCPR Safety Limits will accomplish the same objectives as the previous limits.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied. The MCPR Safety Limits are operational threshholds analytically selected using proven methods; therefore, they cannot, themselves, initiate an accident. An improperly selected limit could result in fuel damage, which is a consequence of previously evaluated accidents. Thus, no new or different type of accident could be created by revising the limits.

iii) The proposed changes do not involve a significant reduction in a margin of safety because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied and such that the conservatisms described in the Bases for the Fuel Cladding Integrity Safety Limit TS are maintained. Thus, margins of safety with the proposed MCPR Safety Limits are the same as with the previous limits.

With regard to the miscellaneous administrative changes, the licensee's analysis was as follows:

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because they do not affect operation, equipment, or any safety-related activity. Thus, these administrative changes cannot affect the probability or consequences of any accident.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because these changes are purely administrative and do not affect the plant. Therefore, these changes cannot create the possibility of any accident.

iii) The proposed changes do not involve a significant reduction in a margin of safety because the changes do not affect any safety-related activity or equipment. These changes are purely administrative in nature and increase the probability that the Technical Specifications are correctly interpreted by adding appropriate references and correcting errors. Thus, these changes cannot reduce any margin of safety.

The NRC staff has reviewed the licensee's analyses and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W.Washington, D.C. 20006

NRC Project Director: Walter R. Butler

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 22, 1990

Description of amendment request: This amendment specifies that the provisions of Trojan Technical Specification (TTS) 3.0.4 do not apply to TTS 3.7.6.1 regarding the operability requirements for two trains of independent control room emergency ventilation system, CB-1. This is done by incorporating the following words in the action statement for TTS 3.7.6.1: "c. The provisions of Specification 3.0.4 are not applicable."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

In accordance with the requirements of Title 10, of the Code of Federal Regulations, Part 50.92 (10 CFR 50.92), this LCA is judged to involve no significant hazards consideration based upon the following information:

1. Does the proposed license change involve a significant increase in the probability or consequences of an accident?

The addition of a TTS 3.0.4 exemption to TTS 3.7.6.1 does not affect any current accident analyses in that the TTS allows for one train of CB-1 to be inoperable for both MODE 5 and 6, as indicated in the ACTION statement.

Additionally, the proposed revisions to TTS 3.0.4, made in accordance with the guidance found in Generic Letter 87-09 and submitted in LCA 186, would allow transiting from MODE 6 to MODE 5. This change is consistent with that endorsed by Generic Letter 87-09.

2. Does the proposed license change create the possibility of a new or different kind of accident from any accident previously analyzed?

The addition of a TTS 3.0.4 exemption to TTS 3.7.6.1 does not create any new scenarios in that having one train of CB-1 inoperable in both MODE 5 and 6 is allowed per the ACTION statement. Additionally, the proposed revisions to TTS 3.0.4, made in accordance with the guidance found in Generic Letter 87-09 and submitted in LCA 186, would allow transiting from MODE 6 to MODE 5. This change is consistent with that endorsed by Generic Letter 87-09.

3. Does the proposed license change involve a significant reduction in a margin of safety?

The addition of a TTS 3.0.4 exemption to TTS 3.7.6.1 does not affect a margin of safety as the present ACTION statement allows for one train of CB-1 to be inoperable in both MODES 5 or 6.

The NRC staff has reviewed the licensee's no significant hazards consideration determination. Based upon this review, the staff agrees with the licensee's analysis. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: James E. Dyer

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: December 18, 1990

Description of amendment request: The proposed change would revise Technical Specification (TS) sections 3/

4.3.1, Reactor Trip System (RTS) Instrumentation, and 3/4.3.2, Engineered Safety Features Actuation System (ESFAS), and the associated Bases 3/4.3. The proposed change revises surveillance test intervals (STI) and allowed outage times (AOT) for ESFAS and RTS in agreement with WCAP-10271.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The determination that the results of the proposed change are within all acceptable criteria has been established in the SERs prepared for WCAP-10271, WCAP-10271 Supplement 1, WCAP-10271 Supplement 2 and WCAP-10271 Supplement 2, Revision 1 issued by

References 1, 2, and 5 [Letter from C. O. Thomas to J. J. Thomas, dated February 21, 1985, Letter from C. E. Rossi to R. A. Newton, dated February 22, 1985, and Letter from C. E. Rossi to G. I. Goering dated April 30, 1990, respectively]. Implementation of the proposed changes is expected to result in an acceptable increase in total Reactor Protection System yearly unavailability. The increase, which is primarily due to less frequent surveillance, results in an increase of similar magnitude in the probability of an Anticipated Transient Without Scram (ATWS) and in the probability of core melt resulting from an ATWS, and also results in a small increase in core damage frequency (CDF) due to ESFAS unavailability.

Implementation of the proposed changes is expected to result in a significant reduction in the probability of core melt from inadvertent reactor trips. This is a result of a reduction in the number of inadvertent reactor trips (0.5 fewer inadvertent reactor trips per unit per year) occuring during testing of RTS instrumentation. This reduction is primarily attributable to less frequent surveillance.

This reduction in inadvertent core melt frequency is sufficently large to counter the increase in ATWS core melt probability resulting in an overall reduction in total core melt probability.

The values determined by the WOG and presented in the WCAP for the increase in CDF were verified by Brookhaven National Laboratory (BNL) as part of an audit and sensitivity analyses for the NRC staff. Based on the small value of the increase compared to the range of uncertainty in the CDF, the increase is considered acceptable. The two Functional Units evaluated on a plant specific basis for the VCSNS [Virgil C. Summer Nuclear Station, Unit 1] fall within the same criteria and are also considered to be acceptable.

Editorial changes have no impact on the severity or consequences of an accident previously evaluated.

Changes to STF [STI] for the RTS interlocks do not represent a significant reduction in testing. The currently specified test interval for interlock channels allows the surveillance requirements to be satisfied by verifying that the permissive logic is in its required state using the annunciator status light. The surveillance, as currently required, only verifies the status of the permissive logic and does not address verification of channel setpoint or operability. The setpoint verification and channel operability are verified after a refueling shutdown. The definition of the channel check includes comparison of the channel status with other channels for the same parameter. Routine verification of permissive status is a different consideration than availability of trip or actuation channels required to change state on occurence of an event, for which the function availability is more dependent on the surveillance interval. Therefore, the change in surveillance requirement to at least once every 18 months does not represent a significant change in channel surveillance and does not involve a significant increase in unavilability of the Reactor Protection System.

The proposed changes do not result in an increase in the severity or consequences of an accident previously evaluated. Implementation of the proposed changes affects the probability of failure of the RTS/ESFAS, but does not alter the manner in which protection is afforded, nor the manner in which limiting criteria are established.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not invovle hardware changes and do not result in a change in the manner in which the RTS/ESFAS provides plant protection. The changes being made do not alter the function of the RTS/ESFAS. Therefore the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operation are determined. The impact of reducted testing, other than as addressed above, is to allow a longer time interval over which instrument uncertainties (e.g., drift) may act. Experimental data indicates that the initial uncertainty assumptions are valid for reduced testing.

Implementation of the proposed changes is expected to result in an overall improvement in safety by:

a. Less frequent testing will result in fewer inadvertent reactor trips and actuations of ESFAS components.
b. Higher quality repairs leading to improved equipment reliability due to longer repair times.
c. Improvements in the effectiveness of the operating staff in monitoring and controlling plant operation. This is due to less frequent distraction of the operator and shift supervisor to attend to instrumentation testing:

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendments request: December 14, 1990 (TS 90-22)

Description of amendments request: The Tennessee Valley Authority (TVA) proposes to modify Section 6.0, Administrative Controls, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes would (1) incorporate the overtime limit requirements that were provided in Generic Letter (GL) 82-16, "NUREG-0737 Technical Specifications," (2) delete the requirement for reporting Offsite Dose Calculation Manual changes and radiological waste treatment system changes in the monthly report, (3) change certain position titles, (4) change Plant Operations Review Committee (PORC) membership, (5) specify Plant Manager or Duty Plant Manager to approve administrative procedures and proposed plant modifications that affect plant nuclear safety, (6) revise the review and approval of proposed modifications, and (7) correct typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS revision will not change SQN's policy on overtime limits; it provides administrative control. Reporting of changes to the Offsite Dose

Calculation Manual and radioactive waste treatment systems will still be made in the Semiannual Radiological Effluent [Release] Report and the Final Safety Analysis Report. Changing the position titles and deleting the Operations Superintendent from Plant Operations Review Committee (PORC) membership do not decrease the level of required management oversight. Further restricting the approval authority level for administrative procedures and modifications and deleting workplan implementation terminology do not decrease level of review or approval. Correcting typographical errors is an administrative change. The proposed amendment, therefore, will have no effect on the probability or consequences of an accident previously analyzed in SQN's Final Safety Analysis Report.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change on overtime limits, position titles, PORC membership, procedure/modification review and approval, and typographical errors cannot in itself create an accident. Reporting of changes to the Offsite Dose Calculation Manual and radioactive waste treatment systems will still be made in the Semiannual Radiological Effluent [Release] Report and the Final Safety Analysis Report. The proposed amendment, therefore, does not present the possibility of any new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. The proposed change provides administrative control of overtime limits and does not involve a reduction in margin of safety. It is intended to minimize fatigue, which may enhance safety by improving alertness and attentiveness. Reporting of changes to the Offsite Dose Calculation Manual and radioactive waste treatment systems will still be made in the Semiannual Radiological Effluent [Release] Report and the Final Safety Analysis Report. Deleting the Operations Superintendent from the designated PORC composition is not a reduction in the margin of safety provided by PORC oversight, as Operations' management is still represented. Review and approval for administrative procedures and modifications are not being reduced; therefore, the margin of safety is not reduced. Changing the position titles and correcting typographical errors are administrative changes. The proposed amendment, therefore, will not involve a reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon

Previously Published Notices of Consideration of Issuance of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530 Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendments: November 13, 1990

Brief description of amendments: The proposed changes would increase the allowable setpoint tolerance for the pressurizer safety valves from 2500 psia plus or minus 1% to 2500 psia plus 3% or minus 1%; increase the allowable setpoint tolerance for the main steam safety valves from 1250 psig and 1315 psig plus or minus 1% to the same settings plus or minus 3%; reduce the minimum required feedwater flow from 750 gpm to 650 gpm; and reduce the response time for the high pressurizer pressure reactor trip from 1.15 seconds to 0.5 seconds.

Date of publication of individual notice in **Federal Register:** December 27, 1990 (55 FR 53220)

Expiration date of individual notice: January 28, 1991

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Consumers Power Company, Docket No. 50-255 , Palisades Plant, Van Buren County, Michigan, Docket No. 50-255, Palisades Nuclear Plant , Van Buren County, Michigan

Date of application for amendment: June 12, 1990 and revised November 9, and December 7, 1990

Brief description of amendment request: The proposed amendment would revise Technical Specifications 3.3.1.b "Emergency Core Cooling System", to reduce the required minimum boron solution level in the Safety Injection Tanks (SIT) from 186 inches to 174 inches, and to raise the maximum allowed tank level from 198 to 200 inches. This change effectively broadens the operating band at which SIT level must be maintained from 12 to 26 inches.

Two related Technical Specification changes were also submitted. First, a new surveillance requirement to check the SIT high and low level alarms was proposed to be included in TS table 4.1.2. Secondly, the Bases section for TS 3.3.1 has been updated and two TS references have been added.

The changes provide increased flexibility to the control room operators in maintaining SIT level within limits, while still providing assurance that adequate borated water is available for injection from the SITs.

Date of individual notice in **Federal Register:** December 28, 1991 (55 FR 53374)

Expiration date of individual notice: January 28, 1991

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255 , Palisades Plant, Van Buren County, Michigan, Docket No. 50-255, Palisades Nuclear Plant , Van Buren County, Michigan

Date of application for amendment: September 19, 1990

Brief description of amendment request: The proposed amendment would revise Technical Specifications Section 1.1, Section 2.1 basis and references, Section 2.3 and its associated basis and references, Section 3.1 and its associated basis and references, Section 3.10 basis and references, Section 3.12 references, Table 3.23-2, Section 3.23.2 and its associated basis, and Section 4.19.2.

The proposed amendment would modify the Palisades Plant Technical

Specifications to incorporate changes necessary for Cycle 9.

Date of individual notice in **Federal Register:** December 20, 1990 (55 FR 52230)

Expiration date of individual notice: January 22, 1991

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255 , Palisades Plant, Van Buren County, Michigan, Docket No. 50-255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of application for amendment: September 20, 1990 and as revised November 20, 1990.

Brief description of amendment request: The proposed amendment would revise Palisades Plant Technical Specifications (TS) Table 3.6.1, Containment Penetrations and Valves, to change the system name and service lines size of the existing bottom and surface steam generator blowdown lines. Also, a footnote would be added to the applicable TS pages delineating that only the penetration line sizes has been changed; the containment isolation valve size remains as is.

Date of individual notice in **Federal Register:** December 26, 1990 (55 FR 53087)

Expiration date of individual notice: January 25, 1991

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255 , Palisades Plant, Van Buren County, Michigan, Docket No. 50-255, Palisades Nuclear Plant , Van Buren County, Michigan

Date of application for amendment: November 2, 1990

Brief description of amendment request: The proposed amendment would allow use of the Regulatory Guide (RG) 1.97 qualified neutron monitoring system which is being installed during the current refueling outage. The changes in the neutron monitoring system involve using existing fission chambers, installing new cables from the fission chambers through two new electric penetrations to preamplifiers (previously located inside, but now located outside containment), and installing new cables from the preamplifiers to power sources in the Control Room. The new system is qualified to the criteria of RG 1.97, whereas the previously existing system was not. Additionally, a change is proposed to the description of the mechanically fixed absorber rods.

Specifically, Technical Specification (TS) 3.17, and Tables 3.17.1, 3.17.4, 3.25.1 4.1.1, 4.1.3, and 4.21.1 are updated to reflect the new RG 1.97 qualified neutron monitoring system installed during this outage. Additionally, TS 5.3.2d is revised to correct the description of fixed absorber rods in use at the plant.

Date of individual notice in **Federal Register:** December 24, 1990 (55 FR 52914)

Expiration date of individual notice: January 23, 1991

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama.

Date of application for amendment: August 27, 1990

Brief description of amendment: The amendment changes the Technical Specifications to provide heatup and cooldown curves applicable to the first 14 effective full power years of operation for the reactor.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment No.: 81

Facility Operating License No. NPF-8. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40456)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Arizona Public Service Company, et al., Docket No. STN 50-530, Palo Verde Nuclear Generating Station, Unit 3, Maricopa County, Arizona

Date of application for amendment: November 14, 1990

Brief description of amendment: The amendment allows the 18-month surveillance tests for the 125-volt batteries and containment penetration overcurrent protective devices to be deferred until the end of the next refueling outage (scheduled to begin March 16, 1991), but before June 15, 1991.

Date of issuance: January 3, 1991

Effective date: January 3, 1991

Amendment No.: 25

Facility Operating License No. NPF-74: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 28, 1990 (55 FR 49445) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1991.

No significant hazards consideration comments received: No comments.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: August 28, 1990

Brief description of amendments: Revise Technical Specification Surveillance Requirement 4.0.2 by deleting the requirement that allows the combined time interval for any three consecutive surveillance intervals not to exceed 3.25 times the specified surveillance interval. The change is based on the guidance of the Nuclear Regulatory Commission's Generic Letter 89-14, "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals." The supporting Bases for Technical Specification 4.0.2 are also revised to reflect the requested changes.

Date of issuance: January 2, 1991

Effective date: January 2, 1991

Amendment Nos.: 150 and 132

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 17, 1990 (55 42093)

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 21, 1990, as supplemented on November 8, and December 3, 1990.

Brief description of amendment: Modify technical specifications having cycle-specific parameter limits by replacing the value of those limits with a reference to a Core Operating Limits Report for the values of those limits.

Date of issuance: January 2, 1991

Effective date: January 2, 1991

Amendment No.: 133

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications. The supplemental information submitted on November 8 and December 3, 1990 withdrew the request to 1) add alternate requirements for fuel assemblies, 2) revise the reactor vessel water level safety limit, and 3) add an alternate action statement regarding APRM gain, and provided additional information regarding the amendment request that was not outside the scope of the original October 3, 1990 notice.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40458)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: May 22, 1990, as supplemented December 27, 1990.

Brief Description of amendments: The amendments change the Technical Specifications to delete Item 7, Residual Heat Removal Head Spray Flow, from Technical Specification Tables 3.3.5.2-1 and 4.3.5.2-1, dealing with remote shutdown monitoring instrumentation. The head spray mode of the residual heat removal is no longer in use at Brunswick and, as such, performing the required surveillances constitutes unnecessary personnel radiation exposure.

Date of issuance: January 9, 1991

Effective date: January 9, 1991

Amendment Nos.: 151 and 181

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30292)

The December 27, 1990 letter provided TS pages that did not change the initial determination of no significant hazards consideration as published in the Federal Register.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1991.

No significant hazards consideration comments received: No.

Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 21, 1990, as supplemented September 19, 1990, September 28, 1990, and October 18, 1990. The original amendment request was superseded October 19, 1990, and supplemented November 1, 1990, and December 21, 1990

Brief description of amendment: The amendment is required as a result of Plant Modification M1005 related to the plant vent system. The modification will: (1) upgrade the plant vent radiation monitor for particulate iodine, and noble gas detections; (2) upgrade the stack flow monitors and incorporate isokinetic sampling of the plant vent effluents; (3) provide new control room indication and recording equipment for the upgraded instrumentation; and (4) permanently divert the condenser air ejector discharge from the atmospheric vent to the plant vent and remove the automatic divert interlock from the condenser air ejector radiation monitor.

Date of issuance: January 10, 1991

Effective date: January 10, 1991

Amendment No. 131

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40461) and renoticed November 7, 1990 (55 FR 46880). The November 1 and December 21, 1990, submittal provided clarifying information that did not change the determination of no significant hazards consideration published in the **Federal Register** (55 FR 46880) on November 7, 1990. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: July 17, 1990, as supplemented November 30, 1990.

Brief description of amendment: The amendment added Centerior Service Company (CSC) as a licensee to the Facility Operating License. It authorized CSC and the Cleveland Electric Illuminating Company (CEI) to act as agents for the other licensees and granted them the exclusive responsibility and control over the construction, operation and maintenance of the facility. Changes to the Technical Specifications were also made to reflect the change in title of the

CEI Vice President-Nuclear Group to CSC Vice President, Nuclear (Perry) for consistency with the current organizational structure.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment No. 36

Facility Operating License No. NPF-58. This amendment revised the License and the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40463) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: August 14, 1990

Brief description of amendment: This amendment revises Technical Specification Sections 6.2.2.g(4), 6.5.1.2, and 6.3.4 to reflect changes in the organizational structure of the Operations and Engineering Departments.

Date of Issuance: January 2, 1991

Effective date: January 2, 1991

Amendment No.: 104

Facility Operating License No.DPR-6. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40464) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1991

No significant hazards consideration comments received. No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: August 15, 1990

Brief description of amendment: This amendment removes the provision of Specification 1.1.4 that limits the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval per guidance provided in Generic Letter 89-14 dated August 21, 1989.

Date of Issuance: January 2, 1991

Effective date: January 2, 1991

Amendment No.: 105

Facility Operating License No. DPR-6. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 30, 1990 (55 FR 40465) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1991

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: June 11, 1990

Brief description of amendment: This amendment revises the Appendix A TSs relating to the Reactor Coolant System heatup and cooldown rates for the first 10 effective full-power years. The proposed changes would modify Figures 3.4-2 and 3.4-3 of Appendix A Technical Specification 3.4.9.1.

Date of issuance: January 7, 1991

Effective date: January 7, 1991

Amendment No. 36

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 19, 1990 (55 FR 38600)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 7, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: October 9, 1990.

Brief description of amendment: The amendment to Arkansas Nuclear One, Unit 2 (ANO-2) Technical Specifications Table 3.6-1 deletes the exclusion of Type C leakage tests for containment isolation check valves.

Date of issuance: December 31, 1990

Effective date: 30 days from the date of issuance

Amendment No.: 112

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 28, 1990 (55 FR 49449) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of application for amendment: July 23, 1990

Brief description of amendment: The amendment allowed a decrease in the minimum measured flow requirement found in Table 3.2-1 of the Technical Specifications. The Reactor Core Safety Limit Figure 2.1-1 and Table 2.2-1 Functional Unit 12 footnote have also been revised accordingly.

Date of issuance: January 4, 1991

Effective date: January 4, 1991

Amendment No.: 152

Facility Operating License No. DPR-58. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36346). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 4, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Niagara Mohawk Power Corporation, Docket Nos. 50-220, and 50-410, Nine Mile Point Nuclear Station, Unit Nos. 1 and 2, Oswego County, New York

Date of application for amendments: September 21, 1990, as supplemented October 4, 1990, and November 30, 1990, for NMP-1 and September 21, 1990, as supplemented October 4, 1990, and December 10, 1990, for NMP-2

Brief description of amendments: These amendments revise Technical Specifications Section 6.0, Administrative Controls, to reflect management changes resulting from the reorganization of the Nuclear Division.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment Nos.: Unit 1, 120; Unit 2, 25

Facility Operating License Nos. DPR-63 and NPF-69: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** October 19, 1990 (55 FR 42524) The Commission's related evaluation of

the amendments is contained in a Safety Evaluation dated December 31, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: October 4, 1990

Brief description of amendment: Corrects administrative, editorial and typographical errors of previous amendments.

Date of issuance: December 20, 1990

Effective date: December 20, 1990

Amendment No.: 76

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 31, 1990 (55 FR 45885) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application amendments: September 11, 1990 (Reference LAR 90-07)

Brief description of amendments: The amendments revised Technical Specifications 4.7.7.1.b. to permit a one-time extension of the inspection period, for the case of one inoperable snubber of a given type, from 12 months plus or minus 25 percent to 15 months plus or minus 25 percent for Unit 1, Cycle 4. The change is needed to avoid an otherwise unnecessary unit shutdown and the associated potential challenges to plant safety systems.

Date of issuance: January 8, 1991

Effective date: January 8, 1991

Amendment Nos.: 58 and 57

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 14, 1990 (55 FR 47574) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 8, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: June 6, 1990 as supplemented September 14, 1990.

Brief description of amendment: Amendment revises security requirements to be consistent with permanent shutdown status of Fort St. Vrain reactor.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment No.: 78

Facility License No. DPR-34: Amendment revised the license

Date of initial notice in Federal Register: August 31, 1990 (55 FR 35745) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990 Public comments received: No comments or requests for hearing were received

Local Public Document Room Location: Greeley Public Library, City Complex Building, Greeley, Colorado 80631

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 4, 1990

Brief description of amendment: This amendment eliminated the Average Power Range Monitor (APRM) downscale RPS scram Technical Specification requirements. The APRM downscale scram was designed to reactivate the Intermediate Range Monitor (IRM) upscale scram functions when the associated APRM channel is downscale and the Reactor Mode switch is in the Run position.

Date of issuance: January 2, 1991

Effective date: As of the date of issuance and shall be implemented within 60 days of the date of issuance.

Amendment No. 39

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 3, 1990 (55 FR 40473) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: November 8, 1990

Brief description of amendments: These amendments revise Technical Specification (TS) 3/4.7.1.1, "Safety Valves," TS Table 3.7.1, "Steam Line Safety Valves Per Loop," TS Table 3.7-2, "Maximum Allowable Linear Power Level-High Trip Setpoint With Inoperable Steam Line Safety Valves During Operation With Both Steam Generators," and the corresponding Bases section.

Date of issuance: December 28, 1990

Effective date: December 28, 1990

Amendment Nos.: 91 and 81

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 28, 1990 (55 FR 49458) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 28, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: November 7, 1990

Brief description of amendment: Provisional Operating License No. DPR-13 was modified by an NRC Order dated January 2, 1990, which required that the Cycle 11 and Cycle 12 Full Term Operating License (FTOL) projects be completed in accordance with the schedules that were attached to the Order. This amendment revises the schedule that was established for completing Cycle 11 FTOL Projects No. 5 (RHR Overpressure Protection) and No. 18 (Containment Venting).

Date of issuance: December 28, 1990

Effective date: December 28, 1990

Amendment No.: 141

Provisional Operating License No. DPR-13: The amendment revised the SONGS 1 Cycle 11 FTOL Projects schedule.

Date of initial notice in **Federal Register:** November 28, 1990 (55 FR 49457) The Commission's related evaluation of the amendment is contained in a letter dated December 28, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: June 4, 1990 as supplemented October 24, 1990.

Brief description of amendments: The amendments revise the Technical Specifications (TS) to (1) change the Reactor Protection System circuit protection trip level setpoints for Unit 2, (2) add surveillance requirement 4.1.B.2 to Units 1 and 3 TS with the new setpoints, (3) add surveillance requirement 4.1.B.1 with the new setpoints, to Unit 3 TS and (4) add limiting conditions for operation 3.1.B.1 and 3.1.B.2 to Unit 3 TS.

Date of issuance: January 3, 1991

Effective date: January 3, 1991

Amendment Nos.: 178, 184, and 149

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1991.

The October 24, 1990, letter provided clarification and did not change the no significant hazards consideration determination as published.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: July 6, 1990; supplemented July 13, 1990

Brief description of amendment: The amendment changes the Technical Specifications (TS) to revise (1) the Automatic Depressurization System (ADS) initiation and high drywell bypass timer names and setpoints, (2) the number of operable ADS valves required for startup, (3) the limiting conditions for operation (LCO) to operate with inoperable valves and (4) the ADS TS bases.

Date of issuance: January 9, 1991

Effective date: January 9, 1991, and shall be implemented within 30 days

Amendment Nos.: 185

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36351) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 9, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: July 13, 1990 as supplemented by letter dated September 17, 1990 (TS 290)

Brief description of amendment: The amendment revises the Technical Specification (TS) Table 3.2.B to incorporate new allowable setpoint values for the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) steam line space instrument channels. TS Tables 3.2.B and 4.2.B are revised to indicate where temperatures are being monitored. The notes for TS Table 3.2.B have been revised to include a new note on operability requirements and delete a note no longer needed.

Date of issuance: January 10, 1991

Effective date: January 10, 1991 and shall be implemented within 30 days

Amendment No.: 187

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36352) The additional information provided in the September 17, 1990 letter did not change the substance of the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: August 6, 1990 as supplemented October 9, 1990 (TS 291)

Brief description of amendment: The amendment revises Level 1 low reactor pressure vessel water level Limiting Safety System Setting and Safety Limit. In addition, the temporary provisions of Amendment 158, related to reactor low water level instruments, are deleted.

Date of issuance: January 2, 1991

Effective date: January 2, 1991, and shall be implemented within 30 days

Amendment No.: 183

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** (55 FR 36353) September 5, 1990 The October 9, 1990 letter mentioned above provided clarifying information that did not change the initial determination of no significant hazards consideration as previously published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: August 6, 1990

Brief description of amendments: These amendments revise Table 3.2.A, Note 1.D to allow the operators one hour to isolate shutdown cooling under certain circumstances.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment Nos.: 177, 182, 148

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36355) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendments: July 13, 1990

Brief description of amendments: This amendment will assure the availability of emergency power from Unit 3 to support Unit 2 operation.

Date of issuance: January 9, 1991

Effective date: January 9, 1991

Amendment Nos.: 186 for Unit 2 and 150 for Unit 3

Facility Operating Licenses Nos. DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36354) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: July 17, 1990

Brief description of amendment: The amendment added Centerior Service Company as a licensee in the Facility Operating License, and authorized the Toledo Edison Company and Centerior Service Company to act as agent for the Cleveland Electric Illuminating Company, and have exclusive responsibility and control over the construction, operation and maintenance of the facility. The amendment also added a new condition to the license related to the existing antitrust conditions.

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment No. 152

Facility Operating License No. NPF-3. Amendment revised the License.

Date of initial notice in **Federal Register:** September 19, 1990 (55 FR 38606) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990. No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: March 8, 1990

Brief description of amendments: These amendments eliminate the monthly flush requirements for the sensitized stainless steel piping installed in the safety injection and containment spray systems.

Date of issuance: December 28, 1990

Effective date: December 28, 1990

Amendment Nos. 150, 147

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 14, 1990 (55 FR 47579) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: October 11, 1990, as supplemented October 12, 1990

Brief description of amendments: These amendments add the position of Supervisor Shift Operations to the Surry TS. The individual in this position would be required to fulfill the functional and qualification requirements of the "Operations Manager" as required by ANS-3.1 (12/79 Draft).

Date of issuance: December 31, 1990

Effective date: December 31, 1990

Amendment Nos. 151, 148

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 31, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: July 2, 1990, as supplemented July 3, July 9, July 12, July 23, September 6 and September 28, 1990

Brief description of amendments: . These amendments modify the Technical Specifications to accommodate changes made to the plant as a result of the Emergency Power System Enhancement Project.

Date of issuance: December 28, 1990

Effective date: December 28, 1990

Amendment Nos. 138 and 133

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 26, 1990 (55 FR 39331)

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards

and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By February 8, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: December 28, 1990, as supplemented on December 31, 1990 and January 4, 1991.

Brief description of amendment: The emergency amendment consists of changes to Technical Specification Table 4.10-2, Steam Generator Tube Inspection, by substituting the additional tube inspections in steam generator (S/G) No. 2, and in S/G No. 3 if required, for required tube inspections in S/G No. 1.

Date of issuance: January 4, 1991

Effective date: January 4, 1991

Amendment No.: 118

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 4, 1991

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: John A. Ritsher, Esquire, Ropes and Gray, 255 Franklin Street, Boston, Massachusetts 02110

NRC Project Director: Richard Wessman

Dated at Rockville, Maryland, this 15th day of January 1991.

For the Nuclear Regulatory Commission

Martin J. Virgilio,

Acting Director, Division of Reactor Projects - III/IV/V Office of Nuclear Reactor Regulation

[Doc. 91-1396 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50-416 and 50-417]

Mississippi Power and Light Co., Grand Gulf Nuclear Station; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for the Grand Gulf Nuclear Station from the George M. McLendon Library, Hinds Community College, Raymond, Mississippi, to the Judge George W. Armstrong Library, Natchez, Mississippi. The relocation was at the request of the McLendon Library which was no longer able to maintain the collection due to limited library space. Members of the public may now inspect and copy documents and correspondence related to the operation of the Grand Gulf Nuclear Station at the Judge George W. Armstrong Library, S. Commerce at Washington Streets, Natchez, Mississippi 39120. The library is open on the following schedule: Monday through Thursday 9 am to 6 pm; Friday 9 am to 5 pm; and Saturday 9 am to 1 pm.

For further information, interested parties in the Natchez area may contact the LPDR directly through Ms. Elizabeth Roderick, Library Director, telephone number (601) 445-8862. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document room, 2120 L Street, NW. (Lower Level), Washington, DC 20555, telephone number (202) 634-3273.

Questions concerning the NRC's local public document room program or the availability of documents at the Grand Gulf LPDR should be addressed to Ms. Jona Souder, LPDR Program Manager, Freedom of Information Act/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone number (301) 492-7536, or Toll-Free 800-638-8081.

Dated at Bethesda, Maryland, this 16th day of January 1991.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 91-1527 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al; Millstone Nuclear Power Station, Unit No. 2; Exemption

I

The Northeast Nuclear Energy Company, et. al. (the licensee), is the holder of Facility Operating License No. DPR-65 which authorizes operation of the Millstone Nuclear Power Station, Unit No. 2, at a steady state power level not in excess of 2700 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in the town of Waterford, Connecticut. The license provides, among other things, that it is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

One of the conditions of all operating licenses for water-cooled power reactors as specified in 10 CFR 50.54(o) is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. Section III of appendix J contains three subsections, lettered A through C, each of which specifies requirements for a particular aspect of containment leak testing. Sections III.A

and III.C are the subjects of this exemption request. Specifically, section III.A identifies certain components subject to requirements of section III.C and section III.C of appendix J identifies leakage testing requirements (Type C Tests) for containment isolation valves that can provide a direct connection between the inside and outside atmospheres of the primary reactor containment under normal operating conditions.

III

By letter dated June 8, 1990, the licensee requested an exemption from the requirements of Section III.A and Section III.C of Appendix J to the extent that it requires Type C (local leak rate) testing of containment isolation valves in the reactor building closed cooling water (RBCCW) system. The acceptability of the exemption request is addressed below. Details are contained in the NRC staff's related Safety Evaluation.

The licensee has provided several reasons to support the contention that the exemption would not present an undue risk to the public health and safety. First, the 12 RBCCW system valves are designed to be open in the event of an accident because the RBCCW system is intended to cool the Containment Air Recirculation (CAR) system. This safety related function requires the circulation of water in the RBCCW system (at a minimum pressure of 60 psig) in the event of an accident and consequently requires the valves to be open. As a result, the valves do not receive a containment isolation signal in the event of an accident—the remote manual actuation switches for some valves are locked in the open position in the control room; other valves will open on a Safety Injection Actuation System signal. Moreover, on a failure of DC power or instrument air, the valves would fail in the open position. Clearly, if the valves are open as designed during an accident, their leak-tight integrity is irrelevant.

Second, the maximum calculated pressure in the containment in the event of a design bases accident is 54 psig. Because the minimum design pressure in the RBCCW system is 60 psig, the only leakage through the valves would be into the containment from the RBCCW system. It may be that a single active failure (e.g., of a pump), or failure of a component that may not be safety-grade or may only satisfy some but not all of the current staff standards for safety-grade equipment, might result in RBCCW pressure be less than 54 psig, but it is likely that system pressure will be as designed. Also, the valves would be required to close only if an RBCCW system line or CAR system cooler ruptured inside the containment. However, the possibility of a rupture in connection with a design basis accident is small. Specifically, the RBCCW system is a Seismic Category 1 system; it is designated Safety Class 3 inside the containment; and it is protected from missiles projected through failures of components that are not Seismic Category 1 by virtue of its location and configuration. Although current standards for a closed system inside containment call for it to be Safety Class 2, the licensee states the fabrication of the RBCCW system to Safety Class 3 requirements was in accordance with the acceptance criteria for those systems in effect when it was designed; thus, consistent with the licensing basis of the plant, the probability of rupture should be assumed to be extremely small. The staff finds, for this low energy system, the differences in Safety Classes 2 and 3 in terms of fabrication and surveillance requirements is sufficiently small that there is good likelihood that the system will remain intact during an accident.

Third, the licensee states that in the event of an accident with no RBCCW system operational, the surge tank that feeds the RBCCW system and through which it is vented would, as a result of its evaluation, maintain a minimum pressure therein of 42 psig. Therefore, the only leakage through the valves into the RBCCW system would be that forced by containment pressure in excess of 42 psig. Although the maximum calculated pressure in the containment in the event of a design basis accident is 54 psig, it is unlikely to remain above 42 psig after the initiation of containment spray. Moreover, even if the containment atmosphere in an accident leaks into the RBCCW system and into its surge tank, that atmosphere would escape only into the enclosure building, where it would be collected and processed by the Enclosure Building Filtration System; a spill from the surge tank would be retained in the enclosure building. Consequently, the impact of valve leakage is reduced.

Based on the above, the staff concluded that the request to exempt the 12 RBCCW system valves from Type C testing to be justified and acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(ii), are present justifying the exemption, namely that the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in Section III above from the requirements of sections III.A and III.C of appendix J to 10 CFR part 50.

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of this Exemption will not result in any significant impact on the environment.

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 15th day of January, 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1524 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Exemption

I

The Sacramento Municipal Utility District (the licensee, SMUD) is the holder of Facility Operating License No. DPR-54 which authorizes the operation of the Rancho Seco Nuclear Generating Station. The facility is a pressurized water reactor located at the licensee's site in Sacramento County, California. It is currently defueled and, by Confirmatory Order dated May 2, 1990, "the licensee is prohibited from placing any nuclear fuel into the Rancho Seco reactor building without prior approval from the NRC." This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR 50.54(w), each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain onsite property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) that it possesses an equivalent amount of protection covering the facility, provided, among other things, that this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by

either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance. On August 5, 1987, the Commission amended this regulation to require a minimum coverage limit for the reactor station site of either $1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less (52 FR 28963).

III

The licensee, prior to this change, was required to carry the full amount of onsite primary property damage insurance coverage ($1.06 billion). By letter dated March 5, 1990, as amended October 22, 1990, the licensee requested an exemption to reduce the amount of property damage insurance from the full amount of $1.06 billion to $30 million. The licensee states that the requirement to fully comply with the regulation represents an undue financial hardship and burden. In the letter dated October 22, 1990, the licensee provided its justification that $30 million of primary property damage insurance provides an adequate level of coverage to stabilize, clean up or decontaminate the Rancho Seco facility based on the limited and much less severe accidents that could occur given the defueled condition.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances exist when compliance with a rule would not serve the purpose of or is not necessary to achieve the underlying purpose of the rule. Pursuant to 10 CFR 50.12(a)(2)(iii) special circumstances exist if compliance would result in undue hardship or costs in excess of those contemplated when the regulation was adopted, or costs that are significantly in excess of those incurred by others similarly situated.

By letter dated March 5, 1990, as amended October 22, 1990, the licensee requested an exemption from one of the requirements of 10 CFR 50.54(w)(1). The licensee has requested that it not be required to carry the full amount ($1.06 billion) of the required onsite property insurance. This limit is based on the Rancho Seco's current defueled condition.

SMUD contends that exemption from the requirement for the full amount of onsite damage insurance while in the prolonged defueled condition is justified by the following:

1. Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve its underlying purpose, 10 CFR 50.12(a)(2)(ii), and

2. Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted or that are significantly in excess of those incurred by others similarly situated, 10 CFR 50.12(a)(2)(iii).

SMUD has requested, that in lieu of the current required coverage, that it be allowed to carry $30 million of onsite insurance. SMUD calculated this amount based on an accident analysis that takes into account the maximum credible accident that could occur given Rancho Seco's current defueled status.

IV

The staff has reviewed the licensee's request for exemption and finds that requiring the licensee to carry the full amount of onsite property damage insurance coverage, $1.06 billion, as required by 10 CFR 50.54(w)(1), would result in undue hardship, costs in excess of those contemplated when the regulation was adopted and costs in excess of those incurred by others similarly situated.

Further, the staff has concluded that requiring a full amount of onsite primary property damage insurance coverage of $1.06 billion, rather than a lesser amount of $30 million, is not necessary to serve or achieve the underlying purpose of 10 CFR 50.54(w)(1), as the plant is in a defueled, shutdown condition and the costs of onsite damage from any credible accident with the plant in such a condition would not exceed $30 million.

The staff also concludes that issuance of this exemption will have no significant effect on the safety of the public or the plant. Further, the licensee has shown special circumstances as described in the staff's supporting safety evaluation to support the exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. As indicated above, compliance with 10 CFR 50.54(w)(1) would result in undue costs considering the current operational restrictions placed on the Rancho Seco facility, and costs that are significantly in excess of the cost incurred for similar insurance by the other facilities in similar circumstances. Thus, special circumstances as described in both 10 CFR 50.12(a)(2)(ii) and (iii) exist. Consequently, the exemption falls within each of these special circumstances determined by the Commission to be sufficient to support the exemption. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt from the requirement to carry onsite property damage insurance coverage in the full amount called for by 10 CFR 50.54(w)(1) until such time that SMUD places nuclear fuel into the Rancho Seco reactor building, provided that the licensee maintain such onsite property damage insurance in an amount not less than $30 million.

The applicant's letters dated March 5, 1990, and October 22, 1990, and the NRC staff's letter and Safety Evaluation related to this action are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC 20555, and the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

The exemption is effective 10 working days from the date of issuance.

Dated at Rockville, Maryland this 16 day of January 1991.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1525 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

Renewal of Facility License No. R-92; University of Texas

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility License No. R-92, issued to the University of Texas (the licensee), which issues the possession-only license and renews the facility license for the facility located on the University Campus in Austin, Texas. The license will expire on February 12, 1993.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended

(the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on December 6, 1990 (55 FR 50425). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a related Safety Evaluation for the renewal of Facility License No. R-92 and has, based on that evaluation, concluded that the facility can continue to be maintained by the licensee without endangering the health and safety of the public.

The Commission also has prepared an Environmental Assessment which was published in the **Federal Register** on January 15, 1991 (56 FR 1544), for the renewal of Facility License No. R-92 and has concluded that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this section, see: (1) The application for amendment dated October 19, 1990; (2) Amendment No. 12 to Facility License No. R-92; (3) the related Safety Evaluation; and (4) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 16th day of January 1991.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-1528 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 127 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee), which revised the operating license of the Vermont Yankee Nuclear Power Station located in Vernon, Vermont. The amendment was effective as of the date of issuance.

The amendment revised the operating license to reflect a change in the expiration date of Facility Operating License No. DPR-28 from December 11, 2007 to March 21, 2012.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which is set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 26, 1989 (54 FR 31120). By letter, dated August 22, 1989, the State of Vermont filed a petition for leave to intervene and requested an evidentiary hearing. An Atomic Safety and Licensing Board was established to consider this matter and the State of Vermont was admitted into the proceeding as an intervenor. A hearing has not yet been scheduled.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact (55 FR 26313) related to the action and has concluded that an environmental impact statement is not warranted and that the issuance of this amendment will not have a significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated April 27, 1989 as supplemented on June 23, 1989 (2) Amendment No. 127 to License No. DPR-28 dated December 17, 1990, and (3) the Commission's related Safety Evaluation and Environmental Assessment.

All of these items are available for public inspection at the Commission's Public Document room, 2120 L Street, NW., Washington, DC and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

Dated at Rockville, Maryland, this 15th day of January 1991.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,

Project Manager, Project Directorate I-3, Division of Reactor Projects I/II Office of Nuclear Reactor Regulation.

[FR Doc. 91-1526 Filed 1-22-91; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28781; File No. SR-Amex-90-28, Amdt. No. 1]

Self-Regulatory Organizations; Filing of Amendment to Proposed Rule Change by American Stock Exchange, Inc. Relating to Equity Index Participations

January 14, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 7, 1991, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. 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 Amex proposes to amend Amex Rule 903F to provide that the liquidating index value applicable to Equity Index Participation ("EIP") holders exercising the cash-out privilege on the same quarterly date on which the Options Clearing Corporation ("OCC") accepts notices of exercise of the physical delivery privilege (*e.g.*, the trading day prior to Expiration Friday) will be derived from opening prices the next day (*e.g.*, Expiration Friday). In addition, rule 910F would be amended to provide a 3 p.m. New York Time exercise cut-off time with respect to exercise of the daily cash-out privilege, and a 3 p.m. deadline for delivery of an "exercise advice." The proposed cut-off time would not apply to exercise of the physical delivery privilege or to exercise of the cash-out privilege on the same quarterly date on which OCC accepts notices of exercise of the physical delivery privilege.

The text of the proposed rule change is attached as exhibit A.

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 Amex included statements concerning the purpose of the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

In File No. SR-Amex-90-28, the Amex has proposed to amend its rules governing EIPs, rules 900F *et seq.*, to provide for both daily exercise based on the liquidating index value at the close of trading on the date of exercise as well as quarterly exercise of the physical delivery privilege. As proposed in SR-Amex-90-28, rule 903F (Liquidating Index Value) provides that the liquidating index value for a class of EIPs shall be derived from closing prices reported on that day by the primary market for the component index stocks. The Exchange proposes to further amend rule 903F to provide that the liquidating index value will be derived from the next trading day's opening prices rather than the same day's closing prices, for purposes of facilitating (1) Quarterly exercise of the physical delivery privilege, and (2) exercise of the cash-out privilege on the same quarterly date on which OCC accepts physical delivery privilege exercise notices. Thus, for example, all EIP holders exercising the physical delivery privilege on the trading day preceding the third Friday of March, June, September and December ("Expiration Friday"), and those exercising the cash-out privilege on such trading day, would receive delivery of shares or cash payment, as the case may be, based on the opening prices reported by the primary market in the component index stocks on Expiration Friday.

The proposed change is necessary to accommodate the delivery of shares by the physical delivery facilitator in the event that the number of EIPs delivery units made available by persons having short positions is less than the number of delivery units for which exercising holders have requested physical delivery. In such case, the facilitator would be required to enter market orders in each component stock, for execution at the opening on Expiration Friday, sufficient to satisfy any imbalance, and to make delivery of such shares in accordance with Exchange and OCC rules.

Because the facilitator is compensated for such purchases from short positions that have been assigned exercise notice, it is necessary for such payment to be based on the opening on Expiration Friday rather than the prior trading day's closing price to avoid a potential disparity between the price of shares purchased by the facilitator and the amount of cash available for payment from shorts that have been assigned exercise notices.

In addition, the Exchange is proposing to further amend Rule 910F to provide that the exercise cut-off time with respect to the daily cash-out privilege shall be 3 p.m. New York Time on the day of exercise in order for an EIP holder to receive the liquidating index value derived from closing prices reported on that day. This is the latest time at which an exercise instruction may be (1) Prepared by a clearing member organization for positions in its proprietary trading account, (2) accepted by a clearing member organization from a non-clearing member, or (3) accepted by a member organization from any customer. An "exercise advice" would also be required to be delivered by 3 p.m. to a place designated by the Exchange.

The 3 p.m. exercise cut-off time would not apply to exercises of the physical delivery privilege or to exercise of the cash-out privilege on the same quarterly date on which OCC accepts physical delivery exercise notices, insofar as the applicable liquidating index value for such exercises would be derived from the next day's opening prices. The Exchange will announce the applicable cut-off time for such exercises prior to the beginning of the quarter to which it is applicable. Members and member organizations would be permitted to establish the latest time that exercise instructions could be accepted from their customers, consistent with Amex and OCC rules.

Rule 910F also would provide for receipt of exercise instructions after the applicable exercise cut-off time but before the cut-off time specified by OCC with respect to the tender of EIP exercise notices only under specified conditions (*e.g.*, in order to remedy mistakes made in good faith). Commentary .01 would require a member receiving an exercise instruction or tendering an exercise notice pursuant to any of the enumerated exceptions to maintain a memorandum regarding the exception and to promptly file a copy with the Exchange.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objective of section 6(b)(5) in particular in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Amex 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 the public in

accordance with the provisions of 5 U.S.C. 552, will be available foı 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 Amex. All submissions should refer to File No. SR-Amex-90-28 and should be submitted by February 13, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A.—American Stock Exchange, Inc.; Proposed Rule Change

(Brackets indicate proposed deletions from current Exchange rules; italics indicate proposed additions to current rules.)

Section 14. Equity Index Participations

Liquidating Index Value

Rule 903F. The liquidating index value in respect of a particular class of Equity Index Participations shall be derived *on each business day* from the [opening] *closing* prices reported *on that day* by the primary market for the component stocks of the stock index; *provided, however, that, with respect to (a) the exercise of the physical delivery privilege, and (b) the exercise of the cash-out privilege on the same quarterly date on which the Options Clearing Corporation accepts physical delivery privilege exercise notices, the liquidating index value shall be derived from the opening price reported by the primary market for the component stocks of the stock index on the first trading day following such quarterly date.* [on the first trading day following the date each quarter as of which Equity Index Participation holders are entitled to exercise the delivery privilege or the cash-out privilege.] For any component stock that does not open for trading on such day, the closing price on the last preceding day on which such stock traded on the primary market, will be used for purposes of determining the liquidating index value.

Exercise of Physical Delivery or Cash-Out Privilege

Rule 910F.(a) Notice of exercise of the Equity Index Participation *physical* delivery or cash-out privilege must be provided by a holder of an Equity Index Participation on or before a time specified and made public by the Exchange and *must be* [which is] in accordance with the Rules of The Options Clearing Corporation. Specific exercise cut-off times will also be delineated for Exchange member organizations. [The deadline for exercising the delivery or cash-out privilege in respect of a class of Equity Index Participations shall be announced by the Exchange prior to the beginning of the quarter to which it is applicable.] An exercise notice may be tendered to The Options Clearing Corporation only by the clearing member in whose account with The Options Clearing Corporation the Equity Index Participation is carried. Members and member organizations shall establish fixed procedures not inconsistent with the rules and policies of the Exchange and The Options Clearing Corporation, as to the latest hour at which they will accept exercise *instructions* [notices] from their customers.

(b) The deadline for exercising (i) the physical delivery privilege, or (ii) the cash-out privilege on the same quarterly date on which The Options Clearing Corporation accepts physical delivery notices, in respect of a class of Equity Index Participations, shall be announced by the Exchange prior to the beginning of the quarter to which it is applicable.

(c) With the exception of quarterly exercise of the cash-out privilege referenced in paragraph (b) of this rule, the exercise cut-off time with respect to the cash-out privilege for all member organizations shall be 3:00 p.m. New York Time on the day of exercise in order for the Equity Index Participation holder to receive the liquidating index value derived from closing prices reported on that day. This is the latest time at which an exercise instruction may be (1) prepared by a clearing member organization for positions in its proprietary trading account, (2) accepted by a clearing member organization from a non-clearing member, or (3) accepted by a member organization from any customer. In addition, any member or member organization that intends to submit an exercise notice with respect to the cash-out privilege on its own behalf or on behalf of an individual customer must deliver an "exercise advice" in a manner prescribed by the Exchange to a place designated by the Exchange no later than 3:00 p.m. New York Time.

(d)[(b)] A person maintaining a short position of one or more delivery units of a class of Equity Index Participations and that desires to make physical delivery of securities if assigned an exercise notice, must provide notice on or before a time specified by the Exchange prior to each exercise time in accordance with the Rules of The Options Clearing Corporation.

(e)[(c)] The term "exercise instruction," with respect to a customer, means the notice given to a member organization to exercise an Equity Index Participation. All such exercise instructions must be time stamped at the time they are prepared by the receiving member organization.

(f) [Notwithstanding the foregoing,] Member organizations may receive exercise instructions after the applicable exercise cut-off time, but prior to the *cut-off time specified by The Options Clearing Corporation with respect to the tender of Equity Index Participation exercise notices* [delivery or cash-out time] *solely* (i) in order to remedy mistakes made in good faith, (ii) to take appropriate action as the result of a failure to reconcile unmatched Exchange Equity Index Participation transactions, or (iii) where exceptional circumstances relating to a customer's ability to communicate exercise instructions to the member organization (or the member organization's ability to receive exercise instructions) prior to such time warrant such action.

Commentary .01

In the event a member organization receives an exercise instruction or tenders an exercise notice pursuant to an exception set forth in clauses (i), (ii), or (iii) of paragraph (f) of Rule 910F, the member organization shall maintain a memorandum setting forth the circumstances giving rise to such exception and shall promptly file a copy of the memorandum with the Exchange.

[FR Doc. 91-1464 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28773; File No. SR-CBOE-90-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Inc. Relating to Proposed Amendments to Exchange Procedures Governing Administration of Securities Industry Arbitration

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to amend the following rules governing the administration of arbitration at the Exchange.

The proposed amendment of rule 18.20 increases the fee for adjournments and grants the arbitrators express authority to dismiss cases without prejudice in the event of repeated adjournments. The proposed amendment to rule 18.33 provides arbitrators with express authority to award interest and with discretion to determine the rate of interest. Proposed rule 18.33 also states that awards shall bear interest from the date of award and requires that awards be paid within thirty (30) days of receipt.

The proposed amendment to rule 18.33 requires the parties to customer and member disputes to make a hearing session deposit in addition to the filing fee, provides a schedule of fees for a pre-hearing conference with an arbitrator and permits the Exchange to retain the filing fee when a case is resolved in any manner other than by a hearing. The proposed adoption of rule 18.36 provides the Exchange with express authority to discipline its members for failure to pay an award.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule changes are based for the most part on proposals developed by the Securities Industry Conference on Arbitration ("SICA").[2] In general, the proposed rule changes are intended to conserve the arbitral resources of the Exchange; to increase the fee for adjournments; to grant the arbitration panel authority to dismiss cases without prejudice after repeated adjournments; to provide arbitrators with guidelines for awarding interest; to set forth a time period for payment of awards; to more equitably allocate the costs of arbitration among the users of the forum; to clarify the distinction between customer, industry and member claims and to which disputes the various fees apply; and to provide the Exchange with explicit authority to take disciplinary actions against its members for non-payment of awards.

(A) Purpose

The purpose of the proposed rule changes are as follows:

- to discourage adjournments and thus promote the efficiency and equity of the arbitration process by increasing the fee for adjournments and providing arbitrators with the authority to dismiss cases without prejudice in instances of repeated adjournments (rule 18.20). At present, there are a significant number of last-minute adjournments, despite months of notice of hearing dates. These adjournments waste arbitrator time and Exchange resources. The Exchange intends to use part of these adjournment fees to compensate arbitrators.
- to encourage prompt payment of awards and increase confidence in the arbitration process by expressly providing that interest on awards accrues from the date of the award and empowering the Exchange to discipline its members who fail to pay awards (rule 18.31). At present, the Exchange relies upon its implicit authority to seek such disciplinary action against its members.
- to allow for the retention by the Exchange of filing fees (rule 18.33). This amendment will promote the equitable nature of arbitration by allocating the costs of arbitration among the users of the forum in proportion to the size and complexity of the claim. Currently, the Exchange retains a fixed amount when a case is resolved other than by hearing, regardless of the amount of the claim or the number of claims and parties involved.
- to eliminate uncertainty regarding the fees for prehearing conferences by setting forth a table of fees for such conferences based on the amount of the claim (rule 18.33).
- to eliminate the ambiguity regarding classification of disputes by setting forth two (2) distinct categories: customer claimants, and member claimants against members (member/member controversies) (rule 18.33).

(B) Basis

The proposed rule changes are consistent with sections 6(b) (4) and (5) of the Act in that they provide for the equitable allocation of reasonable dues, fees and other charges among the members of the Exchange and issuers and other persons using its facilities and in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the resolution of disputes.

B. Self-Regulatory Organization's Statement on Burden of Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were 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 other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the

[1] For the exact language of the proposed rule change see Exhibit A to File No. SR-CBOE-90-35.

[2] The Commission notes that SICA developed a Uniform Code of Arbitration ("Uniform Code") in 1977 which since has been adopted by the self-regulatory organizations ("SROs") that maintain arbitration forums. Since 1977, the original Uniform Code has been amended and the CBOE's proposal being noticed herein codifies certain, recent modifications to the Uniform Code which have been approved by SICA. Further, the CBOE's proposal is substantially similar to a proposed rule change submitted by the New York Stock Exchange, Inc. ("NYSE") which recently was approved by the Commission. See Securities Exchange Act Release No. 28421 (September 10, 1990), 55 FR 38181 (order approving File No. SR-NYSE-90-19).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-90-35 and should be submitted by February 13, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 14, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1462 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28779; File No. SR-CSE-90-13]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Member Fees and Assessments

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 28, 1990, the Cincinnati Stock Exchange ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE, pursuant to Rule 19b-4 of the Act, submitted a proposed rule change to amend its transaction fees for its Designated Dealers (market makers). The present charge of $0.0125 per share for principal transactions (other than public agency order guaranteed transactions) is to be reduced to $0.01125 per share. In addition, excluding shares traded in certain public agency transactions at $0.005 per share, there is to be no charge on principal transactions by Designated Dealers in months where the volume of such transactions exceeds 650,000 shares times the number of trading days in that month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the Exchange's fees for principal transactions by its Designated Dealers. This is intended to encourage market making on the Exchange.

The proposed rule change is consistent with the provisions of section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among users of the Exchange's facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange made no general solicitation of comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR-CSE-90-13 and should be submitted by February 25, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 14, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1467 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28780; File No. SR-MSE-90-18]

Self-Regulatory Organizations: Filing of Proposed Rule Change by Midwest Stock Exchange, Incorporated Relating to an Emergency Procedure for Disseminating Quotes and Last Sale Information Should the Securities Industry Automation Corporation Experience a System Failure

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 November 5, 1990, the Midwest Stock Exchange, Incorporated 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 Midwest Stock Exchange, Incorporated ("MSE" or "Exchange"), proposes to establish a back-up, emergency procedure that will allow the MSE to retain its ability to disseminate quotes and last sale information should the Securities Industry Automation Corporation ("SIAC") become unable to do so. SIAC is a registered Securities Information Processor ("SIP") for listed reported securities. MSE's emergency procedure would involve redirecting MSE quotes and last sale output to Quotron Systems, Inc. ("Quotron") which would act as an alternate SIP only in emergency situations. The MSE currently has the ability to implement the proposed back-up procedures by virtue of the installation of two separate direct dial lines to Quotron.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Section (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSE's purpose for the proposed rule change is to allow the Exchange to open, or continue, trading in the event that SIAC is unable to process MSE quotes or last sale information. SIAC is presently the exclusive SIP upon which the MSE, all other exchanges and the NASD rely to disseminate quotes and last sale information in listed reported securities. Additionally, the MSE understands the SEC staff position to be that an exchange cannot trade listed reported securities using its facilities unless quotations or last sale prices can be disseminated on a real time basis to vendors. As such, the National Market System in listed reported securities is totally dependent on SIAC's operations in order to effectively keep the securities markets open. Therefore, the MSE believes it is in the public interest to establish a contingency plan eliminating this absolute dependence on a single SIP to drive trading on national securities exchanges.

While the MSE believes that the instances of SIAC becoming unable to process required trading information would be rare, it believes that a contingency plan is necessary, and desirable, in order to reduce the risks associated with absolute reliance on a single SIP. By having a back-up system in place through which the MSE can disseminate quotations and last sale prices, the MSE can provide virtually uninterrupted trading through its facilities and thereby afford considerable protection against a total shutdown of exchange markets due to a SIAC failure.[1]

Finally, while the MSE believes it is the only exchange to establish this alternative link to a back-up SIP, it would welcome an inter-market effort to explore alternatives to absolute reliance on a single SIP. However, the MSE believes that it is in the public interest to have this emergency capability in place now to afford some measure of protection against a total halt in the trading of reported securities should SIAC fail to function.

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it removes the impediments to and perfects the mechanisms of a free and open market and in general protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available 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-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 13, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Dated: January 14, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1465 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[1] The switch-over to the Quotron Link should have no significant impact on existing system capacity and should result in approximately a five (5) minute down time on the front end Tandem computers.

[Rel. No. 34-28774; File No. SR-NASD-90-22]

Self-Regulatory Organizations; Notice of Amendment to Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Disclosure of Payment for Order Flow Arrangements on Customer Confirmations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 NASD is proposing to amend File No. SR-NASD-90-22 regarding disclosure of payment for order flow arrangements on customer confirmations. The new disclosure will state affirmatively on customer confirmations that the firm receives remuneration for directing its orders to particular broker/dealers or market centers for execution.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing to amend File No. SR-NASD-90-22, regarding disclosure of payment for order flow compensation, to improve disclosure of broker-dealer compensation for order flow and to make the disclosure more uniform. The NASD proposal would require specific language to appear on each applicable customer confirmation disclosing that remuneration has been received by the firm for directing orders to particular market makers or market centers.

After discussion with the SEC, and after reviewing comment letters filed by members and others, the Association is proposing this amendment to more specifically identify members' receipt of remuneration for directing orders to particular markets. Rule 10b-10 under the Act describes information that a broker or dealer must disclose to its customer on the confirmation form. The rule requires, among other things, that the broker-dealer disclose whether additional remuneration has been or will be received in connection with a transaction, and that the source and amount of such payment be furnished to the customer upon written request.[1] Under this rule, therefore, payments received by a retail firm from a market in return for directing its order flow to the market makers is considered additional compensation and must be disclosed to the customer. The NASD believes that this disclosure must be more specifically stated than is the current practice and that the following language must appear on each customer confirmation transaction that has been subject to a compensation plan:

The firm receives remuneration for directing orders to particular broker/dealers or market centers for execution. Such remuneration is considered compensation to the firm, and the source and amount of any compensation received by the firm in connection with your transaction will be disclosed upon request.

The proposed language differs from that previously submitted to the SEC in that the new language is a more affirmative statement of payment practices. Rule 10b-10 requires the member to state whether it has received additional remuneration in connection with transactions, and the new language reflects this requirement. Broker/dealers that participate in payment for order flow arrangements may of course elect to identify that a specific payment has or has not been received on an individual customer confirmation, rather than utilizing the language appearing above.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." The NASD believes that improved disclosure on customer confirmations is appropriate in light of the mandate of section 15A(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The membership approved the amendment in response to Notice To Members 90-63.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days 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 NASD 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 between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 13, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: January 14, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1463 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[1] Rule 10b-10(a)(7), 17 CFR 240.10b-10(a)(7).

[Release No. 34-28784; File No. SR-NSCC-90-22]

Self-Regulatory Organizations; National Securities Clearing Corp.; Order Approving a Proposed Rule Change Relating to Use and Investment of Members' Clearing Fund Deposits

January 16, 1991.

On October 10, 1990, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR-NSCC-90-22) with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The purpose of the proposed rule change is to amend NSCC's clearing fund rules to enable NSCC to pledge non-defaulting members' clearing fund deposits in excess of their required deposits and to clarify in what instruments NSCC may invest clearing fund cash.[2] Notice of the proposed rule change appeared in the **Federal Register** on November 14, 1990.[3] No comments were received regarding the proposed rule change. This order approves the proposed rule change as amended.

I. Description of the Proposal

NSCC's rules require each member to make a deposit ("required deposit") to NSCC's clearing fund.[4] NSCC's rules currently provide that NSCC may pledge a member's required deposits, including cash, securities, and letters of credit, as collateral for loans made to NSCC, provided that the proceeds of such loans are used for one of the enumerated purposes set out in NSCC Rule 4.[5] The proposed rule change will enable NSCC to pledge a clearing member's actual clearing fund deposit even if the amount of the deposit exceeds the member's required clearing fund deposit at the time of the pledge.[6]

NSCC included express language in the proposed rule change to make clear that the proposed rule change does not affect NSCC's existing obligation to its members to return or to allow substitution for or withdrawal of cash, securities, and letters of credit held by NSCC under the circumstances and within the time frames specified in its rules.[7]

Further, the proposed rule change will make two technical changes to NSCC Rule 4. The first removes the reference to "bearer" in connection with government and municipal securities. This modification is to reflect current nomenclature for the types of securities which NSCC will accept as security for a member's clearing fund open account indebtedness.[8] The second involves NSCC's ability to invest clearing fund cash: (1) In vehicles issued or guaranteed as to the principal and interest by the United States, its agencies, or its instrumentalities ("government securities"); (2) in repurchase agreements relating to government securities; (3) in certificates of deposit or deposit accounts insured by the Federal Deposit Insurance Corporation; or (4) otherwise pursuant to the investment policy adopted by NSCC.[9]

II. NSCC's Rational

NSCC believes that the proposed rule change will ensure the ability of NSCC to obtain temporary credit on a timely basis and in a manner consistent with its obligation of preserving the rights of its members to their collateral. Therefore, NSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to NSCC.

III. Discussion

The Commission believes that NSCC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F).[10] Sections 17A(b)(3) (A) and (F) of the Act require a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the proposed rule change is consistent with these requirements.

Although section 17A of the Act does not require clearing agencies to establish clearing funds, the Division of Market Regulation ("Division") believes that clearing funds are appropriate to reduce the risks associated with clearing member defaults.[11] Contributions to NSCC's clearing fund are determined on a uniform and nondiscriminatory basis by use of a formula based on a participant's usage of the various services offered.[12] NSCC's clearing fund provides NSCC with a defense against financial loss due to participant defaults, a ready source of liquid funds to meet temporary financial needs, and a vehicle to spread risk among participants.

In order to assure that financing is available as a defense against financial loss due to participant defaults, NSCC must assure creditors that they will have a perfected security interest in the collateral NSCC provides. The proposed rule change will facilitate this result by clarifying NSCC's authority to pledge a member's actual clearing fund deposit, even if the amount exceeds the member's required deposit.

NSCC's proposed rule change will help to ensure the ability of NSCC to obtain temporary credit on a timely basis and in a manner consistent with the preservation of the rights of its members to their collateral. NSCC's rules currently provide that NSCC must return a member's excess deposit at the member's written request.[13] The proposed rule change provides that NSCC will remain obligated to each member to return and to allow substitution for or withdrawal of cash, securities, and letters of credit pledged or deposited by such member as a clearing fund deposit, to secure an open

[1] 15 U.S.C. 78s(b).

[2] Initially, NSCC also proposed to amend its clearing fund rules to double the time (from 30 to 60 days) NSCC has before it either charges the clearing fund and assess its members for losses or repays loans collateralized by the clearing fund. NSCC, however, amended the proposed rule change to withdraw that proposal. Letter from Judith Poppalardo, Assistant General Counsel, NSCC, to Jerry Carpenter, Branch Chief, Division of Market Regulation, Commission, dated November 19, 1990.

[3] Securities Exchange Act Release No. 28597 (November 7, 1990), 55 FR 47594.

[4] NSCC Rules, R. 4, section 1.

[5] NSCC Rules, R. 4, section 2.

[6] NSCC Rules, R. 4, section 12 (added by this proposed rule change).

[7] Id.

[8] NSCC Rules, R. 4, section 1.

[9] NSCC Rules, R. 4, section 2.

[10] 15 U.S.C. 78q-1(b)(3) (A) and (F).

[11] The Commission's standards for the registration of clearing agencies state that "it is appropriate for a clearing agency to establish by rule an appropriate level of clearing fund contributions based, among other things, on its assessment of the risks to which it is subject." Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

[12] *See* Securities Exchange Act Release No. 27192 (August 29, 1989) 54 FR 37070.

[13] NSCC determines on a monthly basis whether the amount deposited by each member to the clearing fund is in excess of each member's required deposit. On a semi-annual basis, or upon the written request of a member which may occur no more frequently than monthly, NSCC notifies each member whose clearing fund deposit exceeds its required deposit. NSCC's rules provide that upon a member's written request such excess shall be returned. The excess will not be returned until any amount which is required to be charged against the member's required deposit is paid by the member or if the NSCC determines that the member's current month's use of one or more services is materially different from the previous month's use of such service(s) upon which the calculation of such excess deposit is based. NSCC's Rules, R. 4, section 9.

account indebtedness to the clearing fund, or otherwise to collateralize such member's obligations to NSCC. Therefore, the proposed rule change does not affect NSCC's obligation or its members' rights respecting their collateral or their excess clearing fund deposit.

The Commission notes that in the event NSCC experiences losses that necessitate pledging clearing fund deposits (including deposits in excess of individual member's clearing fund requirements), members requesting the return of their excess deposits could experience delays in the return of their excess deposits if the demand for refunds of excess deposits exceeds NSCC's immediate resources and requires NSCC to effect a pro-rata assessment of its members. Furthermore, in the extraordinary and highly improbable event NSCC is unable to collect sufficient funds through pro-rata assessments of its membership to cover severe losses and, therefore, is forced to cease conducting business, it is possible that members may not be able to recover pledged excess deposits.[14]

NSCC's proposed rule change also restates NSCC's ability to invest the cash portion of the clearing fund in repurchase agreements relating to government securities. This portion of the proposed rule change is to reflect NSCC's current investment practices. NSCC's current investment policies provide for investing the cash portion of the clearing fund in repurchase agreements provided certain guidelines designed to safeguard the invested funds are followed. The guidelines include, among other things, that the collateral in all such repurchase agreements must: (1) Be Government securities; (2) have a current market value in excess of 102% of the value of the invested clearing fund cash; and (3) be delivered to a third-party custodian bank. The Commission notes that NSCC has been engaging in repurchase agreements under similar guidelines guidelines for several years and has not experienced any losses.

In view of the importance of a clearing agency's clearing fund, the Commission believes the rules of a clearing agency should limit the use that the clearing agency may make of clearing fund contributions. Therefore, a clearing agency's rules should limit the investment which it can make with the cash portion of its clearing funds to investments that provide liquidity to the clearing agency and do not expose the invested clearing fund cash to unreasonable risks.[15] The Commission believes that the proposed rule change is consistent with this goal.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR-NSCC-90-22) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1466 Filed 1-22-91; 8:45 am[

BILLING CODE 8010-01-M

[14] NSCC has agreed to inform its members through the issuance of an Important Notice of the potential risk inherent in this proposed rule change.

[15] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

[Release No. 34-28778; File No. SR-PSE-90-36]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Extension of a Pilot Program of the Pacific Options Exchange Trading System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1990, the Pacific Stock Exchange, Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE seeks an extension until June 30, 1991, of its pilot program of an automated options trading system designated as the Pacific Options Exchange Trading System ("POETS").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In January 1990 the Commission approved POETS on a pilot basis.[2] In July 1990 the Commission approved the Exchange's request to extend the pilot program until October 22, 1990, in order to allow the PSE to complete installation of the system's hardware.[3] At this time the Exchange is requesting an extension of the pilot program until June 30, 1991, so that the Exchange may assess fully the merits of the system. Once the evaluation has been completed, the Exchange will inform the Commission of its findings and will submit a final proposal requesting permanent approval and full implementation of the system.

The PSE represents that the system has been implemented floor-wide and is performing well with few operational problems. The Exchange states that it has not received any formal complaints concerning the performance of POETS,[4]

[1] The Commission approved the PSE's POETS system on a six-month pilot basis on January 18, 1990. *See* Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (order approving File SR-PSE-89-28) ("POETS Approval Order"). The initial six-month approval expired on July 22, 1990, and was extended until October 22, 1990. *See* Securities Exchange Act Release No. 28264 (July 26, 1990), 55 FR 31272 (order approving File No. SR-PSE-90-28) ("POETS Extension Order"). POETS is a completely automated trading system comprised of an options order routing system ("ORS"), an automatic and semi-automatic execution system ("Auto-Ex"), an on-line limit order book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote").

[2] *See* POETS Approval Order, *supra*, note 1, for a description of POETS. The automatic execution feature of POETS, however, was limited to implementation in all equity options classes at two trading posts and any option which becomes multiply traded. The automatic execution function of POETS will not be implemented floor-wide until the system has been approved by the Commission on a permanent basis.

[3] *See* POETS Extension Order, *supra* note 1.

[4] *See* letter from Steven W. Lazarus, Managing Attorney, Compliance, PSE to Thomas R. Gira, Branch Chief, SEC, dated October 30, 1990 ("October 30 Letter").

and that members as well as institutional and retail customers have been highly impressed with the system's performance. The Exchange's ongoing review of POETS indicates that a total of twelve market makers sign on each day at the two posts designated for the Auto-Ex pilot, and at least one market maker signs on each day for the multiply-traded issues.[5] The PSE's records indicate that from March 1990 through October 1990, several hundred options trades a month are executed through Auto-Ex, from a high of 730 trades in July 1990 to 238 trades in September 1990; and the options trades using Auto-Book reached a high of 15.1% in July 1990 and declined to 11.6% in October 1990.[6] The Exchange notes that 64% of all quotes are generated through Auto-Quote and that the number of quotes has increased by 40%.[7]

The Exchange continues to monitor whether there are significant, if any, operational failures in POETS as well as any hardware and software malfunctions associated with the system. The Exchange analyzes operational failures and makes recommendations to correct the problems.[8]

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirement of section 6(b)(5) of the Act which provides, among other things, that the rules of the Exchange are to be designed to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

[5] *See* October 30 Letter at 2.

[6] The Exchange attributes the limited usage of Auto-Ex to the following factors: (1) Auto-Ex was in operation only at two posts and for all dually listed issues when POETS was implemented floor-wide in July 1990; (2) only 372 options series are eligible for Auto-Ex; (3) eligible orders must be for five contracts or less and must be market orders; and (4) firms are in the process of training their staffs to use Auto-Ex. *See* letter from Steven W. Lazarus, Managing Attorney, Compliance, PSE, to Thomas R. Gira, Branch Chief, SEC, dated November 30, 1990.

[7] *See* October 30 Letter at 3.

[8] *See* October 30 Letter at 2.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program 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 thereunder.[9] In particular, the Commission finds that the extension of the pilot is consistent with section 6(b)(5) of the Act based on the PSE's representations that POETS has functioned well and has received favorable comments from institutional and retail customers. In addition, the pilot data provided by the PSE indicated that there have been few problems with POETS. Although use of the Auto-Ex feature of POETS has been limited, the overall POETS system has resulted in more efficient execution of public customer market and limit orders and has provided the Regulation Department with more accurate trade information. The enhanced efficiency of order processing resulting from POETS should help the PSE to provide deeper, more liquid and more efficient options markets. In addition, the provision of more accurate trade information will allow the Exchange to develop more accurate and timely audit trails, thereby helping the PSE to maintain the integrity of its markets.

The Commission finds good cause for approving the extension of the pilot prior to the thirtieth day after the date of publication of notice thereof in **Federal Register** in order to permit uninterrupted continuation of the pilot program. In addition, because there have been no adverse comments concerning the pilot program since its implementation or prior to the Commission's approval of POETS in January 1990 and because of the importance of maintaining the quality and efficiency of the PSE's markets, the Commission believes good cause exists to approve the extension of the pilot program on an accelerated basis.

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 the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. 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 February 25, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR-PSE-90-36) relating to an extension of the POETS pilot program until June 30, 1991, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 14, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1468 Filed 1-22-91; 8:45 am]

BILLING CODE 8010-01-M

[9] 15 U.S.C. 78f(b)(5) (1982).

[10] 15 U.S.C. 78s(b)(2) (1982).

DEPARTMENT OF STATE

Bureau of Intelligence and Research

[Public Notice 1323]

Announcement of FY 1991 Soviet-Eastern European Studies Grant Recipients

On January 2, 1991, the U.S. Department of State approved the December 4, 1990, recommendations of the Soviet-Eastern European Studies Advisory Committee for awards in the competition which ended September 28, 1990.

1. American Council of Teachers of Russian/American Council for Collaboration in Education and Language Study

Grant: $178,800.

Purpose: To provide advanced in-country language training fellowships in Russian, Czech/Slovak, Hungarian, Polish, and Serbian/Croatian.

Contact: Dan E. Davidson, Director, USSR Program Group, ACTR/ACCELS,

Fifth Floor, 1619 Massachusetts Avenue NW., Washington, DC 20036, (202) 328-2287.

2. Council on International Educational Exchange

Grant: $80,400.

Purpose: To support advanced Russian language fellowships at Leningrad State University in the semester and academic year program, and to support fellowships for the summer graduate research program.

Contact: Damon B. Smith, Deputy Executive Director, Cooperative Russian Language Program/CIEE, 205 East 42nd Street, New York, NY 10017, (212) 661-1414.

3. Hoover Institution on War, Revolution and Peace at Stanford University

Grant: $200,000.

Purpose: To support postdoctoral fellowships (6-12 months duration) and summer grants for individual research projects on Russia/USSR and Eastern Europe at Hoover.

Contact: Richard F. Staar, Coordinator, International Studies Program, Hoover Institution on War, Revolution and Peace, Stanford, CA 94305, (415) 723-1348.

4. University of Illinois at Urbana-Champaign

Grant: $94,182.

Purpose: To provide partial funding for the University's Summer Research Laboratory on Russia and Eastern Europe, and the Slavic Reference Service.

Contact: Diane Merridith, Program Administrator, Russian and East European Center, University of Illinois at Urbana-Champaign, 1208 W. California Avenue, Urbana, IL, (217) 333-1244.

5. International Research and Exchanges Board

Grant: $1,004,550.

Purpose: To support a variety of programs facilitating American scholarly access to the Soviet Union and Eastern Europe: grants for independent short-term research; collaborative projects and senior scholar travel grants; special projects (formerly cooperative projects); specialized language training grants; developmental fellowships; predeparture orientation for Americans; individual research exchange fellowships for American graduate students; and dissemination of field results.

Contact: Barbara Sassone, IREX, 126 Alexander Street, Princeton, NJ 08540-7102 (609) 683-9500.

6. Joint Committee on Eastern Europe

Grant: $800,000.

Purpose: To support fellowships for advanced graduate training, dissertion completion, pre- and postdoctorial research, language training (elementary domestic and advanced on-site), and language instruction; and the Junior Scholars' Training Seminar

Contact: Jason Parker, Executive Associate, JCEE/American Council on Learned Societies, 228 East 45th Street, New York, NY 10017 (212) 697-1505.

7. Joint Committee on Soviet Studies

Grant: $1,504,416.

Purpose: To support a national fellowship program for graduate training, dissertation completion, and postdoctoral research; a program for annual workshops in underrepresented fields; institutional language training awards for Russian and non-Russian Soviet languages; and research conferences.

Contact: Robert Huber, Staff Associate, JCSS/Social Science Research Council, 605 Third Avenue, New York, NY 10158 (212) 661-0280.

8. National Council for Soviet and East European Research

Grant: $1,800,000.

Purpose: To conduct a national competition among American institutions of higher education and non-profit corporations in support of postdoctoral research projects on the Soviet Union and Eastern Europe.

Contact: Robert Randolph, Executive Director, NCSEER, 1755 Massachusetts Avenue NW., suite 304, Washington, DC 20036 (202) 387-0168.

9. The Woodrow Wilson Center for International Scholars

Grant: $1,125,565 ($735,565 to Kennan; $390,000 to EES).

Purpose: To support the fellowships, meetings, and publications programs of the Kennan Institute for Advanced Russian Studies and the East European activities of the East and West European Program, including an annual junior scholars training seminar, co-sponsored with the JCEE.

Contact: Blair Ruble, Secretary, Kennan Institute for Advanced Russian Studies, or Milan Hauner, East and West European Program, or The Wilson Center, 370 L'Enfant Promenade, suite 704, Washington, DC 20024-2518 (202) 287-3000.

Dated: January 11, 1991.

Kenneth E. Roberts,

Executive Director, Soviet-Eastern European Studies Advisory Committee.

[FR Doc. 91-1459 Filed 1-22-91; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8 90-30]

Lower Mississippi River Waterway Safety Advisory Committee; VTS Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of the VTS Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee meeting. The meeting will be held on Tuesday, February 19, 1991. The meeting will be held at the Crescent River Port Pilots office, 409 Belle Chasse Hwy. South, Belle Chasse, LA 70037. The meeting is scheduled to begin at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Recommendations for a proposed New Orleans Vessel Traffic Service.
3. Adjournment.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander C.T. Bohner, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. 70130-3396, telephone number (504) 589-3074.

Dated: January 15, 1991.

T.D. Fisher,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard Dist., Acting.

[FR Doc. 91-1508 Filed 1-22-91; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 168, Lithium Batteries; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the second meeting of

Special Committee 168 on Lithium Batteries to be held January 29–30, 1991, in the RTCA Conference room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the first meeting's minutes; (3) Technical Presentations; (4) Report of subgroup progress. Report on development of a strawman MOPS; (5) Selection of Working Groups; (6) Structure of a plan for work accomplishment; (7) Working Group sessions; (8) Assignment of tasks; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW, suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 3, 1991.

Steven Zaidman,

Designated Officer.

[FR Doc. 91–1509 Filed 1–22–91; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 159; Minimum Operational Performance Standards for Supplemental Airborne Navigation Equipment Using Global Positioning System (GSP), Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix I), notice is hereby given for the seventeenth meeting of RTCA Special Committee 159 on Minimum Operational Performance Standards for Supplemental Airborne Navigation Equipment Using Global Positioning System (GSP) to be held January 31–February 1, 1991, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of minutes of the sixteenth meeting held on December 13–14, 1990; (3) Review of material and action items for draft report; (4) Review of EUROCAE and other comments; (5) Continue review of second draft of the committee report, RTCA paper No. 358–90/SC159–253; (6) Address Future Work Program; (7) Assignment of tasks; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 21, 1990.

Steven Zaidman,

Designated Officer.

[FR Doc. 91–1512 Filed 1–22–91; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 164; Minimum Operational Performance Standards for Aircraft Audio Systems and Equipment, Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix I), notice is hereby given for the eighth meeting of Special Committee 164 on Minimum Operational Performance Standards for Aircraft Audio Systems Equipment to be held January 22–24, 1991, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of seventh meeting's minutes, RTCA Paper No. 408–90/SC164–37; (3) Technical Presentations; (4) Review of task assignments from last meeting; (5) Continue review of the second draft of the MOPS, RTCA paper No. 82–90/SC164–28; (6) Working Group sessions; (7) Assignment of tasks; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements of the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500 Washington, DC, 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 21, 1990.

Steven Zaidman,

Designated Officer.

[FR Doc. 91–1511 Filed 1–22–91; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix I), notice is hereby given for the meeting of the Executive Committee to be held January 25, 1991, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) Approval of the December 5, 1990 Executive Committee Meeting minutes; (3) Executive Director's report; (4) Special Committee activities report for November-December 1990; (5) Report of the Fiscal and Management Subcommittee; (6) Consideration for approval of Special Committee reports (SC–163 Report; "Minimum Operational Performance Standards for Devices that Prevent Blocked Channels used in Two-Way Communications Due to Unintentional Transmissions"); (7) Consideration of proposals to establish new Special Committees (AOPA request to establish an *Ad Hoc* Committee to review and update as necessary the Loran-C MOPS (RTCA/CO–194)); (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC, 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 3, 1991.

Steven Zaidman,

Designated Officer.

[FR Doc. 91–1510 Filed 1–22–91; 8:45 am]

BILLING CODE 4910–13–M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on Alternative Transit Improvements in King County (Seattle), Washington

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Municipality of Metropolitan Seattle (Metro) are initiating the preparation of an Environmental Impact Statement (EIS) and alternatives analysis (AA) on possible transit improvements in three corridors in the Seattle metropolitan region. The north corridor runs from downtown Seattle north toward Snohomish County; the south corridor, originating in downtown Seattle, runs to the City of SeaTac and south toward Pierce County; the east corridor crosses Lake Washington to serve Bellevue, Bothell and Kirkland.

Metro will prepare environmental documents under the Washington State Environmental Policy Act (SEPA) on the potential projects in two of the three corridors, while UMTA and Metro will jointly prepare an EIS for projects in the third corridor in conformance with both the National Environmental Policy Act of 1969 (NEPA) and SEPA. Should build alternatives be selected, Metro would construct the transit improvements in the two corridors covered only by State environmental documents without UMTA financial assistance. UMTA financial assistance would be requested for one of the three corridors. The corridor and proposed transit improvements to be advanced for UMTA funding assistance will be identified by Metro before the end of the scoping process, at which time Federal agencies and other interested parties will again be given the opportunity to comment on the scope of the environmental analysis for the corridor proposed for UMTA funding. The scoping process will be completed by late-Spring, 1991.

In addition to light rail transit and exclusive busway/transitway options, the alternatives analysis will consider the no-action and transit/high occupancy vehicle (or transportation system management) alternatives, and any new reasonable alternatives generated through the scoping process. Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State and local agencies, and through public meetings. See **DATES** and **SUPPLEMENTAL INFORMATION** below for details.

DATES: Five scoping meetings have been scheduled on the project. The first meeting, on Tuesday, February 12, 1991, will occur from 7 p.m. to 9 p.m. at Lynnwood City Hall. The second, on Wednesday, February 13, 1991, will occur from 12 noon to 1:30 pm. at the Seattle Public Library. The third meeting, also on Wednesday, February 13, 1991 will occur from 7 p.m. to 9 p.m. at University Congregational Church, Seattle. The fourth meeting will occur on Tuesday, February 19, 1991 from 7 p.m. to 9 p.m. at the Puget Power Auditorium in Bellevue. The fifth meeting will take place on Wednesday, February 20, 1991 from 7 p.m. to 9 p.m. at Tyee High School in SeaTac. Open houses will precede each of the scoping meetings. Written comments on project scope may be submitted to Metro by February 28, 1991. See the **ADDRESSES** section for additional information. Later this Spring, Federal Agencies and other interested parties will be given the opportunity to comment again on the corridor in which UMTA assistance will be sought, once it has been identified.

ADDRESSES: Comments may be submitted to Gregory M. Bush, Environmental Compliance Manager, Metro, MS–120, 821 Second Avenue, Seattle, Washington 98104. The first scoping meeting will be held at Lynnwood City Hall, 19100 44th Avenue West, Lynnwood, Washington. The second meeting will be at the Seattle Public Library, 1000 Fourth Avenue, Seattle. The third meeting will be held at the University Congregational Church, 4515 16th Avenue NE., Seattle. The fourth meeting will be at the Puget Power Auditorium, 10608 NE. 4th Street in Bellevue. The fifth meeting will be held at Tyee High School, 4424 S. 188th Street, SeaTac, Washington. See the **DATES** section for meeting times.

FOR FURTHER INFORMATION CONTACT: Terry L. Ebersole, Urban Mass Transportation Administration, Region 10, 915 2nd Avenue, Seattle, WA 98174 (206)–553–4210, or Gregory M. Bush, Metro, 821 Second Avenue, MS–120, Seattle, WA 98104, (206)–684–1164.

SUPPLEMENTARY INFORMATION:

Scoping

UMTA and Metro, as lead agencies, have determined that this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under 40 CFR 1502.4 and under RCW 43.21C.030(2)(c) and will be prepared.

The UMTA and Metro invite interested individuals, organizations and Federal, State and local agencies to participate in defining the alternatives to be evaluated and in identifying any significant social, economic or environmental issues related to proposed transit improvements in the three corridors. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program, and the preliminary project schedules is being mailed to affected federal, state and local agencies and to interested parties of record. Others may request these scoping materials by calling or writing Charles Kirchner, Environmental Compliance Supervisor, Metro, MS–120, 821 Second Avenue, Seattle, Washington 98104; telephone 206–684–1171. Scoping comments may be made either orally at the scoping meetings or in writing. See the **DATES** and **ADDRESSES** sections above for locations and times. Metro staff will be present at the public scoping meetings to describe the proposed scope of the study using maps and visual aids and to take comments from attendees. Written comments may be sent to Mr. Gregory M. Bush (see **ADDRESSES** by February 28, 1991. For those Federal agencies and other parties wishing to comment only on the corridor in which UMTA assistance will be sought will be notified of an additional scoping opportunity through the **Federal Register** and by mail once that corridor is known.

Description of the Alternatives

Screening Process

Metro considered a wide range of alternatives in the process of selecing those described below. The screening process used nine evaluation criteria adopted by the Metro Council: growth and development, mobility, efficiency, practicality, ridership, cost-effectiveness, support, financial advantage, and environmental effects.

In June 1990, Metro completed its screening of a full array of possible alternatives that were identified in previous regional studies and plans. Metro removed some of those alternatives from further analysis and proceeded into a second, more detailed level of screening on the remaining alternatives. In October 1990, Metro concluded the second screening of alternatives, removing additional alternatives from further analysis and adding others.

The screening process has included public review and comment, technical coordination with other agencies,

review and comment by the state of Washington's Expert Review Panel and policy discussion by Metro policy committees and the Joint Regional Policy Committee for high capacity transportation in the Puget Sound Region. This collaborative process was instrumental in Metro's selection of the alternatives being considered in the scoping process. These alternatives are presented below for each corridor.

See the scoping information booklet for further details on alignments that have been removed from further study as a result of the initial screening processes.

North Corridor

Description of Study Area and Project Need

The North Corridor is a major travel corridor in King County and Snohomish County and includes downtown Seattle (which is included in the other corridors as well), the University District, the Northgate shopping center area and extends north into Snohomish County. The corridor boundaries are approximately Aurora Avenue to the west, the City of Everett to the north, and Lake Washington to the east. A transportation improvement is proposed in the Corridor to address needs arising from the following conditions: high travel and transit demand due to population and employment densities; strong travel orientation toward downtown Seattle, the University District and Northgate activity centers; substantial growth in population and employment in these activity centers and in South Snohomish County; congestion points and operational problems at several locations; limited access for Metro buses to HOV lanes in the corridor; difficulty of providing fast, reliable service between downtown Seattle and the University District via Interstate 5 due to the peak direction orientation of the express lanes; significant activity center congestion in the University District, Northgate and on Capitol Hill; capacity constraints at existing park-and-ride lots; and air quality problems in the University District, Northgate and Downtown Seattle.

North Corridor Alternatives. (1) A no-build option consisting of existing highways and bus service plus committed roadway improvements, fleet replacement and expansion limited to the 1991 system coverage. The No-Build Alternative is constrained by anticipated revenue generated by Metro's current revenue sources.

(2) A Transportation Systems Management (TSM) Alternative which includes the highway and transit features of the no-build option plus low to moderate cost improvements designed to make efficient use of the existing bus, highway and planned HOV system. In the North Corridor, possible improvements include, but are not limited to: improved access to Interstate 5 from the downtown Seattle transit tunnel; improved transit access to Convention Place station from surface streets; improvements in the Northgate Transit Center/park-and-ride access to Interstate-5, other transit priority treatments in the Northgate area, extension of the Interstate 5 center HOV lanes to Interstate 405 in Snohomish County, completion of transit only shoulder lanes on SR 522; expansion of park-and-ride lots at Bothell, and Aurora Village; a new park and ride lot at 175th and I-5, trolley overhead improvements, including new overhead for existing routes; and various arterial HOV improvements.

(3) Rail and Busway Alternatives via Broadway: One north corridor rapid transit alternative would be a rail line or busway starting at Convention Place Station in the downtown Seattle transit tunnel. This alignment would proceed in a tunnel configuration east to Broadway. It would then turn north, remaining in a tunnel under Broadway, 10th Avenue E., Portage Bay and 15th Avenue N.E. and Roosevelt Avenue N.E. After passing through the University District, the tunnel would turn west at either N.E. 47th Street, Ravenna Blvd. or near N.E. 70th and return to the Interstate 5 right-of-way. Once at Interstate 5, the alignment would use the Interstate 5 right-of-way for the remainder of the corridor in an at-grade, retained cut or elevated profile, as determined by the terrain and other considerations to Mountlake Terrace. The alignment continues within the Interstate 5 right-of-way or the adjacent Pacific Northwest Traction (PNT) right-of-way to Lynnwood. The interim terminal would be located north of Northgate Way and south of or at 164th St. SW, north of Lynnwood in unicorporated Snohomish County.

(4) Rail Alternative via Interstate 5 reversible lanes: Starting at the Convention Place Station in the downtown Seattle transit tunnel, this alignment travels by tunnel under Eastlake Avenue to South Lake Union, then via two lanes of the Interstate 5 reversible lanes to N.E. 42nd Street, then continues north along the east side of the Interstate 5 right-of-way. North of Lake City Way, it follows the same alignment as Number 3, above. A people-mover circulator system serving the University District will also be considered as part of this alternative.

(5) Busway Alternative via Interstate 5 reversible lanes: This alignment starts at Convention Place station and uses all four lanes of the Interstate 5 reversible roadway to Northgate for two-way bus-only operation. North of Northgate, the busway follows the same alignment as Number 3, above.

(6) Transitway Alternative via Interstate 5 reversible lanes: This alignment is similar to Number 5 above, except it would operate as a two-way bus and HOV facility. North of Northgate, it would continue on the Interstate 5 HOV lanes in their current or planned configuration to 164th Street SW.

South Corridor

Description of Study Area and Project Need

The South Corridor, another major travel corridor in the region, also includes the central business district of Seattle. It runs southward through the Duwamish Industrial area, in the vicinity of Seattle-Tacoma International Airport and extends south to Tacoma, in Pierce County. The corridor boundaries are approximately Puget Sound to the west, Lake Washington and the Green River Valley to the east and Tacoma to the south. A transportation improvement is proposed in the Corridor to address increasing congestion on Interstate 5 in peak and non-peak directions and a broadening peak period, resulting in increasing transit travel times and reliability problems for all transit services to south King County. Other issues to be addressed include: traffic backups at the Spokane Street interchange with I-5, at the 6 percent grade on Interstate 5 in the Southcenter area, at the First Avenue South Bridge, on the Rainier Avenue corridor, on SR-167, and at West Seattle Bridge ramps; full park-and-ride lots along Interstate 5 south of Seattle; and the lack of HOV facilities which limits opportunities to avoid congestion.

South Corridor Alternatives. (1) A no-build option similar to that discussed under the North Corridor Alternatives.

(2) A Transportation System Management (TSM) Alternative which includes the highway and transit features of the no-build option plus low to moderate cost improvements designed to make efficient use of the existing bus, HOV and highway system. In the South Corridor, possible improvements include, but are not limited to: HOV priority treatments and trolley bypass wire on Rainier Avenue

South, a new West Seattle ramp connecting Spokane Street viaduct with the E-3 busway, HOV lanes on Interstate 5 south between downtown Seattle and the King County line; extension of the E-3 busway to Industrial Way with a new ramp to the proposed southbound Interstate 5 HOV lanes; expansion of park-and-ride lots at Federal Way, South Federal Way, Star Lake, Tukwila and Kent-Des Moines with access improvements to proposed Interstate 5 HOV lanes; trolley overheard expansion; completion of HOV lanes on SR 167 between Auburn and Renton, and various other HOV lanes and priority improvements on east/west and north/south arterials.

(3) Rail and Busway Alternatives via SR 509: From the International District station of the downtown tunnel, this alignment would continue via the E-3 busway and 4th Ave. S. or 1st Avenue South bridge. Across the bridge, it would continue in the median of SR 509 to SR-518; then via SR 518 to the airport access roadway, through Sea-Tac Airport to SR 99 and south to Star Lake via SR 99 or Interstate 5. Interim terminal sites will be examined. A sub-option would be to continue the busway option south on SR 509 or the future SR 509 extension to Interstate 5 at either S. 210th Street or SR 516 (Kent-Des Moines Road).

(4) Rail Alternative via East Marginal Way/SR 99: From the International District station, this alternative would continue along the E-3 busway and 4th Avenue South or 1st Avenue South to Michigan Street, over Michigan St. to East Marginal Way, along the west side of East Marginal Way and across the Duwamish River near the Boeing Access Road. Once across the Duwamish River, the alignment proceeds down SR 99 to SR-518, through Sea-Tac Airport via the airport access road, then via SR 99 and/or Interstate 5 south to Star Lake (S 272nd Street). Interim terminal sites will be examined.

(5) Busway Alternative via Burlington Northern Railway and Interstate 5: This alignment, starting at the International District station would use the E-3 busway to Spokane Street, and continue in a subway configuration under Industrial Way to the Burlington Northern RR (BNRR) right-of way west of Interstate 5. The alignment would continue south along the BNRR to the Boeing Access Road, then make a transition to an aerial structure on the west side of the Interstate 5 right-of-way to Star Lake. Interim terminal sites would be examined.

(6A) Rail or Busway Alternatives via the BNRR or Union Pacific right-of-way to Auburn: This alignment, beginning at the International District Station and continuing along the E-3 busway, would use the existing rail right-of-way of either BN or UP from Spokane Street to Auburn in South King County. Interim terminal sites would be examined. One variation of this alignment includes the use of rail via East Marginal Way to the Boeing Access Road, then along Interurban Avenue in at-grade and aerial structures to Longacres, joining either the BN or UP alignment at that point. A second variation would be a busway on the west side of Interstate 5 using the BNRR right-of-way to Boeing Access Road, then along Interurban Avenue to Longacres, joining the BN or UP rights-of-way. A third variation, allowing for a future extension to the northeast, would study a branch serving the east side of Lake Washington to the Interstate 405/Interstate 90 interchange.

(6B) Commuter Rail via BNRR: Peak hour and midday commuter rail service via the Burlington Northern railroad right-of-way from King Street Station in Seattle to Auburn.

(7) Rail or Busway via Rainier Avenue: From the International District Station, the alignment would operate in the Interstate 90 center roadway to Rainier Avenue. The alignment would then be in a tunnel under Rainier Avenue south to Henderson Street. A variation would continue the rail alignment in a tunnel to the east end of the Boeing Access Road, then continue at grade and on aerial structures using railroad right-of-way to Longacres, where possible extensions could continue south into the Green River Valley.

East Corridor

Description of Study Area and Project Need

The East Corridor also originates in the Seattle central business district. The corridor runs eastward across Lake Washington via Interstate 90, serving Mercer Island, before turning north to serve the Bellevue central business district. From Bellevue, the corridor continues north toward the Bothell-Woodinville area and northeast toward Redmond. Its boundaries are downtown Seattle to the west, south Snohomish County to the north, Interstate 90 to the south, and Issaquah to the east. A transportation improvement is proposed in the Corridor to address the issues of arterial congestion within the East Corridor with limited available rights-of-way and major increases in population and employment forecasted; slow travel times on major transit arterials and freeways; difficult off-peak and reverse-direction connections between Interstate 90 and the Seattle CDB Transit Tunnel; limited roadway capacity across Lake Washington; the need for air quality improvements in Downtown Bellevue; and to provide future connections to regional destinations north, south and east of Bellevue.

East Corridor Alternatives. (1) A no-build option similar to that discussed for the North Corridor.

(2) A Transportation Systems Management (TSM) Alternative which includes the highway and transit features of the no-build option plus low to moderate cost improvements designed to make efficient use of the existing bus and highway system. In the East Corridor, possible improvements include, but are not limited to: two-way HOV lanes on Interstate 90, direct transit passenger access to Eastgate park-and-ride lot from an Interstate 90 flyer stop, HOV lanes on Interstate 405 from Coal Creek Parkway to Interstate 5 in Snohomish County; NE 108th Avenue HOV access to SR 520 from South Kirkland park-and-ride, HOV lanes on SR 520 from Evergreen Point Bridge to SR 202 in Redmond, expansion and/or improved access at the South Bellevue, Wilburton, Kennydale, Issaquah, Eastgate, Redmond, Mercer Island, Kirkland, NE 51st Street/SR 520 and Lakemont Blvd. park-and-ride lots; relocation of the Bellevue Transit Center and construction of a Bellevue people mover system; and various HOV priority treatments or lanes on local arterials.

(3) Rail, Busway and Transitway Alternatives via Bellevue Way Tunnel: From the International District Station in downtown Seattle, this alignment uses the busway south of the Seattle tunnel to Interstate 90, the new Interstate 90 transit lanes (two direction flows), tunnel along South Bellevue Way and NE 6th Street, crossing beneath Interstate 405, continuing in a tunnel along 116th Avenue NE or in a surface configuration along the BNRR to SR 520, then north in the Interstate 405 right-of-way at the surface to Totem Lake and northeast in the SR 520 right-of-way at the surface to Redmond. Interim terminals sites will be examined.

(4) Rail, Busway and Transitway Alternatives via Interstate 405 or Burlington Northern: This alignment uses Interstate 90 as described under alternative 3 above, continues on Interstate 90 past Bellevue Way, then connects via a new ramp to the BNRR or Interstate 405 on the east side of the Mercer Slough, then north along the BNRR or Interstate 405 (with the BNRR alignment continuing between 118th Ave SE and Interstate 405 from their crossing

point) to the Wilburton park-and-ride lot. From here, the alignment would transition to a tunnel under Main Street to either Bellevue Way or 108th Ave NE, north to and under NE 6th Street, across Interstate 405, and continue to Totem Lake and Redmond as described under alternative 3 above. A variation would be to continue north from the Wilburton park-and-ride lot in a tunnel under 112th Ave NE, connecting to the BNRR south of SR 520.

Probable Effects

Impacts proposed to be analyzed include changes in the natural environment (air quality, noise, water quality, aesthetics, wetlands, navigable waterways), changes in the social environment (land use, development, economic vitality, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway and arterial congestion on through routes and near transit stations and park-and-ride lots, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the long term operation of the alternatives.

The proposed evaluation criteria include growth and development, mobility, efficiency, practicality, ridership, cost-effectiveness, community support, financial feasibility and environmental measures as required by current federal (NEPA), state (SEPA) and local environmental regulations, current CEQ and UMTA guidelines and guidelines approved by the Metro Council (the decision-making body of Metro). Mitigating measures will be discussed for any adverse impacts that are identified.

Comments at the scoping method should focus on the completeness of the alternatives, the proposed sets of impacts and evaluation criteria, and probable environmental impacts. Other impacts or criteria judged relevant to local decision-making should be identified. Comments should not address individual preferences for a particular alternative as most desirable for implementation.

Issued on January 14, 1991.

Louis F. Mraz, Jr.,

Western Area Director.

[FR Doc. 91-1446 Filed 1-22-91- 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 16, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New (formerly cleared under 1545-0720).
Form Number: 8038-T.
Type of Review: Revision.
Title: Arbitrage Rebate or Penalty.
Description: Form 8038-T is used by issuers of tax-exempt bonds to report and pay the arbitrage rebate and to elect and/or pay various penalties associated with arbitrage bonds. These issuers include state and local governments.
Respondents: State or local governments.
Estimated Number of Respondents: 520.
Estimated Burden Hours Per Response/ Recordkeeping: Recordkeeping, 5 hours, 30 minutes. Learning about the law or the form, 2 hours, 23 minutes. Preparing, copying, assembling, and sending the form to IRS, 2 hours 35 minutes.
Frequency of Response: At least once every 5 years.
Estimated Total Recordkeeping/ Reporting Burden: 5,439 hours.
OMB Number: 1545-0941.
Form Number: 8308.
Type of Review: Revision.
Title: Report of a Sale or Exchange of Certain Partnership Interests.
Description: Form 8308 is an information return that gives the IRS the names of the parties involved in a section 751(a) exchange of a partnership interest. It is also used by the partnership as a statement to the transferor or transferee. It alerts the transferor that a portion of the gain on the sale of a partnership interest may be ordinary income.
Respondents: Individuals or households, farms, businesses or other for-profit, small businesses or organizations.
Estimated Number of Respondents: 200,000.
Estimated Burden Hours Per Response/ Recordkeeping: Recordkeeping, 2 hours, 9 minutes. Learning about the law or the form, 41 minutes. Preparing and sending the form to IRS, 3 hours, 50 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 1,534,000 hours.
OMB Number: 1545-0973.
Form Number: 8569.
Type of Review: Extension.
Title: Availability Statement.
Description: Statement is completed by candidates applying for Executive Selection and Development or a position centralized to the Executive Resources Board. It remains on file as the minimum area of availability, to be used for future job placement consideration.
Respondents: Individuals or households, Federal agencies or employees.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Response: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 250 hours.

Clearance Officer: 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.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-1513 Filed 1-22-91; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 15
Wednesday, January 23, 1991

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).

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board:

TIME AND DATE: 1:30 p.m. January 31, 1991.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue, NW., Washington, DC 20004.

STATUS: Closed. Exemption 9(B). Portions may also be closeable under Exemption 1.

MATTERS TO BE CONSIDERED: Deliberation on Board recommendations to Congress regarding jurisdictional issues, pursuant to 42 U.S.C. 2286e note.

FOR MORE INFORMATION CONTACT: Robert M. Andersen, General Counsel, (202) 208-6387.

Dated: January 18, 1991.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 91-1688 Filed 1-18-91; 3:53 pm]

BILLING CODE 6820-KD-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board:

TIME AND DATE: 9:00 a.m. February 1, 1991.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue, NW., Washington, DC 20004.

STATUS: Open. While the Government in the Sunshine Act does not require that the scheduled briefing be conducted in a meeting, the Board has determined that an open meeting in this specific case furthers the public interests underlying both the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: Briefing by the New Mexico Environmental Evaluation Group on its views on the status of the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico.

FOR MORE INFORMATION CONTACT: Kenneth M. Pusateri or Carole J. Council, (202) 208-6400.

Dated: January 16, 1991.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 91-1682 Filed 1-18-91; 3:53 pm]

BILLING CODE 6820-KD-M

LEGAL SERVICES CORPORATION

Board of Directors Meeting Notice

TIME AND DATE: A meeting of the Board of Directors will be held on January 28, 1991. The meeting will commence at 9:00 a.m.

PLACE: The Marriott Suites Alexandria, 801 N. St. Asaph Street, Conference Center, Alexandria, VA 22314, 703-836-4700.

STATUS OF MEETING: Open [A portion of the meeting may be closed, subject to a vote by a majority of the Board of Directors, to discuss personnel, privileged or confidential, personal, investigatory and litigation matters under the Government in the Sunshine Act [5 U.S.C. 552b(c) (2), (4), (5), (7), and (10) and 45 CFR 1622.5 (a), (c), (d), (e), (f), and (h)].

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes.
   —September 23-24, 1990.
3. Election of Board Chairman and Vice-Chairman.
   a. Chairman's Remarks.
   b. Vice-Chairman's Remarks.
4. President's Report.
5. Discussion of Board Committee Structure.
6. Report on 1991 Application for Funding.
7. Report on the Fiscal Year (FY) 1990 and 1991 Consolidated Operating Budgets.
8. Legislative Report.
9. Presentation and Discussion of Proposals for FY 1992 Budget Mark.
10. Resolution Offered by Mr. Dana.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date issued: January 18, 1991.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 91-1678 Filed 1-18-91; 3:53 pm]

BILLING CODE 7050-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, January 24, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, January 24

1:30 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Request for Hearing and Petitions to Intervene Regarding Request for "Possession Only" License for Shoreham

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91-1618 Filed 1-18-91; 2:02 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 56, No. 15
Wednesday, January 23, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 88F-0328]

Indirect Food Additives: Paper and Paperboard Components

Correction

In rule document 90-30402 beginning on page 17, in the issue of Wednesday, January 2, 1991, make the following correction:

On page 18, in the first column, in the fifth line from the bottom of the page, "January 2, 1991" should read "February 1, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 442

[Docket No. 90N-0351]

Antibiotic Drugs; Ceftazidime Pentahydrate for Injections

Correction

In rule document 91-232 beginning on page 483 in the issue of Monday, January 7, 1991, make the following correction:

§ 442.216a [Corrected]

On page 484, in the third column, in the eighth line, "weighted" should read "weighed".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-207]

RIN 1218-AA57

Safety Standards for Stairways and Ladders Used in the Construction Industry

Correction

In rule document 90-26520 beginning on page 47660 in the issue of Wednesday, November 14, 1990, make the following corrections:

§ 1926.1050 [Corrected]

1. On page 47687, in the third column, in § 1926.1050, in the definition for *Portable Ladder*, in the first line, "than" should read "that".

§ 1926.1051 [Corrected]

2. On page 47688, in the third column, in § 1926.1051(c)(5), in the third line, "with" should read "without".

§ 1926.1053 [Corrected]

3. On page 47689, in the second column, in § 1926.1053(a)(5), in the first line, "run" should read "rung".

§ 1926.1053 [Corrected]

4. In the same column, in § 1926.1053(a)(6)(i), in the third line, "January 14" should read "March 15".

§ 1926.1053 [Corrected]

5. On page 47690, in the first column, in § 1926.1053(a)(20)(v), in the third line, delete "horizontally;".

§ 1926.1053 [Corrected]

6. In the same column, in § 1926.1053(a)(20)(vi), in the third line, add "horizontally;" after "center".

BILLING CODE 1505-01-D

federal register

Wednesday,
January 23, 1991

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Redelegation of Authority; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. D-91-940; FR-2946-D-01]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: On May 13, 1971 (36 FR 8821), the Secretary of HUD delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to act as the "responsible Department official" in most matters relating to the carrying out of the requirements of title VI of the Civil Rights Act of 1964 as such authority is set forth in HUD's regulations and procedures promulgated and published in 24 CFR parts 1 and 2. On June 1, 1990 (published June 15, 1990 (55 FR 24346), the Assistant Secretary for Fair Housing and Equal Opportunity redelegated the authority to act as "responsible Department official", in certain specific circumstances, to the Regional Directors of Fair Housing and Equal Opportunity in specific regions and to the Deputy Assistant Secretary for Enforcement and Compliance. The Assistant Secretary for Fair Housing and Equal Opportunity is now redelegating authority to act as "responsible Department official", in certain of those specific circumstances to two additional Regional Directors for Fair Housing and Equal Opportunity. This notice states the scope and authority redelegated.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Peter Kaplan, Director, HUD Program Compliance, Office of Fair Housing and Equal Opportunity, room 5230, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708-2904 (voice) or (202) 708-0015 (TDD).

SUPPLEMENTARY INFORMATION:

Section A: Authority Redelegated

The assistant Secretary for Fair Housing and Equal Opportunity redelegates the authority to act as the "responsible Department official" as set forth in 24 CFR part 1, to the Regional Directors of Fair Housing and Equal Opportunity in Regions 3 and 7 in the following specific circumstance:

Where there is a finding of compliance on all issues, to determine, under 24 CFR 1.7(d)(2), that an investigation does not warrant action and to issue the recipient a formal written determination of compliance.

Section B: Authority Excepted

There is excepted from the authorities redelegated under section A the authority to redelegate.

Authority: 42 U.S.C. Section 2000d; Department of HUD Act, 42 U.S.C. Section 3535(d).

Dated: November 26, 1990.

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 91-1437 Filed 1-22-91; 8:45 am]

BILLING CODE 4210-28-M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. D-91-938; FR-2944-D-01]

Redelegation of Authority Under Title VI of the Civil Rights Act of 1964

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This notice redelegates the authority of the "responsible Department official" under 24 CFR part 1 to make determinations of noncompliance with regard to certain part 1 violations. The redelegation is made concurrently to the Deputy Assistant Secretary for Enforcement and Compliance and the Directors of the Regional Office of Fair Housing and Equal Opportunity (except Region VI).

EFFECTIVE DATE: January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Peter Kaplan, Director, Office of Program Compliance, Office of Fair Housing and Equal Opportunity, room 5230, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2904. A telecommunications device for deaf persons (TDD) is available at (202) 708-0015. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: 24 CFR part 1 implements the provisions of title VI of the Civil Rights Act of 1964 which provides that no person in the United States shall, on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. Under 24 CFR 1.7, the responsible department official (i.e., the Assistant Secretary for Fair Housing and Equal Opportunity) or his designee is required to conduct periodic compliance reviews of recipients to determine whether they are in compliance with part 1 and to make an investigation whenever a possible failure to comply with part 1 is indicated. Where a failure to comply with part 1 is found, the responsible Department official or his designee is required to inform the recipient of the findings. Where possible, the findings will be resolved by informal means. If the findings cannot be so resolved, procedures for effecting compliance are provided (see 24 CFR 1.8).

On May 13, 1971 (35 FR 8821), the Secretary of HUD delegated to the Assistant Secretary for Fair Housing and Equal Opportunity the authority to act as the "responsible Department official" in all matters relating to the carrying out of the requirements of title VI of the Civil Rights Act of 1964 as such authority is set forth in HUD's regulations and procedures under 24 CFR parts 1 and 2 (except for 24 CFR 1.4(b)(2)(ii) which was delegated to the Assistant Secretary for Public and Indian Housing in the May 13, 1971 notice). Under redelegations issued June 1, 1990 (published June 15, 1990 (55 FR 24346-47) and November 26, 1990 (published elsewhere in today's issue of the **Federal Register**), certain authority of the "responsible department official" under part 1 was redelegated by the Assistant Secretary to the Deputy Assistant Secretary for Enforcement and Compliance and the Directors of the Regional Offices of Fair Housing and Equal Opportunity. As relevant, the Deputy Assistant Secretary for Enforcement and Compliance and the Regional Directors (except the Regional Director of Region VI) were granted concurrent authority to determine under 24 CFR 1.7(d)(2) that an investigation under part 1 does not warrant action and to issue the recipient a formal written determination of compliance. This authority was delegated only where there is a finding of compliance on all issues. While the relevant offices were authorized to make recommendations regarding findings of noncompliance to the Assistant Secretary, under the redelegations, the Assistant Secretary retained the authority to make findings of noncompliance under 24 CFR 1.7(d)(1).

This notice redelegates concurrently to the Deputy Assistant Secretary for Enforcement and Compliance and the Regional Directors (except Region VI), the Assistant Secretary's authority to make these determinations of noncompliance, in connection with

periodic compliance reviews, with regard to certain violations.

Redelegation of Authority—Section A

The Assistant Secretary for Fair Housing and Equal Opportunity redelegates to the Deputy Assistant Secretary for Enforcement and Compliance the authority under 24 CFR 1.7(d)(1) to issue findings of noncompliance, in connection with periodic compliance reviews, and to attempt to resolve such noncompliance findings by informal means, under the following circumstances:

(1) The recipient has engaged in the specifically prohibited discriminatory actions described under 24 CFR 1.4(b)(2)(ii), or has failed to keep, submit or provide access to information required under 24 CFR 1.6(b) and (c);

(2) No other violations of 24 CFR part 1 are found;

(3) The violation has not resulted in, or perpetuated, patterns of occupancy that are inconsistent with part 1;

(4) No individual or class of individuals can be identified who have been injured by the prohibited discriminatory action;

(5) No affirmative action is necessary to overcome the effects of prior discrimination or conditions which resulted in limiting participation by persons of a particular race, color or national origin; and

(6) The recipient is not currently operating under a voluntary compliance agreement entered pursuant to 24 CFR part 1.

Redelegation of Authority—Section B

The Assistant Secretary for Fair Housing and Equal Opportunity redelegates to Directors of the Regional Offices of Fair Housing and Equal Opportunity (except Region VI) the authority under 24 CFR 1.7(d)(1) to issue findings of noncompliance, in connection with periodic compliance reviews, and to attempt to resolve such noncompliance findings by informal means under the following circumstances:

(1) The recipient has engaged in the specifically prohibited discriminatory actions described under 24 CFR 1.4(b)(2)(ii), or has failed to keep, submit or provide access to information required under 24 CFR 1.6(b) and (c);

(2) No other violations of 24 CFR part 1 are found;

(3) The violation has not resulted in, or perpetuated, patterns of occupancy that are inconsistent with part 1;

(4) No individual or class of individuals can be identified who have been injured by the prohibited discriminatory action;

(5) No affirmative action is necessary to overcome the effects of prior discrimination or conditions which resulted in limiting participation by persons of a particular race, color or national origin; and

(6) The recipient is not currently operating under a voluntary compliance agreement entered pursuant to 24 CFR part 1.

Section C—Authority excepted

The authority granted under section B of this redelegation may not be redelegated.

Authority: 42 U.S.C. 2000d; 42 U.S.C. 3535(d).

Dated: January 7, 1991.

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 91-1433 Filed 1-22-91; 8:45 am]

BILLING CODE 4210-28-M

[Docket No. D-91-939; FR-2945-D-01]

Redelegation of Authority Under Title VI of the Civil Rights Act of 1964

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This notice redelegates the authority of the "responsible Department official" under 24 CFR part 1 to make determinations of noncompliance with regard to certain part 1 violations. The redelegation is by the Deputy Assistant Secretary for Enforcement and Compliance to the Director of HUD's Office of Program Compliance.

EFFECTIVE DATE: January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Peter Kaplan, Director, Office of Program Compliance, Office of Fair Housing and Equal Opportunity, room 5230, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2904. A telecommunications device for deaf persons (TDD) is available (202) 708-0015. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: 24 CFR part 1 implements the provisions of title VI of the Civil Rights Act of 1964 which provides that no person in the United States shall, on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. Under 24 CFR 1.7, the responsible department official (i.e., the Assistant Secretary for Fair Housing and Equal Opportunity) or his designee is required to conduct periodic compliance reviews of recipients to determine whether they are in compliance with part 1 and to make an investigation whenever a possible failure to comply with part 1 is indicated. Where a failure to comply with part 1 is found, the responsible Department official or his designee is required to inform the recipient of the findings. Where possible, the findings will be resolved by informal means. If the findings cannot be so resolved, procedures for effecting compliance are provided (see 24 CFR 1.8).

On May 13, 1971 (36 FR 8821), the Secretary of HUD delegated to the Assistant Secretary for Fair Housing and Equal Opportunity, the authority to act as the "responsible Department official" in all matters relating to the carrying out of the requirements of title VI of the Civil Rights Act of 1964 as such authority is set forth in HUD's regulations and procedures under 24 CFR parts 1 and 2 (except for 24 CFR 1.4(b)(2)(ii) which was delegated to the Assistant Secretary for Public and Indian Housing in the May 13, 1971 notice). Under redelegations issued June 1, 1990 (published June 15, 1990 (55 FR 24346-47) and November 26, 1990 (published elsewhere in today's issue of the **Federal Register**), certain authority of the "responsible department official" under part 1 was redelegated by the Assistant Secretary to the Deputy Assistant Secretary for Enforcement and Compliance. As relevant, the Deputy Assistant Secretary for Enforcement and Compliance was granted concurrent authority (with the Director of the Regional Office of Fair Housing and Equal Opportunity) to determine under 24 CFR 1.7(d)(2) that an investigation under part 1 does not warrant action and to issue the recipient a formal written determination of compliance. This authority was delegated only where there is a finding of compliance on all issues. While the Deputy Assistant Secretary was authorized to make recommendations regarding findings of noncompliance to the Assistant Secretary, under the redelegations, the Assistant Secretary retained the authority to make findings of noncompliance with part 1 under 24 CFR 1.7(d)(1).

In a notice published concurrently with this notice, the Deputy Assistant Secretary and the Regional Directors (except Region VI) were concurrently delegated the authority to make determinations of *non*compliance, in

connection with periodic compliance reviews, with regard to certain violations. This notice redelegates the Deputy Assistant's authority to the Director of HUD's Office of Program Compliance.

Redelegation of Authority—Section A

The Deputy Assistant Secretary for Enforcement and Compliance redelegates to the Director of HUD's Office of Program Compliance the authority under 24 CFR 1.7(d)(1) to issue findings of noncompliance, in connection with periodic compliance reviews, and to attempt to resolve such noncompliance findings by informal means under the following circumstances:

(1) The recipient has engaged in the specifically prohibited discriminatory actions described under 24 CFR 1.4(b)(2)(ii), or has failed to keep, submit or provide access to information required under 24 CFR 1.6(b) and (c);

(2) No other violations of 24 CFR part 1 are found;

(3) The violation has not resulted in, or perpetuated, patterns of occupancy that are inconsistent with part 1;

(4) No individual or class of individuals can be identified who have been injured by the prohibited discriminatory action;

(5) No affirmative action is necessary to overcome the effects of prior discrimination or conditions which resulted in limiting participation by persons of a particular race, color or national origin; and

(6) The recipient is not currently operating under a voluntary compliance agreement entered pursuant to 24 CFR part 1.

Sections B—Authority Excepted

The authority granted under section A of this redelegation may not be redelegated.

Authority: 42 U.S.C. 2000d; 42 U.S.C. 3535(d).

Dated: January 7, 1991.

Leonora L. Guarraia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 91-1434 Filed 1-22-91; 8:45 am]

BILLING CODE 4210-28-M

federal register

Wednesday
January 23, 1991

Part III

Department of the Interior

Bureau of Indian Affairs

Cancellation of the Environmental Impact Statement for Proposed Construction of a Hazardous Waste Incinerator and Landfill on Kaw Tribal Lands, Kay County, OK

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Cancellation of the Environmental Impact Statement (EIS) for Proposed Construction of a Hazardous Waste Incinerator and Landfill on Kaw Tribal Lands, Kay County, Oklahoma.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice of Cancellation of an Environmental Impact Statement.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs intends to cancel all work on the EIS for Kaw Hazardous Waste Incinerator and Landfill. The EIS was in the pre-scoping stage. The notice of intent was published in the **Federal Register** on November 19, 1990.

DATES: Effective immediately.

ADDRESSES: Comments should be addressed to William Collier, Area, Director, Bureau of Indian Affairs, Anadarko Area Office, P.O. Box 368, Anadarko, Oklahoma 73005.

FOR FURTHER INFORMATION CONTACT: Mike Reed, Environmental Coordinator, Anadarko Area Office.

Dated: January 10, 1991.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 91-1448 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Wednesday
January 23, 1991

Part IV

Department of the Interior

Bureau of Indian Affairs

Fiscal Year 1991 Grants To Be Awarded Under Special Tribal Court Funds; Notice of Guidelines

DEPARTMENT OF THE INTERIOR

Fiscal Year 1991 Grants Under Special Tribal Court Funds; Guidelines

January 10, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice sets forth Guidelines for the administrative, programmatic and financial requirements for the Fiscal Year 1991 Bureau of Indian Affairs' (BIA) grants to be awarded under the Special Tribal Court Funds.

DATES: This Notice is effective as of January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Hilda A. Manuel, Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C St. NW., mail stop 2614–MIB, Washington, DC 20240; telephone (202) 208–4400, or (FTS) 268–4400.

SUPPLEMENTARY INFORMATION: Pursuant to 25 U.S.C. 13, 25 U.S.C. 450f(a) and 450h(a) the BIA is authorized to award grants and contracts for the operation of Indian programs including grants and contracts for the operation of tribal courts. The BIA will award grants to tribes and tribal courts, and non-profit Indian organizations for the purpose of improving the administration of justice in the tribal courts throughout the United States. Approximately, $1.5 million will be available for award in FY 1991.

FY 1991 Funding Schedule: The FY 1991 deadline is February 15, 1991. Proposals must be postmarked by that date. Proposals will be reviewed competitively by a Review Panel. Judicial Services staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those proposals which fall within the scope of the BIA's funding program and merit serious consideration by the Review Panel. The narrative summaries and rating sheets will be presented to the Review Panel for review. A majority of the Review Panel will recommend to the Deputy to the Assistant Secretary—Indian Affairs (Tribal Services) the applicants to be considered for funding. The decision to fund an application will be decided solely by the Assistant Secretary—Indian Affairs.

I. Background Information

The BIA operates the Branch of Judicial Services whose objective is to improve and maintain the judicial capabilities of Indian tribes at a level which will insure the speedy and impartial adjudication of violations of tribal law and the resolution of civil disputes. To carry out this objective, the BIA will provide support and technical assistance to field personnel and tribal judicial systems on matters concerning court administration and management including activities such as: education and training programs for judges and other court personnel through local, and national Indian organizations; development of demonstration progams and innovative approaches to records management, data processing, personnel management, juror utilization and management; development and testing of alternative methods of resolving disputes; development of innovative approaches to the traditional process of disposition including restitution, community services, diversion, law related education and other programs consistent with the purposes of the Special Tribal Court objectives, including projects which enhance the public's expectation of fairness, effectiveness and efficiency.

II. Scope of FY 1991 Program

During FY 1991, the BIA will consider applications for funding support that address any of the categories specified in the guidelines and which fall within the general framework of the BIA's objectives. Funds will not be made available for ordinary, routine operational costs of court systems or organizations.

A. Education and Training for Judges and Other Key Court Personnel at the Local Level

This category includes support for training projects developed or endorsed by a tribe for the benefit of judges and other court support personnel at the local level. Education and training can include the development of innovative training material and curricula, the improvement of existing court education programs and the preparation of tribal continuing legal education plans to ensure a comprehensive training program and the efficient allocation of limited court education resources. Examples of activities or programs eligible for funding under this category:

(1) The development of tribal oriented standards for education and training for court personnel, for the performance of their general duties and for specialized functions, including plans for career-long education for the judiciary through university or college-based programs designed for judges and court personnel.

(2) Development of pre-bench orientation programs and other "hands-on" skills training for new judges or court support personnel;

(3) Development of bench books and other educational materials such as video tapes and home study materials for use by courts in rural areas or with inadequate travel budgets;

(4) Development or enhancement of a specific university or college-based programs designed to provide hands-on skills training for court personnel in fields central to court operations, e.g., court administration, probation, recordkeeping, data processing etc.

(5) Specialized or advanced training for trial or appellate judges, court managers or other court personnel;

B. National/Regional Training Initiatives

The BIA will award a small number of grants to provide training on a national or regional level. Such national or regional training initiatives should address issues of widespread impact to the tribal judiciary and its functions, including, but not limited to current Federal laws applicable to Indian tribes, innovative approaches to reduce court delays, improvement of court response to victims, witnesses, to increase citizen access to justice and other new approaches which have national significance in terms of their impact or capability of being transferred to and adopted by tribal courts.

C. Technical Assistance

The BIA will consider applications for technical assistance which address operational and management deficiencies within a single tribal court. Eligible projects or activities under this category may include:

(1) Requests for on-site assistance to identify operational problems of a tribal court and to establish responses appropriate for the noted deficiencies.

(2) Requests for assistance in the development and implementation of management systems in records management, data or statistical compilation, personnel management, procedural or evidentiary standards and other operational related processes designed to increase the efficacy of the tribal court.

(3) Requests for consultation on planning, developing and administering innovative programs designed as alternative approaches to the traditional court process, (e.g., restitution programs, first offender diversion services).

(4) Start-up funds for the creation of new tribal court systems including funds to establish management policies to ensure a competent and efficient administration of justice.

D. Projects Addressing a Critical Need of a Single Tribal Court

The BIA will award a number of applications submitted by individual tribal courts that address a critical need of only the applicant tribe. Tribal courts submitting applications under this category must demonstrate that the funds are essential to meet a critical need of the court and that such need cannot be met with local tribal resources. Examples of eligible activities include but are not limited to the following.

(1) Developing automated case management standards and systems;

(2) Use of videotape for making the record of tribal court proceedings;

(3) Establishing intermediate appellate court panels in specific subject matter cases;

(4) Developing procedural changes designed to expedite the decision-making process in appellate cases;

(5) Developing orientation and uniform instruction methods for jurors or the elimination of juries in specified classes of cases;

(6) Developing cost effective methods of enforcing compliance with court orders, (e.g., orders issued to impose fines, restitution, community service, or conditions or probation, child support payments, or setting visitation terms, dispositional orders in child abuse and neglect, civil commitment, guardianship and protection orders in domestic violence cases);

(7) Planning and presenting seminars or other sessions for judges, probation officers, caseworkers and other court support personnel to examine issues concerning drug and alcohol abuse;

(8) Developing tools to assist judges in making release, dispositional and treatment decisions in cases involving substance abuse, fairly and expeditiously;

(9) Developing innovative court-based programs and procedures for providing fair treatment of victims of crime, including fair, effective and efficient handling of domestic violence cases through mediation, treatment programs, issuance of protective orders;

(10) Developing education programs designed to improve the public's understanding of the courts (e.g., videotapes, use of community cable services, pamphlets); and,

(11) Developing volunteer programs to recruit interested community people to volunteer their services with court based dispositional services and programs.

III. Submission Requirements

(1) An application with an original signature and four photocopies of the application must be sent by first class or overnight mail, or by courier no later than February 15, 1991. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on all application envelopes and send to: Bureau of Indian Affairs, Branch of Judicial Services, MS 2614–MIB, 1849 C St. NW., Washington, DC 20240. Prospective applicant tribes are required to provide copies of the proposal to the local BIA agency and area office for their information, review and recommendation. Letters of recommendation supporting an applicant tribe's proposal must be included in the application.

IV. Application Requirements

All applicants seeking funding must submit a proposal containing the following:

(1) A narrative of no more than 10 double-spaced pages on 8½ by 11 inch paper. The narrative should contain a statement of the program area or special interest area to be addressed by the proposed project; an explanation of the need for the project. If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services or other resources.

(2) A summary description of the approach to be taken;

(3) A summary description of how the project will be evaluated, including the evaluation criteria;

(4) A description of the products that will result, the degree to which they will be applicable to tribal courts across the nation and the manner in which the products and results of the project will be disseminated;

(5) An explanation of the expected benefits to be derived from the project;

(6) The identity of the key staff and a summary description of qualifications;

(7) A budget estimate including the anticipated costs for personnel, fringe benefits, travel, equipment, supplies, contracts, indirect costs and other anticipated major expenditure categories;

(8) The amount, nature, (cash or in-kind) and source of match or contribution to be provided;

(9) A statement of whether financial assistance for the project has been or will be sought from other sources.

(10) An application from a federally recognized tribe must include a tribal resolution, an endorsement included in the application or such other written expression as the tribal constitution or current practice requires.

The BIA encourages applicants to attach letters of cooperation and support from other tribal courts who may benefit from the proposed project and from related agencies that will be involved in or directly affected by the proposed project.

V. Application Review Procedures

All applications will be rated on the basis of the criteria set forth below. The criteria provide further guidance to be used in developing the program narrative. The point values assigned each criterion heading indicate the numerical weight each section will be accorded in the review process:

(1) The soundness of the approach to be used (25 points)

Applicants should outline a plan of action and detail how the proposed scope of project will be accomplished. Describe any unusual features of the project, e.g., community involvement, peer group involvement.

Describe how the project will be maintained after termination of BIA support. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and success of the project. Review the methodology proposed to determine if the needs identified will be met and if the results and benefits identified will be achieved.

(2) The appropriateness of the proposed evaluation design (15 points)

Identify the evaluation plan proposed to assess whether the program was effective in meeting its goals and to what extent these effects can be attributed to project activities. The results of the evaluation should, at a minimum, provide a useful description of number of clients served, who provided services, when, how often, in what settings and what were the results.

(3) The qualifications of the project's staff (15 points)

List staffing descriptions of people who will work on the project and the nature of their contribution or effort. The review should also include the background and experience of the project director and key project staff highlighting experience and training pertinent to the project. A narrative describing how staff will be recruited and selected, and whether any particular mix of background, skills and or personal qualities of staff is proposed. Key staff performing evaluation responsibilities should be identified and included as key personnel. The

relationship of staff characteristics to the objectives of the project should be discussed. Job descriptions for each by professional position identified in the proposed budget must be submitted.

(4) The applicant's management plan and organizational capabiliites (15 points)

A description of how the applicant is organized and the capacity of the applicant to administer the grant funds including the financial systems used to monitor project expenditures and a summary of the grantee's past experience in administering grants, as well as any resources or capabilities that the grantee has that will assist in the successful completion of the project.

(5) The reasonableness of the proposed budget (10 points)

Applicants should demonstrate that the project's costs (overall costs, average cost per client served), are reasonable in view of the anticipated results and benefits. Cost effectiveness approaches should be highlighted.

(6) the demonstration of need for the project (15 points)

The applicant should include a brief statement of the problem that demonstrates the need, the available resources, the gaps and other problems in the availability of services for the target community and how the proposed project will address the need, and the prior knowledge/performance of the applicant in the area. The applicant should describe how the project will contribute to the improvement or augmentation, rather than the duplication, of services for the target community.

(7) The products and benefits resulting from the project (10 points)

Applicants should identify the results and benefits to be derived from the project and should quantify these through a statement of the numbers of clients to be served and a description of the types and quantities of services to be provided.

(8) The demonstration of cooperation and support of other agencies that may be affected by the project (5 points)

If the applicant proposes or intends to work with other tribes or agencies, a letter of support or cooperation should be attached from those tribes or agencies to be affected.

(9) The applicant's standing in relation to the objectives discussed in Section I—Background Information (15 points)

The applicants should include a statement which demonstrates how the proposed project will serve the objectives set forth in section I.

VI. Eligibility Requirements

In awarding grants to accomplish these objectives and purposes, the BIA will give priority to Indian tribes and their tribal courts; national Indian nonprofit organizations whose principal purpose or activity is to provide technical assistance, education and training to tribal court systems and court personnel and which demonstrate a record of substantial experience in the field of judicial administration, education and training; educational institutions operating in conjunction with and serving the judicial systems of Indian tribes, or combinations thereof.

VII. Review and Approval Process

Applications will be reviewed competitively by a Review Panel. The Judicial Services staff will prepare a narrative summary of each applicant, and a rating sheet assigning points for each relevant selection criterion. The Review Panel will provide a list of applicants meeting the criteria to the Deputy to the Assistant Secretary—Indian Affairs for Tribal Services. The Deputy to the Assistant Secretary—Indian Affairs (Tribal Services) will recommend to the Assistant Secretary—Indian Affairs the applications to be funded. The Assistant Secretary—Indian Affairs will make the final selection of the applicants to be funded.

The BIA will send written notice to applicants concerning the Assistant Secretary—Indian Affairs' decision to fund their respective applications. A decision by the Assistant Secretary—Indian Affairs to deny funding of an application may not be appealed, but does not prohibit resubmission of an application in a subsequent round of funding.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91-1449 Filed 1-22-91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Wednesday,
January 23, 1991

Part V

Postal Service

39 CFR Part 111

Eligibility Requirements for Automated Rate Categories; Final Rule

POSTAL SERVICE

39 CFR Part 111

Eligibility Requirements for Automated Rate Categories

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule, which adopts with revisions a proposed rule published with an invitation to comment in the **Federal Register** on October 3, 1990, 55 FR 40560, amends the regulations of the Postal Service governing the eligibility requirements for current automation-based rate categories (First-Class nonpresorted ZIP+4, ZIP+4 Presort, and ZIP+4 barcoded mail; and third-class basic ZIP+4, 5-digit ZIP+4, and ZIP+4 barcoded mail) to reflect more accurately the types of mailpieces that can be efficiently processed on current automation equipment

This rule amends Domestic Mail Manual regulations to update the physical preparation, optical character reader (OCR) readability, and barcode preparation requirements for all automated mailpieces. The rule also make significant changes in postal policy for addressing mail that qualifies for automation-based rate discounts. It will require, on a phased basis: (1) That mailers use the finest level (depth) of ZIP+4 code available for an address in the USPS ZIP+4 data file on their mailpieces; (2) that complete addresses necessary to obtain the finest level of ZIP+4 code available for the delivery point appear on the mailpiece; (3) that addresses for nonbarcoded ZIP+4 mailings also appear in a standardized format prescribed by the Postal Service; (4) that Coding Accuracy Support System (CASS) certified software be used to match addresses with the USPS ZIP+4 datafile to ensure that ZIP+4 codes and barcodes are accurate and represent the finest level of ZIP+4 coding available for each delivery point; and (5) that address lists be matched using CASS certified software within six months of presentation of any ZIP+4 or ZIP+4 barcoded mailing. Mailpieces that do not meet these requirements will not be eligible for automation-based rate discounts.

EFFECTIVE DATE: Except where specifically noted, the regulations adopted in this rule will become effective on February 24, 1991. As explained below, the Postal Service is implementing some of the regulatory changes adopted in this rule on a delayed basis to provide appropriate transition periods for mailers to adjust to the changes.

ADDRESSES: Comments on this rule are welcome and will be considered with a view toward making future changes in postal regulations. Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, Room 8430, 475 L'Enfant Plaza West SW., Washington, DC 20260-5903.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Martin, (202) 268-5176, for information on all matters except addressing requirements for finest level of ZIP+4 code, standardized or complete addresses, and CASS certification.

Mr. Paul Bakshi, (202) 268-3520, for information concerning the requirements for finest level of ZIP+4 code, standardized or complete addresses, and CASS certification.

SUPPLEMENTARY INFORMATION: The deadline for submitting comments on the proposed rule expired on November 2, 1990. The time for comments was extended until November 9, 1990 at the request of parties who expressed an interest in providing comments. All comments mailed by November 9 have been considered.

The Postal Service received a total of 121 comments on the proposed rule, including 15 comments from mailing industry trade associations, 71 from corporations, 34 from mailing-related businesses, and 1 from an individual.

On the basis of the comments received, and further consideration of the proposals by the Postal Service, the Postal Service has decided to adopt the proposed regulations with a number of revisions described in detail below. In some cases, the Postal Service has amended the proposed regulations to reflect the further information received. In other cases, the Postal Service has provided phased implementation schedules for some regulation changes where it was determined that a transition period was needed by the mailing industry.

As noted in the Supplementary Information section of the proposed rule, the eligibility requirements adopted in this final rule will apply to current automation-based rate categories of mail as well as to any new automation-based rate categories that are established as a result of the Postal Service's pending request for changes in postal rates and fees and in classifications of mail matter. The Postal Service published a proposed rule on the implementing regulations it proposes to adopt if the changes in the Postal Service's rate request are approved. See 55 FR 51802-51894 (December 17, 1990). That proposed rule contains regulations for new or revised automation-based rate categories in First-, second-, and third-class mail. The regulations adopted here will be applied to those categories to the extent they are implemented in the final rule to be issued following the decision of the Governors of the Postal Service on the recommended rate, fee, and classification changes. The Postal Service expects that rule to be published on or about January 28, 1991, and to be made effective on or about February 3, 1991.

The December 17 proposed rule on rate implementation also initiated an effort by the Postal Service to consolidate the various regulations governing eligibility for automation-based rates which are common to more than one class of mail. That rule specifically proposed the location of optional automated mail tray preparation regulations in a new chapter 5 of the Domestic Mail Manual. In addition, the Postal Service noted in that proposed rule (55 FR 51802, 51805) that when revised automation eligibility rules were adopted as part of this final rule, these eligibility regulations would be incorporated in chapter 5 as well. Accordingly, this final rule adopts the proposed mail-piece eligibility requirements, as revised, as new sections 520, 530, 540 and 550 of chapter 5. The equivalent provisions in chapter 3 (First-Class Mail) and Chapter 6 (third-class mail) have been deleted and replaced by references to the appropriate provisions in chapter 5. Provisions on complete and standardized addressing have been added to section 122.

Chapter 5 will be further amended to incorporate the optional tray preparation requirements when the Postal Service adopts final rate implementation regulations. When the regulations adopted in those two final rules are incorporated in the next issue of the Domestic Mail Manual, the automated mail sections of chapters 3, 4, and 6 will be renumbered and reformatted to reflect the location of these generic automated mail eligibility regulations in chapter 5.

Evaluation of Comments Received

A. General Comments

The Postal Service received 57 comments of a general nature expressing broad concerns about the policy underlying the proposed rule and the methods used to propose these changes in automation-based rate eligibility requirements. One general theme of these comments was that the

Postal Service should not be making eligibility for automation-based rates more restrictive at this time. However, as explained in the Supplementary Information section of the proposed rule, the increased sophistication of the equipment deployed in the Postal Service's automation program and the experience the Postal Service has gained with regard to mailpiece preparation necessitated an update of the eligibility requirements for mailpieces receiving automation-based rate discounts to ensure that such mail can be efficiently processed on the Postal Service's automation equipment. This need will be even greater if expanded automation-based rate discounts are adopted as a result of the pending rate case. Moreover, as the proposed rule also explained, the accuracy of mailer-applied ZIP+4 codes and ZIP+4 barcodes is becoming very important to the efficient processing of automation-compatible mail. Thus, the Postal Service believes that this is an appropriate time to revise the eligibility requirements for mail receiving automation-based rate discounts. The Postal Service recognizes that some mailers may be adversely affected by those new requirements that are more restrictive than current requirements, and, where appropriate, has modified the requirements or delayed implementation accordingly.

A second general theme expressed in 34 comments was that adoption of the proposed eligibility requirements will increase the mailer's costs of participating in the automation program and will produce a decrease in the volume of automated mail that the Postal Service will receive from mailers. The Postal Service recognizes that in some instances this could be true. However, this consideration was outweighed by the need to ensure that all mailpieces eligible for automation-based rate discounts can be efficiently processed on automation equipment and that automated processing of this mail will produce the cost savings on which the discounts are based. The Postal Service hopes that mailers understand that it is in the long-term best interest of both the Postal Service and all of its customers to make as much mail as possible automation compatible.

A third general theme expressed in 30 of the comments was a desire for delayed effective dates for various proposed changes to provide mailers with additional time to comply with the new requirements. For the reasons stated above, the Postal Service believes it is appropriate to implement many of the proposed changes in eligibility requirements at this time. As explained below, however, the Postal Service has determined that delayed implementation of some of the mailpiece preparation requirements and a phased implementation of the new addressing requirements is in the best interests of the Postal Service and its customers.

B. Acceptance Procedures

Nine commenters expressed concern about the manner by which the Postal Service will verify compliance with the various requirements for preparation of automation-based rate mailings at the time of acceptance. The Postal Service expects mailers that are claiming any of the automation-based rates for their mailings to comply with all the applicable requirements. While the Postal Service has historically verified mail for presort, mail makeup, and postage at the point of acceptance (e.g., at post office bulk mail acceptance units), it is not feasible to verify the accuracy of ZIP+4 codes or barcodes or the readability of the barcodes on pieces in mailings claimed at automation-based rates at the time when those mailings are presented for postal acceptance.

Accordingly, the Postal Service is establishing detailed eligibility criteria that mailers can apply in preparing automation compatible mailings, and will work with mailers to ensure that they properly design mailpieces, improve the quality of the addresses they use on mailpieces, and use equipment that can produce accurate, readable barcodes. The Postal Service will also continue to provide the information necessary to support these efforts before the generation of mailpieces and the preparation of mailings. The Postal Service will also rely on mail processing feedback mechanisms to identify those mailings that cannot be processed because of inaccurate addressing or ZIP+4 coding, or inaccurate or unreadable barcodes. Mailers will be notified when their mailings have been identified as having these types of problems and will be expected to ensure that future mailings are properly prepared.

The final rule does identify some specific documentation related to the processing of address lists through Coding Accuracy Support System (CASS) certified ZIP+4 matching software that mailers will have to submit with each mailing claimed at a ZIP+4 or ZIP+4 Barcoded rate. This documentation, which is described below, is required to ensure that mailers have matched address lists with CASS certified software as required.

C. Physical Characteristics

(1) Minimum Thickness for Pieces Over 4¼"×6"

Thirteen comments were received regarding the proposal that pieces measuring over 4¼ inches in height and/or 6 inches in length must be at least 0.009 inch thick. The majority of commenters expressed concern over increases in the cost of thicker stock and increased problems in printing and binding operations. Two commenters suggested that a 40% increase in the minimum weight of mailing pieces conflicted with conservation and recycling efforts. One commenter indicated that suppliers did not have enough of the necessary paper stock to support the order card industry.

The Postal Service has adopted the minimum thickness requirement for pieces measuring over 4¼ inches in height and/or 6 inches in length as proposed. This requirement is based on engineering studies and mailer complaints concerning damaged pieces which have shown that mailable pieces not larger than 4¼ by 6 inches with a minimum thickness of 0.007 of an inch and meeting specified basis weight requirements can be successfully processed on automation equipment, while pieces larger than 4¼ by 6 inches generally must be 0.009 of an inch thick to be successfully processed on automation equipment. The comments received did not provide sufficient substantive reasons for adopting a lower minimum thickness requirement. Adoption of this rule will ensure that mailpieces entered at the automation-based rates are sufficiently sturdy to be successfully transported through postal automation equipment and will minimize the potential for damaged pieces.

(2) General Basis Weight and Tabbing Requirements

Nine commenters offered 16 comments regarding the proposal that paper envelopes, paper used to prepare self-mailers (folded single sheets), and the outer covering sheet or sheets of other booklet-type mailpieces must have a minimum basis weight of 20 pounds. Three commenters indicated that this proposal was too restrictive, others indicated that the proposal conflicted with environmental and recycling efforts, and one commenter stated that 16-pound paper should suffice for envelopes. One commenter indicated that uniform rigidity could be met with the commenter's product and should be given consideration. Two commenters indicated that 20-pound paper does not

feed well through impact printers and increases jams.

One commenter stated that 20-pound paper decreases the chemical transfer process to subsequent copies for forms.

Related to the issue of paper stock are the requirements for sealing, folding, and tabbing of pieces mailed at automation-based rates. A total of 37 commenters responded to the proposed requirements concerning mailpiece construction. Based on equipment testing, the Postal Service proposed regulations which would require that all pieces be prepared in a sealed envelope or be sealed on all four edges, with the exception of self-mailers, double postcards, and booklet-type mailpieces if prepared with two tabs. The proposed regulations would have required the folded edge or spine of self-mailers, double cards, and booklets prepared with tabs to be the bottom edge of the mailpiece in relation to the address, with the tabs placed on the top edge of each of these mailpieces, one within one inch of the left edge and one within one inch of the right edge.

Seven commenters stated that tabbing adds expense and processing time to the preparation of self-mailers and double postcards. Some believe that the requirement will cause a significant drop in third-class mail volume and force mailers to consider alternate delivery methods. Many expressed concern that adequate machinery does not exist to apply the two tabs required by the proposed rule. Some said that the application of a single tab in the middle should be sufficient while a few indicated acceptance of the new requirement, but requested additional time to comply. Still others said the Postal Service should allow for pretesting of mailpieces on postal automation equipment to determine the items' ability to be processed. There were additional comments that the Postal Service currently handles a variety of self-mailers without tabs or with a single tab on automated equipment, suggesting that the new requirements are too stringent or not needed.

With regard to the requirement that the fold of self-mailers, booklets and double postcards must be at the bottom in relation to the address, some commenters said that this requirement would lead to damaged mailpieces. Other concerns ranged from having to redesign mailpieces to pointing out that the Postal Service's double postcards do not comply with this requirement.

The Postal Service has adopted a final rule for envelopes and self-mailers that takes these comments into account to the extent practicable and provides a transition time for mailers to meet the necessary requirements that assure that mail can be successfully transported without damage through automated mail processing equipment.

Specifically, the basis weight requirements for paper used for envelopes and the outer covering of other pieces sealed on all four edges is reduced from 20 pounds to 16 pounds in the final rule as provided in section 522.

Until February 2, 1992, folded self-mailers may be prepared from paper having a minimum basis weight of 20 pounds, the fold may be on either the top or bottom edge of the mailpiece and only one tab in the middle of the open edge will be required, as provided in § 523.3.

Effective February 2, 1992 mailers may prepare self-mailers with either one tab in the middle of the open edge or with two tabs within 1 inch of the left and right edges of the open edge. If mailers prepare the self-mailers with one tab the folded edge must be at the bottom of the mailpiece and: (1) If formed of a single folded sheet the mailpiece must be prepared from paper having a minimum basis weight of 28 pounds (using a 17 to 22 inch sheet size and 500 sheets) or 70 pounds (using a 25 inch by 38 inch sheet size and 500 sheets); or (2) if formed of more than one folded sheet the mailpiece must be prepared from paper having a minimum basis weight of 24 pounds (using a 17 inch by 22 inch sheet size and 500 sheets) or 60 pounds (using a 25 inch by 38 inch sheet size and 500 sheets). If mailers prepare self-mailers with two tabs, the folded edge of the mailpiece may be at either the top or the bottom of the mailpiece and the mailpiece must be prepared from paper having a minimum basis weight of 20 pounds (using a 17 inch by 22 inch sheet size and 500 sheets). See § 523.2.

The requirements for booklet type mailpiece in the proposed rule were adopted in the final rule. These are the minimum requirements necessary to allow booklet-type mailpieces to be processable on automated equipment.

(3) 75-Pound Basis Weight for Cards

Four comments were received regarding the proposal that cards mailed at automation-based rates meet a minimum 75-pound basis weight requirement. Two were general comments stating that the proposal is too restrictive. One commenter suggested an allowance for variances in manufacturing by including language that required a basis weight of 75 pounds or greater with none less than 71.25 pounds. Another commenter indicated that 75-pound paper that must be free from groundwood is too expensive.

The Postal Service has decided to adopt in the final rule the requirements that cards be printed on paper stock meeting a standard industry basis weight of 75 pounds or greater, with none less than 71.25 pounds, and which is free from groundwood except when coated with a substance that adds to the paper's ability to resist an applied bending force. This basis weight requirement is essential if the Postal Service is to successfully transport cards through automated equipment without damage.

(4) Maximum Weight of 2.5 Ounces

A total of 34 comments were received regarding the proposal that pieces weighing over 2.5 ounces will not qualify for automation-based (i.e., ZIP+4 and ZIP+4 Barcoded) rates. A majority of those comments stated that the weight limit should be expanded, perhaps to 3 ounces, to avoid exclusion of a substantial amount of mail which should qualify for automated rates. A number of commenters thought that the 2.5-ounce limit will discourage mailers from preparing automation-compatible mailpieces. Some commenters indicated that it would be too expensive to segregate pieces weighing between 2.5 and 3 ounces within mailing operations if the lower weight limit is adopted.

Several commenters expressed the opinion that even if there is a lower throughput for heavy pieces on postal automation, it is still less expensive for the Postal Service to process these pieces through automation than by manual or mechanism processes.

Some commenters also suggested that further testing is needed on mailpieces weighing over 2.5 ounces to determine compatibility with automated equipment.

Postal Service testing to date shows a significant drop in the throughput of pieces weighing over 2 ounces. A significant drop in throughput occurs at 2 ounces, a greater drop at 2.5 ounces, and an even greater drop at 3 ounces. The Postal Service feels that 2.5 ounce weight limit is an appropriate compromise between the throughput drop-offs at 2.0 ounces and 3.0 ounces. Although it may be less expensive for the USPS to process heavier pieces on automated equipment than by manual or mechanized processes, the Postal Service believes it appropriate to give rate discounts only to those pieces meeting the cost avoidance criteria upon which the discounts are based.

Accordingly, although the Postal Service will process heavier pieces on

automated equipment to the extent possible, the final rule adopts the 2.5 ounce weight limit for automation rate mailings but provides an exception to the 2.5 ounce limit until September 15, 1991, which allows pieces that do not weigh more than 3.0 ounces to be included in such mailings. Pieces that exceed this weight must not be included in either a ZIP+4 or ZIP+4 Barcoded mailing. During this time, the Postal Service will initiate a process that will provide it with an opportunity to work with customers and conduct additional tests before deciding upon the final limitations and issuing them in a future proposed rule.

(5) Mailpiece Flexibility

The proposed rule would prohibit rigid items, such as pens, pencils, keys, and bottle caps, within mail pieces claimed at automation-based rates. Furthermore, mailpieces would have to meet prescribed flexibility standards, and odd-shaped items, such as coins or tokens enclosed in pieces claimed at automation-based rates, would have to be firmly affixed to part of the contents and wrapped so as to render them compatible with automated processing equipment.

Five commenters expressed concern about these requirements, particularly about the mailability of identification cards and credit cards. One commenter suggested that some provision be made for the testing of mailpieces submitted by mailers for automation compatibility.

To resolve these concerns, the final rule contains a provision whereby mailers may submit sample pieces to the Postal Service's Engineering and Development Center for testing. The provision in the proposed rule that specifically allows reasonably flexible items such as credit cards to be contained in automation-compatible mailpieces is also adopted in the final rule.

(6) Removable Stickers or Labels

Of the 20 comments received in response to the proposed requirement that all labels and stickers, including address labels, affixed to the outside of mailpieces entered at any of the automation-based rates, be completely affixed with permanent glue or adhesive, a majority stated that removable and relocatable labels and stickers are important marketing tools which they have long used on mailpieces. Several of the commenters pointed out that the Postal Service uses this type of label in its Computerized Forwarding System operations for mailpieces that are undeliverable as addressed. All of the commenters stated that a prohibition against all mailpieces bearing address labels and other labels or stickers that are designed to be removed or relocated from pieces eligible for the automation-based rates could have the negative effect of causing them to be mailed in a non-automation compatible form or to be delivered by alternative delivery services.

Several commenters said that the Postal Service should prescribe clear standards for the use of removable and relocatable stickers and labels on mailpieces to ensure that such mailpieces can be successfully transported through postal automation equipment.

The Postal Service agrees that this is a reasonable suggestion. Accordingly, the final rule allows for the use of relocatable labels and stickers affixed directly to the outside of mailpieces. Specific minimum adhesion standards are prescribed for both relocatable labels and stickers affixed directly to the outside of outgoing mailpieces by the mailer and for labels designed to be relocated to the outside of a return mailpiece by the mailer's customer.

(7) Polywrapped Pieces

Nine comments were directed toward the proposal to deny eligibility for automation-based rates for all mailpieces that are polybagged or polywrapped. The majority indicated that the proposed blanket prohibition was too restrictive and that testing should be allowed to determine whether specific types of material and certain methods of wrapping could result in mailpieces that could be successfully transported through automated postal equipment.

None of the materials or wrapping methods the Postal Service has tested to date on its automated equipment has been found consistently acceptable, and the Postal Service is therefore adopting the prohibition against polybagged, polywrapped, and shrink-wrapped pieces mailed at automation-based rates. However, the Postal Service will continue to test mailer-provided sample materials and wrapping methods to determine if there are any that would allow efficient processing on automated equipment. Mailers who have materials that they believe could be successfully processed on automated equipment are invited to submit them for testing by the Postal Service Engineering and Development Center.

(8) Glossy Paper and Drying Time for Barcode Ink

Eighteen commenters responded to the proposals to exclude from eligibility for any ZIP+4 rates mailpieces prepared with glossy paper, paper with glossy coatings, and non-paper material such as spun bonded Olefin, and to require that the paper upon which addresses and barcodes are printed must allow water-based ink to dry without smearing within ½ second. A majority of the commenters questioned the ½ second drying time requirement and several suggested that the Postal Service needs to speed up its research on ink to improve drying time. A number of the commenters also expressed the view that the Postal Service needed to provide a more specific description of what constitutes "glossy paper" or "adequately coated stock" because a very broad interpretation could eliminate papers that will actually accept water-based ink applied by Postal Service OCRs.

The length of time allowed for drying of water-based ink will be amended in the final rule from ½ second to 1 second. Because it would be extremely difficult to define by regulation those types of glossy or coated papers that would be acceptable to the Postal Service, the final rule will state that glossy paper, paper with glossy coatings, and non-paper materials may be submitted for prior testing and approval by the Postal Service Engineering and Development Center.

(9) Address Reflectance Requirements

The proposed rule contained new requirements for mailpieces related to the background reflectance, opacity, dark fibers, and background patterns of the outer surface of mailpieces necessary to ensure accurate reading of addresses by OCR equipment, and clarified the print contrast ratios that are required.

Eleven commenters expressed concerns about the address reflectance requirements. Several questioned the "show through" and "dark fiber" requirements and whether additional testing should be done. Others questioned whether the Postal Service and mailers would have sufficient reflectance meters for testing purposes to ensure mailings are in compliance with Postal Service requirements.

Fibers and characters or designs that "show through" the outside of mailpieces can be read as characters of the address or can interfere with recognition of address elements by OCRs, resulting in miscoding and missorting of mailpieces. Accordingly, these requirements are adopted as proposed. The Postal Service anticipates that all postal facilities having OCRs will be equipped with reflectance meters by early 1991 to properly administer

these requirements. The Postal Service also is in the process of granting a license to a manufacturer for sale of reflectance meters that meet USPS specifications to the general public. To allow mailers time to adjust, the final rule also provides that the reflectance requirements for the address area pertain only to that area in the OCR read area that is on either side of and below the delivery address lines of the address, with the exception that until February 2, 1992, they apply only to that area in the OCR read area that is on either side of or below the city/state/ZIP Code line.

(10) OCR Read Area and Placement of Address

The proposed rule would require that the entire address be printed in the OCR read area to allow the entire address to be read by multi-line OCRs. To provide sufficient space to do this, the Postal Service proposed that the uppermost boundary of the OCR read area would be extended from 2¼ inches from the bottom edge of the mailpiece to 2¾ inches from the bottom edge. Also, to make it easier for smaller card-type mailpieces to qualify for ZIP+4 rates, the Postal Service proposed expanding the OCR read area to within ½ inch of the left and right edges of the mailpiece so that the revised OCR read area would be ½ inch from the left edge, ½ inch from the right edge, 2¾ inches from the bottom edge, and ⅝ inch from the bottom edge.

Ten commenters were concerned with the size of the OCR read area and the required placement of all delivery address lines within it. They indicated a need for additional time to redesign mailpieces and use up existing stocks.

As a result of these concerns, the Postal Service has decided to postpone implementing the new OCR read area dimensions until February 2, 1992, to allow mailers sufficient time to comply with the new requirements.

(11) Limits for Non-Address Printing in OCR Read Area

The proposed rule provided that neither return addresses nor mailer endorsements concerning forwarding, return, and address correction services would be permitted within the OCR read area. In addition, no markings, printing, or die cuts (except for the edges of address windows prepared in accordance with regulation) would be allowed in the OCR read area on either side of, or below, any of the address lines. Non-address printing or markings could appear in the OCR read area only if positioned above the address lines. This requirement would also apply to addresses printed on inserts in window envelopes.

Fourteen comments were received that opposed the proposed rule on non-address printing. Several commenters indicated they would have insufficient space for placement of return addresses and endorsements. Three commenters further stated that it would adversely impact the effectiveness of their mailpieces. Nine comments dealt with the placement requirements of the return address.

To afford mailers time to adjust to the changes, the Postal Service has revised the proposed rule so that, until February 2, 1992, non-address printing or markings will be disallowed only within the OCR read area on either side of or below the city/state/ZIP Code line of the address. Effective February 2, 1992, within the revised OCR read area, there can be no markings, printings, or die cuts (except for the edges of address windows prepared in accordance with regulations) on either side of or below any of the delivery address lines. Delivery address lines will include the apartment or other secondary address unit numbers, house or building numbers, street, rural route number, highway contract route number, box number, city, state, and ZIP Code. For the purpose of this regulation, delivery address lines exclude the name of the recipient, firm name, building name, and optional lines above the name of recipient line such as keylines and optional endorsement lines. This provision will also apply to addresses printed on inserts in window envelopes.

(12) Typestyle and Typographic Requirements

The proposed rule specified requirements for type fonts that are readable by Postal Service OCRs, identified acceptable fonts, required all lines of the delivery address to be machine-printed to maintain a high degree of print quality, and recommend that the entire address be printed in upper-case characters. The proposal also contained requirements pertaining to character height, stroke width, height-to-width ratio, and space between characters, and prescribed the allowable space between words and lines of the address.

Of nine comments received, three stated that the Postal Service should make it clear that the listing of type fonts in the original proposal was not all-inclusive of the acceptable styles. Several of these commenters requested that it be made clear that while upper-case letters are recommended, they are not required. Other comments related to the permissibility of proportional spacing, skew requirements, and the use of different type fonts within an address.

The final rule adopts the typographical requirements as originally proposed with some clarifications. While acceptable type fonts are identified, the final rule makes it clear that Exhibit § 542.41 does not identify all acceptable type fonts. The final rule also recommends that the entire address be printed in upper-case characters, but allows upper- and lower-case characters as well as large capitals and small capitals of the same type font. Use of different type styles within the same line of an address is not permissible under the final rule, although different lines may be printed in different type styles. Proportional spacing is allowed within the guidelines prescribed, but kerning (the overlapping or nesting of characters) is not.

(13) Requirements for Addresses Printed on Inserts

The proposed rule contained the requirement that the address be OCR readable when printed on an insert and read through a window in the mailpiece. It further specified that, if the window is covered, a clear, transparent window covering material (such as cellophane or polystyrene) should be used, and all edges of the window must be glued securely to the mailpiece. The address, when viewed through the window material, would have to meet the prescribed minimum print contrast ratios.

Three commenters addressed this issue. Two questioned why the requirement for glassine is stricter than that for other coverings or uncovered addresses. A third suggested that the Postal Service adopt a more restrictive approach saying that cellophane, glassine, and tinted or smoked window coverings should not be acceptable, and that the Postal Service should add a requirement that window materials be free of wrinkles.

The Postal Service has determined that mailpieces with addresses prepared as proposed can be read by OCRs, and that as long as this is the case more restrictive requirements need not be adopted. The final rule also states that, since glassine is somewhat opaque, a higher print contrast ratio is needed to assure OCR readability, and that glassine may be used for window cover material only if the address information measured through the glassine affords a specified minimum print contrast ratio. A specific requirement that windows be wrinkle free is unnecessary at this time if the covering materials are glued

securely on all edges and normal industry quality standards are applied.

(14) Barcode Reflectance

The Postal Service proposed new background reflectance criteria for the mailpiece material on which a barcode is printed (i.e., the envelope, card, insert material, or outermost sheet).

Two individuals commented. One supported the proposed provisions, while the other questioned whether the reflectance requirements applied to areas outside the barcode clear zone.

The final rule clearly states that the reflectance criteria apply only to the area within the barcode clear zone.

(15) 5-Digit Barcodes on Presort and Carrier Route Mail

The proposed rule strongly recommended against the use of postnet 5-digit barcodes within presorted mailings (e.g., Presorted First-Class and carrier route presort), and required that if either a 5-digit or ZIP+4 postnet barcode is used, the pieces in the mailing must meet automation-based ZIP Coding, addressing, CASS documentation, and barcoding requirements prescribed for automation-based rate category mailings.

Twelve commenters expressed opinions that ranged from support for prohibiting 5-digit barcodes to encouraging their use. One commenter suggested that no discounts should be offered for mail with less than a ZIP+4 barcode. One commenter asked why mail at other than automation-based rates will be required to meet automation requirements, and another suggested that the Postal Service develop a way to handle such mail without prohibiting it. Two commenters questioned why the Postal Service is prohibiting 5-digit barcodes since it uses 5-digit barcodes itself, while another expressed concern that prohibition of 5-digit barcodes will result in a cost to mailers if they are prevented from using them for their own automated processing. A question was raised by one commenter whether mailpieces bearing 5-digit barcodes would be counted in meeting the 85 percent requirement applied to ZIP+4 Barcoded rate mailings.

The Postal Service does not recommend the use of 5-digit barcodes within mailings that are not entered at automation-based rates. However, use of 5-digit barcodes on mailings at rates other than ZIP+4 and ZIP+4 barcoded rates was not prohibited in the proposed rule and is not prohibited in this final rule. Furthermore, mailpieces bearing 5-digit barcodes are not eligible for any prebarcoded discounts and are eligible for ZIP+4 discounts only if they bear a ZIP+4 code in the address and meet OCR readability and other criteria within an automation-based rate category mailing.

Five-digit barcodes on mailpieces in mailings at non-automation based rates such as single piece rate, Presorted First-Class, third-class basic rate, third-class 5-digit level rate, and First- and third-class carrier route rates, do not provide any processing savings to the Postal Service. Such pieces would still require processing through multi-line OCRs to add the "B-Field" or the last 4-digits of the ZIP+4 code, prior to processing on barcoding equipment. Furthermore, a mailer-applied 5-digit barcode creates the potential for problems such as overlapping barcodes when the Postal Service attempts to print the "B-Field." Accordingly, the recommendation that mailings at non-automation rates not be prepared with 5-digit barcodes will be adopted in the final rule. Furthermore, since the Postal Service believes it is reasonable to expect mailer-printed 5-digit or ZIP+4 barcodes to be readable on Postal Service equipment and to be the correct 5-digit or ZIP+4 barcode, a requirement that pieces in non-automation rate mailings bearing 5-digit or ZIP+4 barcodes meet the preparation requirements for barcoded pieces in section 550 of the final rule, and bear the correct 5-digit or ZIP+4 code, has been incorporated in the final rule. The requirement that the addressing and CASS documentation requirements be met for 5-digit barcoded pieces in non-automation based rate category mailings was not adopted in the final rule.

D. Requirements for Content of Addresses and Accuracy of ZIP+4 Codes for All Automation-Based Rates

(1) Complete and Standardized Address—General Requirements

The proposed rule would require complete addresses on all pieces entered at any automation-based rates (ZIP+4 and ZIP+4 barcoded rates) and would also require those complete addresses to be in a standardized format on all pieces entered at any non-barcoded ZIP+4 automation-based rates (nonpresorted ZIP+4, ZIP+4 presort, basic ZIP+4 presort, and 5-digit ZIP+4 presort). The definition of standardized and complete addresses proposed by the Postal Service listed all of the required address elements. Twenty-seven commenters expressed general views on the overall proposal to require complete and standardized addresses. Eleven were concerned over the poor quality of address lists and the difficulty they would have in obtaining needed information from customers or other sources in trying to meet the new requirements for complete and standardized addresses. One commenter stated that mailers should not be required to print addresses in a standardized format and one said the mailing industry would need 3 years to comply with the proposal. Another said it is unfair to try to correct the incomplete address problem with "force", and one said that the requirements should apply not only to automation rate mailings but to all bulk rate mailings. Still other commenters indicated they were concerned about such data processing issues as programming priorities, decentralized databases, and the limited size of address fields that would be greatly impacted by the requirement that lists include addresses that are complete and in standardized format.

The definition of standardized and complete addresses proposed by the Postal Service listed all of the required delivery address elements—such as firm name, address (street) number, predirectional, street name, suffix, post directional, secondary address unit designator and number; or rural route number and box number, highway contract route number and box number; or post office box number—necessary to obtain an exact match with the Postal Service ZIP+4 file currently in effect to the finest level of ZIP+4 code. A standardized and complete address must also contain the correct city, state, and ZIP+4 code.

Correct, complete, and standardized addresses with all of the required address elements are needed to ensure correct ZIP+4 coding. Accuracy of mailer applied ZIP+4 codes and ZIP+4 barcodes is of utmost importance to efficient processing of automation compatible mail. Accordingly, the final rule adopts a new § 122.9 defining complete and standardized addresses and requires a complete address, and (for non-barcoded pieces) a standardized address. These requirements are necessary to ensure that only mailpieces that can be efficiently processed on automated equipment can qualify for and receive the discounts represented by the automation-based rates. In response to customer concerns and to allow adequate time to comply, these regulations provide for the phasing in of requirements for complete and standardized addresses. Compliance with the additional requirements pertaining to complete addresses (and standardized addresses for non-ZIP+4

barcoded pieces) and final depth of ZIP+4 code will be phased in between September 1991 and September 1992. This will provide all parties involved with the development, maintenance, and use of mailing lists with sufficient time to ensure the necessary quality of lists in order to meet the prescribed requirements for automation based rates.

(2) Prohibition of ZIP+4 Numeric Codes and Barcodes on Pieces Not Bearing Complete and, Where Necessary, Standardized Address

The Postal Service proposed new requirements that pieces must not bear a ZIP+4 code or ZIP+4 barcode if they do not bear a complete address (or, where required, a standardized address).

Five comments were received, with the majority expressing concern that their MLOCR equipment will not allow them to suppress the ZIP+4 code or ZIP+4 barcode on pieces which do not bear a complete address. This is of particular concern in situations where a MLOCR user is attempting to barcode previously prepared mail pieces that already bear ZIP+4 numeric codes that may be neither correct nor the finest level of code. General dissatisfaction with the rule was expressed based on the fact that the commenters had purchased MLOCR equipment, which they claim is identical to USPS equipment, in efforts to barcode all mail by 1995.

The proposal that mailpieces must not show a ZIP+4 code or ZIP+4 barcode if they do not bear a complete address will be adopted as part of this final rule. This requirement is necessary to allow the Postal Service adequately to verify that pieces claimed at barcoded rates or non-barcoded ZIP+4 rates are eligible for those rates through existing documentation requirements. Mailers using MLOCR equipment must therefore reprogram their MLOCRs to reject pieces that do not bear a complete address but that bear a numeric ZIP+4 code, and to repress printing of ZIP+4 barcodes if the address is not complete (or, where required, a standardized address). It is not unreasonable for the Postal Service to require stricter standards for mailers obtaining automation discounts than it itself uses for ZIP+4 barcoding mailpieces paid at single piece rates. However, in response to customer concerns and to allow adequate time to adjust to the new requirement, the definitions of and requirements for complete addresses and finest level of ZIP+4 codes will be phased in with effective dates as indicated in §§ 531.11 and 531.12.

(3) Finest Level of ZIP+4 Coding and Secondary Address Unit Identifiers for Complete and Standardized Addresses

Forty-eight commenters responded to the proposals to require the finest level of ZIP+4 code on mailpieces entered at any automation-based rates and the use of complete addresses including firm names and secondary address unit numbers and designators on pieces mailed at these rates. Of these, thirty-five comments concerned the proposal to require that the finest level (depth) of ZIP+4 code, as contained in the USPS ZIP+4 file, appear on mailpieces entered at any automation-based rates. Thirteen specifically concerned the required use of firm names and secondary address unit designators such as suite numbers, rural route box numbers, and directional prefixes and suffixes, if those firm names, secondary designations, and directionals are needed to achieve the finest level of ZIP+4 coding.

Twenty-eight of the commenters expressed views about the timing of the proposed requirements, stating either that additional time is needed for improvements to be made in the USPS address file or that the Postal Service should delay implementation of the finest depth of ZIP+4 code requirement until it can successfully process mail bearing the advanced bar code. Twenty commenters said that these requirements would adversely affect the volume of mail qualifying for the automation-based rates due to increased mailer costs and mailing lists falling below the 85 percent requirement. Seven commenters believed that as long as the Postal Service uses default codes mailers should also be allowed to use them. Several multi-line OCR users in particular are concerned with the prohibition against default codes based on the fact that they purchased MLOCR equipment which they claim is identical to USPS equipment (which uses default codes) in efforts to barcode all mail by 1995. One comment asserted that only 10 percent of the mail is affected by default codes and that the regulation is too great a burden for too little mail.

The Postal Service does not want mailers to apply default codes because the use of the default code would, in some cases, require additional processing before distribution of pieces to the correct carrier or delivery point. The finest level of ZIP+4 code is needed for some addresses to determine the correct carrier and delivery point. For example, a large apartment building may be served by more than one carrier. The finest level of ZIP+4 code will identify the specific carrier serving the specific address. Accordingly, the finest level of ZIP+4 code is needed at the current time (as opposed to being necessary only when advanced barcoding is implemented) to provide operational savings to the Postal Service. The use of default ZIP+4 coding diminishes the potential for operational savings.

In order to address the concerns expressed about the timing of the implementation of the requirements for complete addresses and use of the finest level of ZIP+4 codes, the Postal Service has adopted the following phasing schedule:

Effective September 1, 1991: All address lists matched with software that has obtained a CASS certification valid from September 1991 through February 1992 must contain addresses that meet the complete address (except for apartment numbers) and finest level of ZIP+4 code requirements in § 122.9.

Effective March 1, 1992: All address lists matched with software that has obtained a CASS certification valid from March 1992 through August 1992, or thereafter, must meet all of the complete address and finest level of ZIP+4 code requirements in § 122.9 including the use of apartment numbers.

The final rule provides that if the information necessary to achieve the finest level of ZIP+4 code is not contained in the USPS ZIP+4 file then mailers are not required to use the information. For example, if an "H" record exists in the ZIP+4 file for an address without any information in the secondary ranges, the mailer is not required to supply secondary ranges, such as secondary address unit numbers, to achieve the finest level of ZIP+4 code. The Postal Service is currently evaluating the benefit of providing an indicator in the ZIP+4 file for addresses where use of the secondary information is required.

(4) Use of Only Approved City Names

Thirteen comments were received on the proposed requirement that, as part of the complete address required on mail claimed at an automation-based rate, mailers must use only approved last line (place) names, as shown in the Postal Service city-state file.

The majority of the comments indicated concern regarding the exclusion of prestige or vanity city names in the city-state file. Additional concern was expressed about changing a city name, particularly names furnished by a mailer's customers, when a correct ZIP+4 code is already contained in the address.

There seems to be confusion on the part of the commenters over the number of city names that are recognized as

acceptable in a complete address, and the final rule provides that city names identified with codes 1–5 in the city-state file are acceptable as part of a complete address. Most prestige and vanity names are included in the city-state file as code 5. For consideration of inclusion of additional prestige/vanity names in the city-state file, customers may send a request to Office of Address Information Systems, 475 L'Enfant Plaza SW., Room 7801, Washington, DC 20260–5902.

(5) CASS Certification

The Postal Service proposed new requirements detailing the permissible methods for standardizing addresses, determining if addresses are complete, and assigning the finest level of ZIP+4 codes to address lists when they will be used on mailings claimed at ZIP+4 or ZIP+4 Barcoded rates. These new requirements stated that any user of software that applies ZIP+4 codes to address lists, for the purpose of obtaining a ZIP+4 or ZIP+4 Barcoded rate, had to obtain Coding Accuracy Support System (CASS) certification for the matching software.

Twenty-three comments were received concerning this proposal. A majority expressed a concern that the CASS certification process was too restrictive primarily because of cost and documentation requirements. Two commenters suggested the Postal Service verify addressing information by using the Mailers Address Quality Support System (MAX) instead of CASS. Commenters also suggested the elimination of the finest level of ZIP+4 code requirement because of the required use of CASS, and cited the need for phasing in the CASS certification requirements. A few comments expressed a concern over the validity of the CASS certification process, and one commenter was in complete agreement with the proposal.

The Postal Service has adopted, on a delayed basis, the CASS Certification requirements as contained in the proposed rule. The CASS certification process, in existence for several years, provides a very reliable measurement of the capability of address matching software to determine accurate ZIP+4 coding information. Used in conjunction with the current USPS ZIP+4 file, CASS certified matching software provides the best assurance for the mailer and the Postal Service that the ZIP+4 codes appearing in addresses used on mailings submitted for ZIP+4 or ZIP+4 Barcoded rates are correct and the finest level of ZIP+4 code based upon a complete and standardized address, thereby taking best advantage of the Postal Service's automated processing capability for timely and accurate delivery.

Therefore, effective September 1, 1991, all mailings at ZIP+4 and ZIP+4 barcoded rates must have been prepared with addresses that were processed through CASS certified software and must be accompanied by documentation to prove the addresses in the mailings were ZIP+4 coded with software having a CASS certification. Any user of software that matches ZIP+4 codes to address lists for the purpose of obtaining a ZIP+4 or ZIP+4 Barcoded rate, including users of licensed software, mailers or vendors using their own software, and those using multiline OCRs to apply barcodes, will be required to have a CASS certification for the address matching software used in the ZIP+4 matching process. ZIP+4 matching software users are encouraged to obtain CASS certification as soon as possible.

(6) CASS Certification—List Updated Every 6 Months

In conjunction with its proposal regarding CASS certification, the Postal Service proposed that in order to qualify for ZIP+4 or ZIP+4 Barcoded rates, addresses in mailings must have been matched and ZIP+4 coded within 6 months of the date of mailing, using CASS certified ZIP+4 matching software and the current Postal Service ZIP+4 database to obtain the correct ZIP+4 code or ZIP+4 barcode.

A total of eight comments were received. Several commenters expressed concern that mailers update lists on a continuing basis and should not be required to obtain CASS certification for their address lists every six months. Some commenters asked that the requirement be removed because they felt it was impractical and too costly. One commenter suggested that one year might be a more realistic time frame for updating. Another commenter suggested that the period be shortened to one month.

The final rule will include the requirement that addresses in mailings must have been matched using CASS certified ZIP+4 matching software and the current Postal Service ZIP+4 file within six months of the mail entry date. Because addressing information continually changes and the Postal Service ZIP+4 file is being continually updated, the Postal Service needs to require that mailers update lists every six months to ensure that their addresses remain current and accurate. This will ensure that mailpieces claimed at automation-based rates can actually be processed efficiently and accurately on automated postal equipment. However, the Postal Service hopes to extend this interval to one year as the quality of addressing of automation-compatible pieces improves.

(7) CASS Documentation Requirements

The Postal Service also proposed new requirements for the submission of documentation which verifies that the address information used on mailings submitted for ZIP+4 and ZIP+4 Barcoded rates has been matched and coded using CASS certified matching software and the current Postal Service ZIP+4 database. National Change of Address (NCOA) licensees and the Postal Service (when Postal Service diskette coding service is used) are considered CASS certified vendors.

Sixteen comments were received, with a majority expressing the concern that submitting documentation as stated for every address list used for ZIP+4 or ZIP+4 Barcoded rate mailings is excessive. Several comments suggested the possibility of the mailer maintaining documentation on file for the Postal Service to audit rather than submitting it with every mailing; two comments stated that the regulations were unclear as written.

In recognition of the fact that large amounts of documentation would be required when ZIP+4 or ZIP+4 Barcoded rate mailings are produced from several mailing lists that may have been coded by different CASS certified vendors, the Postal Service has modified the documentation requirements in the final rule to allow mailers the option of maintaining records in support of specific mailings, subject to USPS audit upon request.

The final rule adopted by the Postal Service eliminates the requirement for the submission of invoices, the submission of summary output reports for each list used to produce a mailing, and under prescribed circumstances, the submission with each mailing of the address coding vendor's CASS certificate.

Mailers will be required to submit a completed copy of PS Form 3553, Coding Accuracy Support System (CASS) Summary Report, with each automation-based mailing (see exhibit § 532.2). A computer generated facsimile is permissible. A facsimile Form 3553 can also satisfy the requirement for a summary output report (which otherwise would have to be retained for one year on the mailer's or agent's premises subject to Postal Service audit) if it is computer generated by the CASS certified software user as the output when the list is processed using CASS

certified matching software. The CASS output information indicating the number of records successfully coded on a given list will be identified as the list's National Deliverability Index (NDI) Rating.

Due to normal address list editing and maintenance practices, it will not be a requirement that figures appearing on Form 3553 match those on the mailing statement. A mailing produced from a portion (extract) of a single list will require a Form 3553 that reflects the NDI rating for the entire list. In addition, to provide flexibility to mailers combining multiple lists to make a single mailing, the following provisions apply:

1. *Whole lists:* When all of the addresses on all of the lists are used (whole lists) the mailer must present a consolidated report (on Form 3553) summarizing the individual summary output reports from each list used to produce the mailing (along with previously required documentation). Summary output reports (for each component list) must be retained on the mailer's or agent's premises for a period of one year from the date of mailing, subject to Postal Service audit upon request.

2. *Extracts:* When less than all of the addresses on all of the combined lists are used (extracts) to make a single mailing, the mailer must either:

a. Submit a consolidated report (on Form 3553), provided all of the extracted addresses in the mailing had been assigned a correct ZIP+4 code by the CASS matching software (summary output reports for each component list must be retained on the mailer's or agent's premises for a period of one year from the date of mailing, subject to Postal Service audit upon request), or

b. Reprocess the extracted addresses as a single list through CASS certified matching software and submit Form 3553 for this new address list (if a facsimile Form 3553 is not generated as the output of this process, the actual summary output report must be retained on the mailer's or agent's premises for a period of one year from the date of mailing, subject to Postal Service audit upon request).

List of Subjects in 39 CFR Part 111

Postal Service.

In view of the considerations discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

PART 111—[AMENDED]

1. The authority citation for part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In chapter 1 of the Domestic Mail Manual, make the following revisions:

Chapter 1—Domestic Mail Services

* * * * *

120 PREPARATION FOR MAILING

* * * * *

122 DELIVERY ADDRESS

122.1 Requirements

* * * * *

122.13 Address Elements. Except as specified in 122.41 for simplified address mail and in 122.9 for mail qualifying for automation-based rates, an address must contain at least the following elements that appear in the following order:

* * * * *

d.

* * * * *

(2) Any mail claimed at an automation-based rate (see 514.1).

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122.14 Placement of Address

122.141 Letter-Size Mail

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c. See 540 for address placement on mail claimed at any ZIP+4 rate.

* * * * *

122.15 Return Address

* * * * *

122.155 Placement of Return Address. See 540 for additional requirements for the placement of the return address on any mailpieces claimed at a ZIP+4 rate.

122.16 Special Addressing Instructions

* * * * *

e. Mail claimed at any ZIP+4 rate (530 and 540).

f. Mail claimed at any ZIP+4 Barcoded rate (530 and 550).

122.17 Endorsements. [Add to the end of the first sentence: ", subject to the placement restrictions in 122.155 and 540."]

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122.2 Restrictions

* * * * *

122.26 Automation-Based Rates. Additional addressing restrictions may apply to mail claimed at an automation-based rate. See 520–550.

122.3 Recommendations

[Add the following after 122.31, 122.33, 122.34, 122.35, 122.36, and 122.39:

Note: Specific requirements apply to mail prepared for automation-based rates. See 520–550.

* * * * *

122.9 Complete and Standardized Addresses

122.91 General. The definitions and requirements for a complete and standardized address apply to all mail claimed at any automation-based rate, subject to the conditions and exceptions in 530 and 540. A complete address must appear on the mailpiece and must be used in determining the finest level of ZIP+4 code, regardless of whether it is printed as a numeric ZIP+4 code or a ZIP+4 barcode, or whether a ZIP+4 or ZIP+4 Barcoded rate is claimed. A complete and standardized address is required on each mailpiece claimed at a ZIP+4 rate as required by 530 and 540. Mailers are urged to follow the specifications in 122.92 and 122.93 when preparing mailpieces that will be claimed at other rates as well.

122.92 Complete Address

122.921 Definition. A complete address is one which contains all elements necessary in the delivery address in order to obtain an exact match with the Postal Service ZIP+4 file currently in effect to obtain the finest level of ZIP+4 code for the delivery address.

122.922 Required Address Elements. The elements of a complete delivery address include

a. addressee name (and/or firm name, where applicable),

b. street number, predirectional, street name, suffix, and postdirectional,

c. secondary address unit designator and number, such as an apartment number (APT 202, STE 100), rural route and box number (RR5 BOX 10), highway contract route and box number (HCR4 BOX 45), or post office box number (PO BOX 458),

d. city and state (or authorized 2-letter state abbreviation), and

e. either the correct 5-digit ZIP Code or the correct ZIP+4 code.

122.923 Firm Names and Secondary Address Unit Designators

a. General Requirement. Firm names and secondary address unit designators and numbers (e.g., the specific apartment, building, floor, suite, unit, room, department, etc.) are required to appear in the address on the mailpiece when such firm names and/or unit designators are necessary to obtain a match with the finest level of ZIP+4 code in the Postal Service's ZIP+4 file for the delivery address.

b. When Information is Unknown. In instances where a firm name or secondary address unit number is needed to obtain the finest level of ZIP+4 code but is not known, the address that appears on the mailpiece must bear neither a ZIP+4 code nor a ZIP+4 barcode.

c. Recommendation. To enhance delivery, mailers are urged to always place secondary address unit designators and numbers on mailpieces where they exist for an address, even when those numbers are not contained in the Postal Service's ZIP+4 file for that street address and are not needed to obtain a match with the finest level of ZIP+4 code.

122.924 Rural Routes and Highway Contract Routes

a. Complete Address. A complete address for rural routes and highway contract routes contains the rural or highway contract route number and box number necessary to obtain an exact match with the Postal Service's ZIP+4 file currently in effect to yield the finest level of ZIP+4 code.

b. Placement. When needed to obtain the finest level of ZIP+4 code, the rural route or highway contract route box number must appear in the delivery address on the mailpiece, on the line immediately above the city/state/ZIP Code line.

c. When information is Unknown. In instances where a box number is needed to obtain the finest level of ZIP+4 code but is not known, the address that appears on the mailpiece must bear neither a ZIP+4 code nor a ZIP+4 barcode.

d. Recommendation. To enhance delivery, mailers are urged to always place box numbers for rural or highway contract routes on mailpieces where they exist for an address, even when those numbers are not contained in the Postal Service's ZIP+4 file for that route and are not needed to obtain a match to the finest level of ZIP+4 code.

122.925 Post Office Box Addresses. Post office box addresses must contain a post office box number that can be exactly matched with the Postal Service's ZIP+4 file currently in effect.

122.926 City Names. Only approved last line (city or place) names as described in the Postal Service's city/state file currently in effect may be used. City names with codes 1 through 5 on the city/state file are acceptable as part of a complete address. City names with code 9 on the city/state file are not acceptable. Abbreviations for city or state names must be those shown in the Postal Service's city/state file.

122.927 Default Codes. Except as provided in 534.3, alternative or default ZIP+4 codes or barcodes are not acceptable on mailpieces claimed at any automation-based rate when:

a. the ZIP+4 codes for apartment ranges, floors, suites, firms, etc., within a building, as listed in the Postal Service ZIP+4 file, are finer than the default code for the building, or

b. the ZIP+4 codes for specified box number ranges on a rural or highway contract route, as listed in the Postal Service's ZIP+4 file, are finer than the default code for the route.

122.93 Standardized Address Format. A standardized address format is that shown in Exhibit 122.33, and further specified in 122.91, 530, and 540. When delivery address lines are abbreviated, the delivery address abbreviations must be obtained from the Postal Service's ZIP+4 file and the last line abbreviations must be obtained from the Postal Service's city/state file. Additional guidance concerning the format for standardized address formats appears in Publication 28, *Postal Addressing Standards.*

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124 NONMAILABLE MATTER—ARTICLES AND SUBSTANCES; SPECIAL MAILING RULES

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124.4 Restricted Matter

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124.47 Odd-Shaped Items in Envelopes

(Add the following to the end of the section:) Letter-size pieces mailed at First-, second-, and third-class automation based rates (see 514.1) must meet the requirements of 526.

* * * * *

3. In chapter 3 of the Domestic Mail Manual, make the following revisions:

Chapter 3—First-Class Mail

* * * * *

320 CLASSIFICATION

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323 PRESORTED FIRST-CLASS MAIL AND CARRIER ROUTE FIRST-CLASS MAIL

323.1 Rate Applicability

323.11 Eligibility

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(Add the following note to the end of the section:)

Note: Pieces in Presorted First-Class mailings should not bear a 5-digit barcode. Pieces that bear either a ZIP+4 or 5-digit barcode must be prepared as specified in 550 and the barcodes must represent the correct ZIP+4 code or 5-digit ZIP Code for the delivery address.

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323.2 Carrier Route First-Class Mail

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[Add the following sentence to the end of the section:] Pieces in carrier route First-Class mailings should not bear a 5-digit barcode. Pieces that bear either a ZIP+4 or 5-digit barcode must be prepared as specified in 550 and the barcodes must represent the correct ZIP+4 code or 5-digit ZIP Code for the delivery address.

324 ZIP+4 FIRST-CLASS MAIL

* * * * *

324.2 ZIP Code Requirements

324.21 Basic Requirement. Except as provided by 324.22 and 534.2, each piece in a mailing must bear the correct ZIP+4 code that is the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address on the piece, as specified in 534 and 541.3. Either the correct numeric ZIP+4 code in the address or the correct ZIP+4 barcode (prepared in accordance with 551) will satisfy the requirement for a ZIP+4 code. Pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address.

324.22 Limited Exception. As provided in 365.22, 365.23, and 366.12, up to 15 percent of the pieces in combined ZIP+4 Presort and Presorted First-Class mailings prepared in accordance with the requirements in 365 or 366 are not required to bear a ZIP+4 code. Such pieces must, however, bear the correct 5-digit numeric ZIP Code.

324.3 Addressing Requirements

324.31 Basic Requirement. Except as provided by 324.32, 531.16, 534.3, and 541.22, each piece in the mailing must bear a complete address (see 122.92) and, unless the piece bears a ZIP+4 barcode prepared in accordance with 550, the address must be printed in a standardized format (see 122.93). Addresses must be prepared using Coding Accurancy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

324.32 Limited Exception. As provided in 365.22, 365.23, and 366.12, up to 15 percent of the pieces in combined ZIP+4 Presort and Presorted First-Class mailings prepared in accordance with the requirements in 365 or 366 are not required to bear a complete and standardized address.

324.4 Physical Mailpiece Requirements for Automation Compatibility

324.41 Basic Requirement. Each piece in the mailing must meet the requirements of 520 and 540.

324.42 Limited Exceptions

324.421 Combined Mailings. The pieces in combined ZIP+4 Presort and Presorted First-Class mailings prepared in accordance with the requirements in 365 or 366 that do not bear a ZIP+4 code (up to 15% of the pieces in the mailing) need not meet standardized address requirements.

324.422 ZIP+4 Barcoded Pieces. Pieces that are ZIP+4 barcoded but claimed at a ZIP+4 rate, as permitted in 324.7, must meet the requirements in 520 and 551, but not 540.

324.5 [RESERVED]

324.6 [RESERVED]

324.7 PREBARCODED MAIL AT ZIP+4 RATES

324.71 Pieces Prepared With ZIP+4 Barcodes. Mailers may elect to claim mailpieces prepared with ZIP+4 barcodes at ZIP+4 rates. The barcodes on such pieces must meet the specifications in 551. Although mailpieces that bear a correct ZIP+4 barcode are not required to bear a numeric ZIP+4 code in the address or to meet the requirements of 540 to qualify for ZIP+4 rates, they must meet the requirements of 324.2–324.4.

324.72 Pieces Prepared With 5-Digit Barcodes

324.721 General. ZIP+4 Presort rate mailings prepared with ZIP+4 barcodes and prepared under the provisions of 365 or 366 may include pieces with 5-digit barcodes. All pieces bearing a 5-digit barcode must meet the requirements of 324.2, 520, and 552.

324.722 5-Digit Barcodes Printed Directly on Mailpieces. The 5-digit barcode must meet the requirements of 552.31. If such pieces also bear a numeric ZIP+4 code in the address and meet all the requirements of 540 they may qualify for the ZIP+4 Presort rate or for the nonpresorted ZIP+4 rate, and may count toward the 85 percent ZIP+4 requirement in 365.22 or 366.12. Otherwise, they are eligible only for Presorted First-Class or single-piece First-Class rates.

324.723 5-Digit Barcodes Printed on Inserts. The 5-digit barcode must meet the requirements of 552.32. Such pieces cannot qualify for either the ZIP+4 Presort or nonpresorted ZIP+4 rates, and may not count toward the 85 percent ZIP+4 requirement in 365.22 or 366.12, even if they bear a numeric ZIP+4 code in the address and meet the requirements in 540. Pieces with a window in the barcode clear zone through which no barcode appears neither qualify for any ZIP+4 rates nor count toward the 85 percent ZIP+4 requirement in 365.22 or 366.12.

325 ZIP+4 BARCODED RATE

325.1 General

325.11 Description. First-Class ZIP+4 Barcoded rate mailings must meet the requirements in 325.2 through 325.5. Within the mailing, the ZIP+4 Barcoded rate applies only to pieces that meet the requirements of 520 and 530, that bear a correct ZIP+4 barcode meeting the requirements in 551, and that are in a 5-digit package sorted in accordance with 364.1.

Note: Carrier route First-Class Mail may not be included in a ZIP+4 Barcoded rate mailing.

325.12 Applicable Rates by Sortation Category

325.121 Five-Digit Sortation

a. ZIP+4 Barcoded Rate. A piece in a 5-digit package will qualify for the ZIP+4 Barcoded rate if it meets the requirements of 325.11.

b. ZIP+4 Presort Rate.* * *

(1) (Replace the phrase "and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6." with "and it meets the requirements in 540.")

(2) (Change the reference "325.52c(1)" to "552" and replace the phrase "and it meets the barcode clear zone and OCR readability requirements of 324.5 and 324.6" with "and it meets the requirements in 540.")

(In the note under 325.121b(2), replace the phrase "and meet the OCR readability and other requirements for the ZIP+4 rate" with "and meet the other requirements for the ZIP+4 rates in 540.")

c. Presorted First-Class Rate. * * *

* * * * *

(2) (Replace the phrase "and it does not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6 necessary to qualify for the ZIP+4 Presort rate" with "and it does not meet the requirements in 540.")

(3) * * *

Note: Such a piece is ineligible for the ZIP+4 Presort rate even if it bears a ZIP+4 code in the address and meets the other ZIP+4 preparation requirements in 540.

325.122 Three-Digit Sortation. * * *

a. ZIP+4 Presort Rate. * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

Note: When a piece bears a correct ZIP+4 barcode, it is not necessary that a numeric ZIP+4 code appear in the address, nor is it necessary for the piece to meet the requirements in 540 pertaining to OCR readability or a standardized address.

(2) (Replace the phrase "and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6" with "it meets the requirements of 540.")

(3) * * *

(In the note, replace the phrase "and meet the OCR readability and other requirements for the ZIP+4 rate" with "and meet the requirements for the ZIP+4 rate in 540.")

b. Presorted First-Class Rate. * * *

* * * * *

(2) (Replace the phrase "and it does not meet the barcode clear zone and OCR readability requirements" with "and it does not meet the requirements in 540.")

(3) * * *

Note: Such a piece is ineligible for the ZIP+4 Presort rate, even if it bears a ZIP+4 code in the address and meets the requirements of 540.

325.123 Residual Portion. * * *

a. Nonpresorted ZIP+4 Rate. * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

(2) (Replace the phrase "and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6" with "it meets the requirements in 540.")

(3) (Change the reference "325.51(c)1" to "552" and replace the phrase "and it meets the barcode clear zone and OCR readability requirements" with "it meets the requirements in 540.") (In the note, replace the phrase "and meet the OCR readability" with "and meet the standardized address format, OCR readability,".)

b. Single-Piece First-Class Rate. * * *

* * * * *

(2) (Replace the phrase "and it does not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6" with "and it does not meet the requirements in 540.")

(3) * * *

(In the note, replace the phrase "and meets the OCR readability and other ZIP+4 preparation requirements" with "and meets the ZIP+4 requirements in 540.")

* * * * *

325.3 ZIP+4 and Addressing Requirements. Except as provided by 534.3, at least 85 percent of the total number of pieces in each mailing (regardless of presort level or rate) must bear a complete address and the correct ZIP+4 barcode prepared in accordance with 551. The correct ZIP+4 barcode is

the one that represents the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the complete address, as defined in 122.92 and 534. Addresses on ZIP+4 barcoded pieces must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532, and the CASS documentation requirements in 532 must be met. Each piece, whether or not it bears a ZIP+4 barcode, must bear either the correct numeric ZIP+4 code or the correct numeric 5-digit ZIP Code in the address.

325.4 [Reserved]

325.5 Barcode Requirements. The requirements in 550 must be met.

325.6 Physical Requirements. Each piece in the mailing must meet the physical requirements prescribed in 520.

325.7 Markings. Each piece must bear an identifying marking as required in 362.6.

325.8 Presort. (Text of existing 325.44.)

325.9 Documentation. Documentation must accompany each mailing as required by 364.4.

* * * * *

360 PREPARATION REQUIREMENTS

361 ADDRESSING

* * * * *

361.5 ZIP+4 First-Class Mail. (Add the following sentence to the end of the section:) See 324.2 and 324.3 for a further definition of a correct ZIP+4 code and further requirements concerning addressing for ZIP+4 rate mailings.

361.6 ZIP+4 Barcoded First-Class Mail. (Change the reference "324.71c through 324.77 and 325.51b," to "551" and add the following sentence to the end of this section: See 325.3, 530, and 551 for a further definition of correct ZIP+4 code, correct ZIP+4 barcode, and further requirements concerning addressing for ZIP+4 barcoded mailings.)

* * * * *

364 ZIP+4 BARCODED FIRST-CLASS MAIL

* * * * *

364.4 Documentation and Postage Payment Requirements

364.41 Required Documentation for Metered and Precanceled Stamp Mailings

364.411 Correct Postage Affixed to Each Piece. * * * (In the exception, change the reference "324.72 through 324.77, and 325.51" to "551.")

364.412 Postage at ZIP+4 Barcoded Rate Affixed to All Pieces

* * * * *

b. Documentation for Pieces Sorted in Accordance with 364.1 (5-Digit Packages). * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

(2) * * *

(a) (Replace the phrase "and meet the barcode clear zone and OCR readability requirements in 324.5 and 324.6" with "and meet the requirements in 540.")

(b) (Change the reference "325.52c(1)" to "552" and replace the phrase "and meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6 (except that the 5-digit barcode appears in the clear zone)" to "and meet the requirements in 540.")

(In the note, replace the phrase "even if they bear a numeric ZIP+4 code in the address and meet the OCR readability and other requirements for the ZIP+4 rate" to "under any circumstances.")

(3) * * *

* * * * *

(b) (Replace the phrase "and do not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6" to "and do not meet the requirements in 540.")

* * * * *

c. Documentation for Pieces Sorted in Accordance with 364.2 (3-Digit Packages). * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

Note: When a piece bears the correct ZIP+4 barcode, it is not necessary that a numeric ZIP+4 code appear in the address, nor is it necessary to meet the requirements in 540 pertaining to OCR readability and standardized address.

(2) * * *

(a) (Replace the phrase "and meet the barcode clear zone and OCR readability requirements in 324.5 and 324.6" with "and meet the requirements of 540.")

(b) Pieces that bear a 5-digit barcode printed directly on the mailpiece (not on an insert that appears through a window), as provided by 552.31, contain the correct ZIP+4 code in the address, and meet the requirements of 540 and 552.

Note: Pieces prepared with a barcode window through which the ZIP+4 code does not appear (there is either no barcode or there is a 5-digit barcode) do not qualify for the ZIP+4 Presort rate under any circumstances.

(3) * * *

* * * * *

(b) (Replace the phrase "and do not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6" with "and do not meet the requirements of 540.")

* * * * *

d. Documentation for Pieces Sorted in Accordance with 364.3 (Residual Portion). * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

Note: When a piece bears the correct ZIP+4 barcode, it is not necessary that a numeric ZIP+4 code appear in the address, nor is it necessary to meet OCR readability and standardized address requirements in 540 to qualify for the ZIP+4 Presort rates.

(2) * * *

(a) (Replace the phrase "and meet the barcode clear zone and OCR readability requirements in 324.5 and 324.6" with "and meet the requirements of 540.")

(b) Pieces that bear a 5-digit barcode printed directly on the mailpiece (not on an insert that appears through a window), as provided by 552.31, contain the correct ZIP+4 code in the address and meet the requirements of 540 and 552.

Note: Pieces prepared with a window in the barcode clear zone through which a ZIP+4 barcode does not appear (there is either no barcode or there is a 5-digit barcode) do not qualify for the nonpresorted ZIP+4 rate, under any circumstances.

(3) * * *

* * * * *

(b) (Replace the phrase "and do not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.5" with "and do not meet the requirements in 540.")

(c) * * *

Note: Such pieces are ineligible for the nonpresorted ZIP+4 rate even if they bear the ZIP+4 code in the address and meet the requirements of 540.

* * * * *

(In Exhibit 364.412, change the first footnote to read: * Does NOT include pieces prepared with a window in the barcode clear zone. Pieces must contain a ZIP+4 code in the address and meet the requirements in 540.)

364.42 Required Documentation for Permit Imprint Mailings

* * * * *

b. Exception to Documentation. (Change the reference "324.72 through 324.77, and 325.51" to "551.")

(In Exhibit 364.42, change the first footnote to read: * Does NOT include pieces prepared with a window in the barcode clear zone. Pieces must contain a ZIP+4 code in the address and meet the requirements in 540.)

364.43 Summary Listing Documentation Option

* * * * *

364.432 Required Information

a. * * *

(1) (Change the reference "324.72 through 324.77, and 325.51" to "551.")

* * * * *

365 Combined Presort Mailing

* * * * *

365.2 Requirements

365.21 Minimum Quantity Requirement.* * *

365.22 ZIP Code Requirements. Except as provided by 534.3, at least 85 percent of the pieces in a combined mailing must bear the correct ZIP+4 code that is the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address on the piece, as specified in 534 and 541.2. Either the correct numeric ZIP+4 code in the address or the correct ZIP+4 barcode (prepared in accordance with 551) will satisfy the requirement for a ZIP+4 code. Pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address. All pieces that do not bear the correct numeric ZIP+4 code must bear the correct numeric 5-digit ZIP Code in the address.

365.23 Addressing Requirements. Except as provided by 531.16, 534.3, and 541.22, each piece in the mailing that bears a ZIP+4 code must also bear a complete address (see 122.92) and, unless the piece bears a ZIP+4 barcode prepared in accordance with 550, the address must appear in a standardized format (see 122.93). Addresses must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

365.24 Automation Compatibility. All pieces in the mailing must meet the physical requirements of 520. Pieces prepared with ZIP+4 barcodes must meet the requirements of 550; other pieces must meet the requirements of 540.

365.25 Presort. All pieces in a combined mailing (both 5-digit ZIP Coded and ZIP+4 coded pieces) must be presorted together to the finest extent possible as required by 368.

365.26 Rate Marking. (Text of existing 365.25.)

365.27 Postage Payment. (Text of existing 365.26.)

365.28 Carrier Route Presort Mailings. Nonqualifying pieces of a carrier route mailing may qualify for the ZIP+4 rate only if all pieces in the mailing bear a correct ZIP+4 code and the pieces meet the requirements of 520, 530, and 540. See 367.424.

* * * * *

366 COMBINED PRESORT MAILINGS DESTINATING AT AUTOMATED SITES

366.1 General Requirements

366.11 Minimum Quantity. (Text of existing 366.11a.)

366.12 ZIP Code. Except as provided by 534.2, at least 85 percent of the pieces in a combined presort mailing must bear the correct ZIP+4 code that is the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address on the piece, as specified in 534 and 541.2. Either the correct number ZIP+4 code in the address or the correct ZIP+4 barcode (prepared in accordance with 551) will satisfy the requirement for a ZIP+4 code. Pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address. All pieces that do not bear the correct numeric ZIP+4 code must bear the correct numeric 5-digit ZIP Code in the address.

366.13 Addressing. Except as provided by 531.16, 534.3, and 541.22, each piece in the mailing that bears a ZIP+4 code must also bear a complete address (see 122.92) and, unless the piece bears a ZIP+4 barcode prepared in accordance with 550, the address must appear in a standardized format (see 122.93). Addresses must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

366.14 Automation Compatibility. All pieces in the mailing must meet the physical requirements of 520. Pieces prepared with ZIP+4 barcodes must meet the requirements of 550; other pieces must meet the requirements of 540.

366.15 Presort. All pieces in an optional combined mailing (both 5-digit ZIP Coded and ZIP+4 coded pieces) must be presorted together to the finest extent possible as described in 366.2 through 366.5.

366.16 Rate Marking. All pieces must bear an appropriate rate category marking (see 362.5).

366.17 Three-Digit Separations. (Text of existing 366.11d.)

366.18 Destination of Mailpieces. (Text of existing 366.11e.)

Exception: Mailers may place pieces for 3-digit ZIP Code areas not listed in Exhibit 122.63m in the residual portion of the mailing. Such pieces must be paid for at the appropriate nonpresorted ZIP+4 or single piece First-Class rates.

366.19 Traying. (Text of existing 366.11f.)

* * * * *

(Renumber existing 366.12, 366.5, and 366.6 as 366.5, 366.6, and 366.7, respectively. In renumbered 366.5 (Residual Pieces), add a new second sentence as follows: Residual pieces also include pieces a mailer wishes to include for a 3-digit ZIP Code area not listed in Exhibit 122.63m that also do not qualify for the presort rates under the provisions of 366.)

4. In chapter 5 of the Domestic Mail Manual, add the following sections:

Chapter 5—Automation Compatible Mail

* * * * *

520 GENERAL REQUIREMENTS FOR ALL AUTOMATION COMPATIBLE MAILPIECES

521 PHYSICAL CHARACTERISTICS

521.1 Size

521.11 General

521.111 Pieces Claimed at the First-Class Rate for Cards. Each piece eligible for the card rates (see 311.1) that is in a mailing claimed at any automation-based (ZIP+4 or ZIP+4 Barcoded) rate must meet the size requirements in 311.11, 322, and 525.

521.112 Pieces Claimed at Rates Other than the First-Class Rate for Cards. Each piece not eligible for the card rates (see 311.1) that is in a mailing claimed at any automation-based (ZIP+4 or ZIP+4 Barcoded) must meet the size requirements in 521.12–521.15.

521.113 Definitions. The length of a mailpiece is the dimension which is parallel to the address when the address is positioned for normal reading. The top and bottom of the mailpiece are the upper and lower edges (respectively) that are parallel to the address when the address is positioned for normal reading. The height is the dimension that is perpendicular to the length and the address.

521.12 Length. The length of a mailpiece must be at least 5 inches and not more than 11½ inches.

521.13 Height. The height of a mailpiece must be at least 3½ inches and not more than 6⅛ inches.

521.14 Aspect Ratio. The length of a mailpiece divided by its height must not be less than 1.3 nor more than 2.5.

521.15 Thickness

521.151 Minimum. A mailpiece must be at least 0.007 inch thick when it does not exceed 4¼ inches in height and 6

inches in length. A mailpiece must be at least 0.009 inch thick if it is either greater than 4¼ inches in height or greater than 6 inches in length, or both.

521.152 Maximum Thickness. A mailpiece must not be more than 0.25 inch thick.

521.2 Shape. Each piece in the mailing must be rectangular in shape.

521.4 Prohibitions

521.3 Weight. The weight of each mailpiece in a ZIP+4 or ZIP+4 Barcoded rate mailing must not exceed 2.5 ounces *except that* until September 15, 1991, the weight of each mailpiece in a ZIP+4 or ZIP+4 Barcoded rate mailing must not exceed 3 ounces. Pieces that exceed the applicable maximum weight may not be included in either a ZIP+4 or ZIP+4 Barcoded mailing.

521.41 Prohibited Wrapping. Polywrapped or polybagged mailpieces and pieces that are shrink-wrapped are not acceptable in a mailing claimed at any of the automation-based (ZIP+4 or ZIP+4 Barcoded) rates.

521.42 Prohibited Closures. Clasps, staples, string, buttons, or other protrusions that may impede or damage mail processing equipment or damage other mail must not be used in mailpieces in a mailing claimed at any of the automation-based (ZIP+4 or ZIP+4 Barcoded) rates.

521.5 Tabs, Wafer Seals, Tape, and Glue

521.51 Number and Location. The number and location of tabs or wafer seals must be as specified in 523–525 for the particular type of mailpiece. In all instances, additional tabs or seals may be used.

521.52 Non-interference

521.521 On the Top Edge. If placed on the top edge of the mailpiece, tabs or wafer seals must not interfere with recognition of postage information, rate markings, or the return address.

521.522 In the Barcode Clear Zone. If placed in the barcode clear zone, the tab or wafer seal must contain a paper face meeting and background reflectance criteria of 551.4, and, if the barcode is not preprinted by the mailer, must meet the requirements for ability to accept water-based ink specified in 546.

521.53 Adhesion Requirements. The tabs of wafer seals must have a minimum peel adhesion (shear strength) value of 15 ounces/inch at a speed of 12 inches/minute after application to a stainless steel plate. The test is to be conducted 10 minutes after the wafer seal material has been applied to the plate.

521.54 Cellophane Tape. Subject to the conditions in 521.51–521.52, cellophane tape is acceptable for use as tab or seal material except within the barcode clear zone.

521.55 Glue. As an alternative to the use of a tab or wafer seal, the open edge of the length of he mailpiece may be either continuously glued or spot glued (in the same manner and location specified for the tab), using a permanent glue or adhesive.

522 Envelopes and Pieces Sealed on All Sides

522.1 General. Unless prepared in accordance with the requirements in 523–525, each mailpiece in the mailing must be prepared either as a sealed envelope (the preferred method) or, if unenveloped, sealed or glued on all four sides (edges). Envelopes and other pieces sealed on all four sides must meet the requirements in 521, 522.2, 526, and 527.

522.2 Base Weight for Paper Stock. Envelopes and the outer sheet or sheets forming other types of mailpieces that are sealed on all four edges must be comprised of paper having a minimum basis weight of 16 pounds, using a 17 inch by 22 inch sheet size and 500 sheets.

523 Folded Self-Mailers

523.1 General. Except as provided by 523.3, single or multiple sheets folded into a letter-size self-mailer (i.e., not prepared under 522) must be prepared in accordance with 521, 523.2, 526, and 527.

523.2 Construction

523.21 Fold. Folded self-mailers must be prepared so that the fold is parallel with the longest dimension and the length of the mailpiece (see 521.113).

523.22 Pieces Prepared With One Tab

523.221 Single Sheets. Except as provided by 523.3, self-mailers formed of a single folded sheet and prepared with one tab must be prepared from paper having a minimum basis weight of either 28 pounds (using a 17 inch by 22 inch sheet size and 500 sheets) or 70 pounds (using a 25 inch by 38 inch sheet size and 500 sheets).

523.222 Multiple Sheets. Except as provided by 523.3, self-mailers formed of more than one folded sheet and prepared with one tab must be prepared from paper having a minimum basis weight of either 60 pounds (using a 25 inch by 38 inch sheet size and 500 sheets) or 24 pounds (using a 17 inch by 22 inch sheet size and 500 sheets).

523.223 All Pieces Prepared with One Tab. A folded self-mailer prepared with one tab or wafer seal must have the folded edge at the bottom of the mailpiece, and the tab or wafer seal must be placed in the middle of the top edge of the mailpiece. The top and bottom edges are defined in 521.113.

523.23 Pieces Prepared with Two Tabs. Folded self-mailers may be prepared from paper having a minimum basis weight of 20 pounds (using a 17 inch by 22 inch sheet size and 500 sheets) if the folded edge of the mailpiece is at either the top or the bottom of the mailpiece and the open edge along the length of the mailpiece is secured with two tabs or wafer seals. The top and bottom edges are defined in 521.113. One tab or wafer seal must be placed within one inch of the left edge of the mailpiece, the other within one inch of the right edge of the mailpiece (see Exhibit 523.23).

523.3 Limited Exception Until February 2, 1992. Until February 2, 1992, folded self-mailers may be prepared from paper having a minimum basis weight of 20 pounds (using a 17 inch by 22 inch sheet size and 500 sheets) if the folded edge is at the top or bottom edge of the mailpiece and the open edge of the length of the mailpiece is secured with one tab or wafer seal in the middle of the open edge. The top and bottom edges are defined in 521.113.

524 BOOKLET-TYPE MAILPIECES

524.1 Applicability. Booklet-type mailpieces that are not prepared under 522 must be prepared to meet the requirements in 521, 524.2–524.4, 526, and 527.

524.2 Basis Weight for Paper Stock. The front and back covers must be prepared of paper having a minimum basis weight of 20 pounds, using a 17 inch by 22 inch sheet size and 500 sheets.

524.3 Orientation of Bound Edge. The bound edge or spine must be the longest edge of the mailpiece and must be located at the bottom of the mailpiece parallel to the address (see 521.113).

524.4 Tabs. The top unbound edge of the mailpiece must be held together by at least two tabs or wafer seals. One tab or wafer seal must be placed within one inch of the left edge of the mailpiece, and the other within one inch of the right edge of the mailpiece (see Exhibit 524.4).

525 CARDS

525.1 General. Cards and double postcards must also meet the requirements in 521, 525.2–525.4, 526, 527, and (if applicable), 311.1 and 322.

525.2 Basis Weight for Card Stock. Cards must be printed on paper stock

meeting a standard industry basis weight of 75 pounds or greater, with none less than 71.25 pounds, using a 25 inch by 38 inch sheet size and 500 sheets. The paper must be free from groundwood except when coated with a substance that adds to the paper's ability to resist an applied bending force.

525.3 Recommendation. The importance of thickness and stiffness increases as card size increases. Therefore, in addition to the requirements of 521.151, it is recommended that cards exceeding 4¼ inches in height or 6 inches in length be produced from stock with a higher basis weight. Recommended examples are 1) a vellum Bristol with a basis weight of at least 80 pounds (using a 22½ inch by 28½ inch sheet size and 500 sheets); 2) an index stock with a basis weight of at least 90 pounds (using a 25½ inch by 30½ inch sheet size and 500 sheets); or 3) an offset stock with a basis weight of at least 100 pounds (using a 25 inch by 38 inch sheet size and 500 sheets).

525.4 Additional Requirements for Double Postcards. Double post cards that are not prepared under 522 (with all edges sealed) must be prepared with the folded edge at either the top or bottom edge of the mailpiece. The open edge of the length of the mailpiece must be secured with one tab in the middle of the length, unless other means are used as provided by 521.5. The top and bottom edges are defined in 521.113.

526 Flexibility of Mailpieces

526.1 Ability to Bend. The mailpiece and its contents must be reasonably flexible to ensure transport through automated equipment. The mailpiece, including its contents, must be able to bend easily when subjected to a transport belt tension of 40 pounds around a 11-inch diameter drum.

526.2 Rigid or Odd-Shaped Items. Pens, pencils, keys, bottle caps and other rigid items are prohibited within mailpieces. Reasonably flexible items (e.g., credit cards) are permissible. Odd-shaped items (e.g., coins and tokens) that meet the flexibility criteria of 526.1 are permissible within mailpieces if they are firmly affixed to part of the contents of the mailpiece and are wrapped in the envelope's other contents so that the shape of the mailpiece is streamlined to facilitate automated processing.

526.3 Testing of Mailpieces for Flexibility

526.31 What to Submit. Mailers wishing to have mailpieces tested for flexibility under USPS specifications must submit at least 50 sample mailpieces and a letter of request. The letter must describe the mailpiece's contents and construction, the number of pieces being produced, and the level of preparation (e.g., presort).

526.32 Where to Submit. Requests for mailpiece testing must be addressed to USPS Engineering and Development Center, 8403 Lee Highway, Merrifield, VA 22082–8101.

526.33 When to Submit. Requests for testing must be submitted at least 6 weeks prior to the date of mailing.

526.34 Testing. The Engineering and Development Center (EDC) will determine whether the sample mailpiece meets the requirements for flexibility prescribed in 526.1. Approval will be granted only if testing shows the sample material will transport through automated equipment without damage to the equipment or the mailpiece including its contents.

526.35 Results. The mailer will be notified of the EDC's test results in writing. If the mailpiece is found to meet the requirements of 526.1, the EDC's letter of approval will include a unique number that refers to the specific mailpiece represented by the samples tested. The letter will be accompanied by one or more of the sample pieces originally submitted by the mailer, and each will bear the unique number contained in the letter.

526.36 Use of Approval. The EDC's letter of approval (showing the unique number) serves as evidence that the mailpiece meets the requirements of 526.1. A copy of that letter must be an attachment to each mailing statement submitted for mailings of the tested mailpiece.

526.37 Mailing. Post offices must accept the EDC's letter as evidence of compliance with 526.1. However, the mailer must be prepared to demonstrate that the mailpieces presented for mailing are the same as those presented for testing if requested to do so by the office where the mailpieces are verified prior to acceptance. In order to expedite acceptance, mailers whose pieces are questioned in this regard may pay the next higher rate for which their mailings may qualify and, upon successful completion of an appeal under 133, may seek a refund as appropriate.

527 Labels and Stickers on the Outside of Mailpieces.

527.1 Permanent Labels and Stickers. Permanent labels and stickers include address labels and other labels and stickers not designed to be removed or relocated. Such labels and stickers must be affixed directly to the outside of the mailpiece with permanent adhesive. It is recommended that a recyclable (e.g. dextrin based) adhesive be used.

527.2 Relocatable Labels and Stickers Affixed to the Outside of Mailpieces

527.21 Single-Liner Pressure-Sensitive Labels. Pressure-sensitive address labels and other pressure-sensitive labels or stickers that are removed from a liner (backing) and affixed directly to the outside of mailpieces by the mailer prior to mailing must have a minimum peel adhesion (shear strength) to stainless steel of 8 ounces/inch. Pressure sensitive labels provided to mailers by the USPS for purposes of labeling packages to sortation levels are permissible on the outside of mailpieces.

527.22 Face Stock/Liner "Sandwich" Labels. A face stock/liner "sandwich" label (a label attached to a liner that is attached to the face of the mailpiece) that is manufactured as a unit by the label manufacturer must have:

a. A minimum peel adhesion value (shear strength) of 2 ounces/inch for the face stock with respect to the liner that is attached to the outside of the mailpiece, and

b. A minimum peel value of 8 ounces/inch for the face stock label (the label that is affixed to the liner in 527.22a), when reapplied to stainless steel.

527.3 Relocatable Labels for Recipient's Use on a Return Mailpiece. Mailers may provide recipients with relocatable labels for placement on the outside of response pieces sent back to the mailer. It is recommended that such labels, whether placed within mailpieces or on the outside of mailpieces (as allowed in 527.22), have a minimum peel value of 8 ounces/inch when reapplied to envelope grade paper (16, 18, 20, or 24 pound, each using a 17 inch by 22 inch sheet, 500 sheet base).

530 REQUIREMENTS FOR ACCURACY IN ADDRESSES AND ZIP+4 CODES

531 REQUIREMENTS FOR CODING ACCURACY SUPPORT SYSTEM (CASS) CERTIFICATION

531.1 Use of CASS

531.11 General

531.111 Definition. The Coding Accuracy Support System (CASS) is a process designed in cooperation with the mailing industry to improve the accuracy of ZIP+4 codes, 5-digit ZIP Codes, and carrier route codes, which appear on mailpieces. This was accomplished by providing to service bureaus, commercial mailers, and software vendors, a common platform to measure the quality of address matching software and provide useful diagnostics to correct software deficiencies.

531.112 Requirement. Except as provided by 531.16, all mailings claimed at any of the automation-based (ZIP+4 or ZIP+4 Barcoded) rates must be produced from address lists that have been ZIP+4 coded using one of the CASS certified methods listed in 531.12 and the matching rules prescribed in 531.2. No other methods of matching ZIP+4 codes with addresses may be used to satisfy this requirement. Except as specifically provided by 531.16, apartment numbers must be included in determining the complete address and matching the address to yield the finest level of ZIP+4 code.

531.12 Methods to Obtain ZIP+4 Coding

a. National Change of Address (NCOA) process.

b. CASS certified software for ZIP+4 matching.

c. USPS CD-ROM diskette ZIP+4 coding service.

531.13 CASS Certification of User Software and Application. Except as provided by 531.16, any user of software that applies ZIP+4 codes to address lists for the purpose of obtaining an automation-based (ZIP+4 or ZIP+4 Barcoded) rate must have a CASS certification for that software (including licensed software and mailers' or vendors' proprietary software) and for the user's application of the software. Mailers using multiline optical character readers (OCRs) to place ZIP+4 barcodes on mailpieces must also obtain CASS certification for the matching software used on their OCR equipment.

531.14 Use of Current Information. When used for ZIP+4 coding, the ZIP+4 matching software and methods described in 531.11 and 531.12 must have a valid CASS certification and must use the current Postal Service ZIP+4 file that has been updated to include all applicable monthly or quarterly change transaction files.

531.15 Date of Matching. Addresses in all mailings must have been matched using CASS certified ZIP+4 matching software and the current Postal Service ZIP+4 file within 6 months of the mail entry date.

531.16 Limited Exceptions

531.161 Software and Users. See Exhibit 531.16. CASS certified matching software and users of the software need not meet the requirements of 531.11–531.15 until September 1, 1991, except that apartment numbers need not be included in determining the complete address and matching the address to yield the finest level of ZIP+4 code until March 1, 1992.

531.162 Mailings. See Exhibit 531.16. Mailings deposited from September 1, 1991, through February 29, 1992, must be produced from address lists that have been coded using CASS certified software meeting the requirements in effect prior to September 1, 1991. Mailings deposited from March 1, 1992 through August 31, 1992, must be produced from address lists that have been coded using CASS certified matching software meeting the September 1, 1991, certification requirements. Mailings deposited on or after September 1, 1992, must be produced from address lists that have been coded using CASS certified matching software meeting all the requirements in 531.11–531.15.

531.2 Address Lists

531.21 Definition. For purposes of this section, a mailing list or address list is the specific group of names and addresses to which mailpieces in the corresponding mailing are addressed.

531.22 Requirement for Processing through CASS Certified Software. Each mailing list must independently meet the requirements of 530. If a list is formed by extracting selected names from two or more lists, the resulting addresses are considered to form a new list that must separately meet the requirements of 530, unless all extracted addresses have been assigned a ZIP+4 code by the CASS matching software (i.e., all mailpieces within the mailing must have ZIP+4 codes or ZIP+4 barcodes). A list formed by combining all the names and addresses from two or more whole lists is not considered a new list for purposes of 530, provided the mailing based on the consolidated list contains a mailpiece for every address on each of the component lists.

532 REQUIRED DOCUMENTATION

532.1 General. Effective September 1, 1991, each mailing submitted at an automation-based (ZIP+4 and ZIP+4 Barcoded) rate must be accompanied by documentation as described in 532.2–532.3.

532.2 Description of Required Documentation

532.21 Form 3553 Requirements. Mailers must submit a completed Form 3553, Coding Accuracy Support System (CASS) Summary Report (see Exhibit 532.2), with each mailing claimed at an automation-based rate. Either the original of the Postal Service form or a computer-generated facsimile (approved by the entry office postmaster) may be used. Information on Form 3553 must only pertain to the address list(s) used to produce the mailing with which it is presented.

532.22 Summary Output Information/NDI Rating

532.221 Description. Information contained on Form 3553 is taken from the summary output report(s) generated as an output of the process by which address lists are matched and ZIP+4 coded using CASS certified software. For each list, this output information is called the list's National Deliverability Index (NDI) Rating. A comprehensive NDI Rating consists of the information described in 532.222 and 532.223.

532.222 Required Contents. Summary output reports must contain:

a. The CASS certified matching software user's name as it appears on the CASS certificate;

b. The date the address list was coded using the matching software;

c. The date of the USPS ZIP+4 database used to code the address list;

d. The total number of address records submitted for coding; and

e. The total number of address records successfully ZIP+4 coded (to the finest depth of code) during this process.

532.223 Recommended Contents. In addition to the content required by 532.222, summary output reports should contain:

a. The number of addresses on the list that should have apartment numbers appended and the number actually coded;

b. The number of addresses on the list that should have rural route and box numbers appended and the number actually coded;

c. The number of addresses successfully coded with 5-digit ZIP Codes;

d. The number of addresses successfully code with carrier route codes;

e. The most recent date on which the list was processed and updated through an approved address correction process such as the Postal Service National Change of Address (NCOA) or Address Correction Service (ACS) systems; and

f. Information indicating whether "Moved—Left No Address" records have been deleted from the list.

532.23 Form 3553 Information. Form 3553 can be used to reflect summary output information for either a single list or to consolidate summary output information from multiple address lists combined to produce a single mailing as prescribed in 532.112. Figures on Form 3553 need not match total mailpiece figures on the corresponding mailing statement. Normal address list editing and maintenance practices, as well as extracts (see 532.111 and 532.112), will cause volume totals to be different.

532.3 Submission and Retention Requirements

532.31 General Rule. One completed Form 3553 must be submitted with each automation-based rate mailing.

532.32 Mailing Produced from a Single Address List. When mailings are produced from a single address list, whether the whole list (all addresses) or a portion (extract) is used, mailers must submit one Form 3553 (along with previously required documentation) reflecting the summary output information for the entire list that was obtained when it was coded using CASS certified software. Summary output information must be retained by the mailer or the mailer's agent for a period of one year from the date of mailing and is subject to Postal Service audit upon 24 hour notice.

532.33 Mailings Produced from Multiple Address Lists

532.331 Whole Lists. When all of the addresses on each list are used to produce a mailing, the mailer must present a consolidated Form 3553 summarizing the individual summary output information from each list used (along with previously required documentation). Summary output information must be retained by the mailer or the mailer's agent for a period of one year from the date of mailing and is subject to Postal Service audit upon request.

532.332 Extracts of Lists. When extracts (less than all of the addresses on each list) are used to produce a mailing, in addition to the requirements for submitting previously required documentation and retention of summary output information described in 532.331, the mailer must:

a. Submit one consolidated Form 3553 summarizing the individual summary output information from each list used, provided every piece in the mailing bears a ZIP+4 barcode or contains a ZIP+4 code in the address as assigned by CASS certified matching software; or

b. Reprocess the extracted addresses as a single new list using CASS certified matching software and submit one Form 3553 for the summary output information obtained through that process.

532.4 CASS Certificate. If the name of the CASS certified software user does not appear on the list published semi-annually by the Postal Service, a copy of the CASS certificate of the software user must also accompany the mailing.

533 How to Obtain CASS Certification. To arrange for testing of ZIP+4 matching software, a mailer must contact the National Address Information Center:

CASS/ZIP+4 Matching, National Address Information Center, 6060 Primary Pky Ste 101, Memphis TN 38188-0001. Toll-free line: 1-800-238-3150, or in Tennessee: 1-800-233-0453.

534 REQUIREMENTS FOR COMPLETE ADDRESSES AND FINEST LEVEL OF ZIP+4 CODES

534.1 Basic Requirements. Except as provided by 534.3, a complete address as defined by 122.92 is required on all pieces in mailings at any ZIP+4 or ZIP+4 Barcoded rate. Pieces that do not meet complete address requirements are not eligible for any ZIP+4 or ZIP+4 Barcoded rate and must not have a ZIP+4 code in the address nor bear a ZIP+4 barcode.

534.2 Default Codes. Alternative or default ZIP+4 codes or ZIP+4 barcodes are not acceptable on mailpieces claimed at any automation-based (ZIP+4 or ZIP+4 Barcoded) rate when:

a. the ZIP+4 codes for apartment ranges, floors, suites, firms, etc., within a building, as listed in the Postal Service ZIP+4 database, are finer than the default code for the building, or

b. the ZIP+4 codes for specified box number ranges on a rural or highway contract route, as listed in the Postal Service ZIP+4 database, are finer than the default code for the route.

534.3 Limited Exceptions

534.31 Complete Address and Default Codes. Compliance with the additional requirements represented by 534.1 and 534.2 is not required until September 1, 1991, after which date all address lists matched with software that has obtained a CASS certification valid September 1991 through February 1992 must contain addresses that meet the complete address and finest level of ZIP+4 code requirements defined in 122.92, except for apartment number requirements.

534.32 All Complete Address Requirements. Effective March 1, 1992, all address lists matched with software that has obtained a CASS certification valid March 1992 through August 1992 or thereafter must meet the complete address and finest level of ZIP+4 code requirements defined in 122.9.

535 ZIP+4 DATABASE PRODUCTS

535.1 Descriptions. The following ZIP+4 products may be ordered from the Postal Service:

a. *ZIP+4 Database Tape* and *Quarterly Cumulative Updates*, which contain a master copy of the ZIP+4 database plus quarterly updates of all add, change, or delete actions that have occurred within the database since the last release date.

b. *ZIP+4 Database Tape* and *Monthly Transactions*, which contain a master copy of the ZIP+4 data base plus monthly updates of all add, change, or delete actions that have occurred within the database since the last release date.

c. *Technical Guide*, which is a hard copy (paper) document that provides data formats and field definitions of the records in ZIP+4 products. The guide automatically accompanies any ZIP+4 product ordered, but may also be ordered separately for informational purposes.

535.2 Ordering ZIP+4 Database Tape Products

535.21 Availability. The products in 535.1 a and b are available for the entire nation or for individual states. For information on charges, call 1-800-238-3150 or, in Tennessee, 1-800-233-0453.

535.22 Where to Order. The products in 535.1 may be obtained by sending a written request and appropriate payment to:

ZIP+4 Product Order, National Address Information Center, 6060 Privacy Parkway Ste 101, Memphis TN 38188-0008.

535.23 Content of Request. In the written request, mailers must specify the name of the tape product desired and either the specific states for which information is desired or that the national tape is requested. The request must also specify which of the following magnetic tape characteristics are required: 1600 BPI or 6250 BPI, 9 track, ASCII or EBCDIC, Reel or Cartridge at 38K BPI.

540 REQUIREMENTS FOR NONBARCODED PIECES QUALIFYING FOR ZIP+4 RATES

541 GENERAL

541.1 Applicability. The requirements in 542-546 apply to all pieces claimed at a ZIP+4 rate except those on which the requirement for a ZIP+4 code has been met by a ZIP+4 barcode on the mailpiece in accordance with the requirements of 550.

541.2 Complete Address in Standardized Address Format

541.21 General Requirement. As prescribed in 534, a complete address (as defined in 122.92) is required on each piece claimed at any ZIP+4 rate. Except as provided in 541.22, all mailpieces claimed at ZIP+4 rate that are not prepared by the mailer to bear the correct ZIP+4 barcode (see 550) must bear a complete address prepared in a standardized format, as described in 122.93.

541.22 Exceptions

541.221 Initial Implementation. Until

September 1, 1991, a standardized address is recommended but not required. Effective September 1, 1991, all address lists matched with software that has obtained a CASS certification valid September 1991 through February 1992 must contain addresses that meet the address requirements described in 122.9 (except for apartment number requirements).

541.222 Final Implementation. Effective March 1, 1992, all address lists matched with software that has obtained a CASS certification valid March 1992 through August 1992 or a subsequent CASS certification must meet all of the address requirements in 122.9.

542 OCR READABILITY

542.1 OCR Read Area

542.11 Definition. Except as provided by 542.12, the OCR read area (see Exhibit 542.1) is a rectangular area on the address side of the mailpiece formed by the following boundaries:

a. ½ inch from the left edge.

b. ½ inch from the right edge.

c. ⅝ of an inch from the bottom edge (bottom of the rectangular area.)

d. 2¾ inches from the bottom edge (top of the rectangular area.)

542.12 Exception. Until February 2, 1992, mailers may use the following less stringent boundaries for the OCR read area:

a. 1 inch from the left edge.

b. 1 inch from the right edge.

c. ⅝ inch from the bottom edge (bottom line of rectangle).

d. 2¼ inches from the bottom edge (top line of rectangle).

542.2 Placement of Address

542.21 General Requirements. Except as provided by 542.22, all delivery address lines on each piece in the mailing must be contained within the OCR read area defined in 542.1. For purposes of this section, delivery address lines include apartment or other secondary address unit numbers, house or building numbers, street, rural route number, highway contract route number, box number, city, state, and ZIP Code. A uniform left margin must be maintained for the name and address information.

542.22 Exception. Until February 2, 1992, only the city/state/ZIP Code line of the address is required to be visible and located within the OCR read area defined in 542.1 on each piece in the mailing.

542.3 Limits for Non-Address Printing in OCR Read Area

542.31 Non-Address Printing or Markings

542.311 General Requirements. Except as provided by 542.312, there must be no markings, printing, or die cuts (except for the edges of address windows prepared in accordance with 543) in the OCR read area defined in 542.1 on either side of, or below, any of the delivery address lines. Non-address printing or markings may appear within the OCR read area defined in 542.1 only if positioned above the delivery address lines. This requirement also applies to addresses printed on inserts in window envelopes. For purposes of this section, delivery address lines include the apartment or other secondary address unit numbers, house or building numbers, street, rural route number, highway contract route number, box number, city, state and ZIP Code. For purposes of this section, address lines exclude the name of the recipient, firm name, building name and optional lines above the name of recipient line such as keylines and optional endorsement lines.

542.312 Limited Exceptions. Until February 2, 1992, the prohibition in 542.311 applies only to printing or markings placed in the OCR read area defined in 542.1 on either side of or below the city/state/ZIP Code line of the address.

542.32 Return Addresses

542.321 General Requirement. Except as provided by 542.322, return address information must not appear within the OCR Read Area (as defined in 542.1) and, when a return address appears on the front of a mailpiece, it must appear in the top left corner of the mailpiece, and extend no further than half of the length of the mailpiece to the right edge and no lower than one-third of the height of the mailpiece from the top (Exhibit 542.32).

542.322 Limited Exception. Mailers are not required to meet the general requirement in 542.321 until February 2, 1992.

542.4 Optical Character Reader (OCR) Readable Type

542.41 Type Fonts. A type font that is readable by USPS Optical Character Reader (OCR) equipment is required for addresses on each piece in the mailing. Block style typewriter and line printer type are normally OCR-readable. The type fonts listed in Exhibit 542.41 are considered OCR-readable type fonts if used as specified in 542.42–542.48. (The list in Exhibit 542.41 does not include all styles of type that are acceptable.) Italic, script, artistic, cyrillic, other highly-stylized fonts, and dot matrix characters with matrix elements separated by 0.005 inch or more are not considered OCR readable.

542.42 Machine Printed Addresses Required. All lines of the delivery address must be machine printed; also see 542.45 and 542.46.

542.43 Print Quality. A high degree of print quality must be maintained. Mailpieces bearing printing that is smudged or faded, or that contains either voids within character strokes or extraneous ink outside of character boundaries, are not acceptable at ZIP+4 rates.

542.44 Characters

542.441 Character Height. The height of address characters must be no less than 80 mils (0.08 inch) nor more than 200 mils (0.2 inch); 1 mil = 0.001 inch.

542.442 Character Stroke Width. The width of address character strokes must be uniform and neither less than 10 mils (¾ point) nor more than 30 mils (2 points).

542.443 Character Height to Width Ratio. The height of address characters divided by their width must fall between 1.1 and 1.7. A mid-range height to width ratio of about 1.4 to 1 is recommended (the height divided by the width is 1.4).

542.444 Character Style. Ten or twelve point plain style type is recommended. (A point equals 0.0138 of an inch.) Upper and lower case letters are permissible provided each meets the requirements of this section.

542.45 Use of Different Type Styles. Use of different type styles within the same line of an address is not permissible. However, different lines of the address may be printed using different type styles. It is recommended that all lines and characters in the address be printed with the same type style.

542.46 Use of Upper/Lower Case or Large/Small Capitals. It is recommended that addresses be printed in all upper case letters. Use of upper and lower case letters in addresses is permissible, as is the use of large and small capital letters within addresses, provided, within an address line, the same type style is used as required by 542.45.

542.47 Spacing Requirements

542.471 Space Between Characters. A clear vertical column of at least 10 mils (¾ point) and no more than 40 mils (3 points) must exist between each character of the address. Proportional spacing is permissible within these

guidelines. Kerning (i.e., the overlapping or nesting of characters) is not permissible.

542.472 Space Between Words. A clear vertical space, neither less than the width of one full "em" character (e.g., capital M) nor more than the width of 5 full characters, must exist between words of the address. (This includes spacing between the state abbreviation and the ZIP+4 code.) Proportional spacing is permissible within these guidelines.

542.473 Space Between Lines of the Address. Spacing between lines of the address must be uniform and neither less than 30 mils (2 points) nor more than the height of 2 full characters (i.e., 400 mils or 29 points).

542.48 Skew of Address Lines. The lines of the address must not be skewed (slanted) more than 5 degrees relative to the bottom edge of the mailpiece.

543 REFLECTANCE REQUIREMENTS FOR ADDRESS AREA

543.1 Area Subject to Reflectance Requirements

543.11 Definition. Except as provided by 543.12, that portion of the OCR read area (as defined in 542.311) that is on either side of and below the delivery address lines must meet the requirements in 543.2–543.5. This requirement applies to all pieces in the mailing.

543.12 Limited Exception. Until February 2, 1992, the requirements in 543.2–543.5 apply only to that portion of the OCR read area (as defined in 542.1) that is on either side of and below the city/state/ZIP Code line.

543.2 Background Reflectance. Within the area defined in 543.1, the material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum when measured with a Postal Service or USPS-licensed envelope reflectance meter. (White and pastel colors generally satisfy this requirement.)

543.3 Print Contrast Ratio

543.31 Definition. The print contrast ratio represents the contrast between the ink used in the address and the background of the mailpiece.

543.32 Required Ratio. A print contrast ratio greater than or equal to 40 percent in both the red and green portions of the optical spectrum is required. If glassine windows are used the print contrast ratio must be greater than or equal to 45 percent.

543.33 How the Print Contrast Ratio is Determined. The print contrast ratio is determined in the following manner using a Postal Service or USPS-licensed envelope reflectance meter:

$$PCR = \frac{\text{Reflectance of the Background} = \text{Reflectance of the ink}}{\text{Reflectance of the Background}} \times 100 = -\%$$

Note: This requirement is generally satisfied by using black or dark blue ink on a white background. Other color combinations should be measured to ensure compliance with the minimum print contrast ratio.

543.34 Opacity. Envelope material, insert material as viewed through an envelope window, or the outermost sheet of a mailpiece, must have sufficient opacity to prevent non-address printing from "showing through" to the extent that it will affect OCR processing. The print contrast ratio of the non-address print that shows through in the OCR read area and barcode clear zone must not exceed 15 percent when measured in the red and green spectra.

543.35 Dark Fibers and Background Patterns. The material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must not contain dark fibers or background patterns (e.g., checks, etc.) that produce a print contrast ratio of more than 15 percent when measured in the red and green spectra. If material on which the delivery address will appear is printed in a "halftone screen" it must not contain fewer than 200 lines per inch (dot size) or be printed with more than a 20 percent screen.

544 ADDITIONAL REQUIREMENTS FOR ENVELOPES WITH ADDRESS WINDOWS AND ADDRESS INSERTS

544.1 Clear Space. A clear space of at least ⅛ inch is required between the address block and the top, bottom, and side edges of the address window. This clear space must remain even when the insert is moved to its full limits in each direction within the envelope. The bottom edge of the address window must not extend more than ⅛ of an inch into the barcode clear zone (see 545).

544.2 Window Cover Material

544.21 Type of Material. Address windows, if covered, must be covered with a non-tinted clear or transparent material. The recommended window cover material is cellophane or polystyrene.

544.22 Glassine. Although glassine is a permissible address window cover, it is somewhat opaque and a higher print contrast ratio is needed to assure OCR readability of the address through this material. Therefore, glassine may be used for window cover material only if the address information measured through the glassine meets a print contrast ratio of 45 percent when measured as described in 543.3.

544.23 Attachment. All edges of the window covering material must be glued securely to the envelope.

544.3 Print Contrast Ratio. As viewed through the window material, the address must meet the minimum print contrast ratios described in 543.

545 Barcode Clear Zone

545.1 Requirement. Each piece in the mailing must contain a barcode clear zone.

545.2 Dimensions. The barcode clear zone (see Exhibit 545) is a rectangular area formed inside the following boundaries:

a. ⅝ of an inch from the bottom edge of the mailpiece,

b. 4½ inches from the right edge of the mailpiece,

c. The right edge, and

d. The bottom edge.

545.3 Reflectance. The barcode clear zone is subject to the reflectance requirements in 551.4.

545.4 What May Appear in the Barcode Clear Zone. Except for a barcode that has been properly prepared in accordance with 550, no printing, markings, tabs, or wafer seals may appear in the barcode clear zone, unless they meet the requirements of 551.4.

545.5 Address Windows. The bottom edge of an address window must be at least ½ inch from the bottom edge of the envelope. See 521.52 for additional requirements concerning tabs or wafer seals in the barcode clear zone.

545.6 Notice of Impact of Advanced Barcode System. Upon deployment of the Advanced Bar Code (ABC) system, the Postal Service plans to move the barcode clear zone and read area ¼ inch further to the left for those mailers printing barcodes in the lower right corner of the mailpiece. At that time, the barcode clear zone will extend 4¾ inches from the right edge of the mailpiece, and the left-most bar of the barcode will have to begin between 4¼ and 3½ inches from the right edge of the mailpiece.

546 ABILITY TO ACCEPT POSTAL SERVICE WATER-BASED BARCODE INK

546.1 General Requirement. The paper or other material used for the envelope or outermost sheet of the address side of mailpieces claimed at a ZIP+4 rate must allow USPS ink jet printers used with Optical Character Reader (OCR) equipment to print a ZIP+4 barcode on the piece without smearing.

546.2 Drying Time. The paper or other material must allow water-based ink applied by ink jet to dry within one second without smearing.

546.3 Non-Paper Materials. Certain non-paper, plastic-like materials, such as spun bonded Olefin, are not acceptable for mailpieces claimed at a ZIP+4 rate because they will not allow water-based USPS ink jet applied barcode ink to dry without smearing. Non-paper materials will be acceptable for mailpieces claimed at a ZIP+4 rate only if that material is approved by the Postal Service Engineering and Development Center (EDC) (see 546.5).

546.4 Glossy and Coated Paper. Coatings applied to paper, particularly glossy coatings, may prevent quick drying of the water-based ink used by USPS ink jet printer to apply barcodes. Glossy and coated paper may be sent for testing by the EDC (see 546.5).

546.5 Material Testing Procedures

546.51 What to Submit. Mailers wishing to have material tested to determine its ability to accept ink without smearing under the specification in 546.1–546.2 must submit at least 50 sample mailpieces and a letter of request. To assist the EDC in evaluating the sample material in the context of its intended use, the letter must describe the material, the mailpieces it will be used to produce, the mailpieces' contents and construction, the number of pieces being produced, and the level of preparation (e.g., presort).

546.52 Where to Submit. Requests for testing must be addressed to:

USPS Engineering and Development Center, 8403 Lee Highway, Merrifield VA 22082–8101.

546.53 When to Submit. Requests for testing must be submitted at least 6 weeks prior to the date of mailing.

546.54 Testing. The EDC will determine whether the material used in the sample mailpiece meets the requirements prescribed in 546.1–546.4. Approval will be granted only if testing shows the material will allow water-based USPS ink jet applied ink to dry within one second.

546.55 Results. The mailer will be notified of the EDC's test results in writing. If the mailpiece is found to meet the requirements of 546.1–546.4, the EDC's letter of approval will include a unique number that refers to the specific mailpiece represented by the samples tested. The letter will be accompanied by one or more of the sample pieces originally submitted by the mailer, and each will bear the unique number contained in the letter.

546.56 Use of Approval. The EDC's letter of approval (showing the unique number) serves as evidence that the material meets the requirements of 546.1–546.4. A copy of that letter must be an attachment to each mailing statement submitted for mailings using the tested material.

546.57 Mailing. Post offices must accept the EDC's letter as evidence of compliance with 546.1–546.4. However, the mailer must be prepared to demonstrate that the mailpieces presented for mailing are the same as those described in the letter requesting EDC testing if directed to do so by the office where the mailpieces are verified prior to acceptance. In order to expedite acceptance, mailers whose pieces are questioned in this regard may pay the next higher rate for which their mailings may qualify and, upon successful completion of an appeal under 133, may seek a refund as appropriate.

550 Requirements for Barcoded Pieces

551 ZIP+4 Barcode Requirements

551.1 Barcode Format. A ZIP+4 barcode is made up of a single field of 52 bars. The information content of the barcode is distinguished by the height of the bars, either tall (full) or short (half) bars, which represent a "one" or a "zero" to a USPS barcode sorter. These bars, when separated into groups of 5, represent each of the 9 digits of a ZIP+4 code, plus a tenth digit designated as the "correction digit." The first and last bars of the barcode are "frame bars" and must always be full bars (see Exhibit 551.1). The sequence of bars must represent the ZIP+4 code (including the appropriate correction character) in the address of the piece, according to the code defined in Exhibit 551.1. [Redesignate Exhibit 324.72 as Exhibit 551.1]

551.2 Barcode Location

551.21 General. The ZIP+4 barcode must be located in the "barcode read area" on the address side of the mailpiece within a clear space known as the "barcode clear zone."

551.22 Barcode Clear Zone

551.221 Dimensions. The barcode clear zone (see Exhibit 545) is a rectangular area formed inside the following boundaries: a. ⅝ of an inch from the bottom edge of the mailpiece, b. 4½ inches from the right edge of the mailpiece, c. the right edge, and d. the bottom edge.

551.222 What May Appear in the Barcode Clear Zone. Except for a barcode that has been properly prepared in accordance with 550, no printing, markings, tabs, or wafer seals that would lower the reflectance to less than 50 percent in the red and 45 percent in the green portions of the optical spectrum (see 551.4) can be placed within the barcode clear zone.

551.23 Barcode Read Area

551.231 Placement of the Barcode. The entire barcode must be completely contained within the barcode read area (see Exhibit 551.2). The barcode read area is formed by the limits described in 551.232 and 551.233.

551.232 First Bar Location. Within the barcode clear zone, the left-most bar of the barcode must be located between 3¼ inches and 4 inches from the right edge of the mailpiece (the horizontal position of the barcode).

551.233 Vertical Location. The vertical position of the barcode must be in the area between 3/16 inch and 7/16 inch from the bottom of the mailpiece. The bottom of the bars must be positioned ¼ inch ± 1/16 inch from the bottom edge of the mailpiece (see Exhibit 551.2).

551.24 Barcodes on Inserts. ZIP+4 barcodes may be printed on inserts that will appear through a window in an envelope provided both the window on the envelope and the barcode on the insert meet the specifications in 551.7.

551.25 Notice of Impact of Advanced Barcode System. Upon deployment of the Advanced Bar Code (ABC) system, the Postal Service plans to move the barcode clear zone and read area ¼ inch further to the left for those mailers printing barcodes in the lower right corner of the mailpiece. At that time, the

barcode clear zone will extend 4¾ inches from the right edge of the mailpiece, and the left-most bar of the barcode will have to between 4¼ and 3½ inches from the right edge of the mailpiece.

(Redesignate Exhibit 324.73 as Exhibit 551.2.)

551.3 Barcode Dimensions and Spacing

551.31 Full Bar Height. A full bar must be 0.125±0.010 inch in height.

551.32 Half Bar Height. A half bar must be 0.50±0.010 inch in height.

551.33 Bar Width. The Width of all bars mst be equal and must be 0.020±0.005 inch.

551.34 Horizontal Spacing. Horizontal spacing of the bars must be 22 ± 2 bars per inch. Pitch (a bar and a space) must be at least 0.0416 of an inch and no greater than 0.05 of an inch. The spacing (a clear vertical column) between bars must never be less than 0.012 of an inch.

551.4 Reflectance

551.41 Background Reflectance. The material on which the barcode will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum, within the barcode clear zone when measured with a USPS or USPS licensed envelope reflectance meter. (White and pastel colors generally satisfy this requirement.)

551.42 Print Contrast Ratio. A print contrast ratio (see 543.33) of at least 30 percent is required between the background material of the mailpiece and the barcode within the barcode clear zone.

551.43 Opacity. Envelope material, insert material as viewed through a barcode window, or the outermost sheet of a mailpiece, as applicable, must have sufficient opacity to prevent printing from "showing through" to the extent that it will interfere with postal equipment that reads the barcode. The print contrast ratio of print (other than the barcode) that shows through in the barcode clear zone and barcode read area must not exceed 15 percent when measured in the red and green spectra.

551.44 Dark Fibers and Background Patterns. The material on which the barcode will appear (envelope, card, insert material, or outermost sheet) must not contain dark fibers or background patterns (e.g., checks, etc.) that produce a print contrast ratio of more than 15 percent when measured in the red and green spectra. If material on which the barcode will appear is printed in a "halftone screen" it must not contain fewer than 200 lines per inch (dot size) or be printed with more than a 20 percent screen.

551.5 Skew and Baseline Shift. The combined effects of positional and rotational skew (slant) of the barcode must be limited to a maximum rotation of the bars of ± 5 degrees from a perpendicular to the bottom edge of the mailpiece. The bottom of any bar must not be more than 0.005 inch from the bottom of each adjacent bar.

551.6 Printing Irregularities. Extraneous ink or ink voids must not cause any bar to fail to meet the dimension and spacing requirements in 551.3.

551.7 Additional Requirements for Barcodes on Inserts that Appear Through Windows

551.71 General. In addition to the requirements in 551.1–551.6, a barcode printed on an insert and appearing through a window in the barcode clear zone must meet the conditions in 551.72 and 551.73.

551.72 Barcode Window Specifications

551.721 Window Dimensions

a. The right edge of the window must be at least ¼ of inch from the right edge of the envelope.

b. The left edge of the window must be at least 4½ inches from the right edge of the envelope.

c. The top edge of the window must be at least ⅝ of an inch from the bottom of the mailpiece.

d. The bottom edge of the window must form part of the bottom edge of the envelope (see 551.722).

551.722 Window Construction

a. Windows must extend fully to the lower edge of the envelopes and must be of wrap around construction.

b. Windows must be covered with a clear plastic material (see 551.723).

c. All edges of the window covering material must be glued securely to the envelope.

551.723 Window Cover Material. Barcode windows must be covered with a non-tinted clear or transparent material. The recommended window cover material is cellophane or polystyrene. (Glassine is a permissible barcode window cover but is somewhat opaque.) As viewed through the window material, the barcode must meet the minimum print contrast ratio described in 551.4.

551.73 ZIP+4 Barcode Location Requirements

551.731 Movement of Insert. The barcode must stay within the location requirements of 551.2 when the insert is moved to any of its limits within the envelope.

551.732 Clear Space. A clear space of at least ⅛ inch must be left between the barcode and the top, left, and right edges of the window. (As required by 551.722, there is no bottom edge to the window.) This clear space must remain even when the insert is moved to any of its limits within the envelope.

552 5-DIGIT BARCODE REQUIREMENTS

552.1 General. Pieces in ZIP+4 barcoded rate mailings may contain 5-digit barcodes, provided at least 85 percent of the pieces in the mailing contain a ZIP+4 barcode as required by 325.3, 424.631, 562.1, and 624.63. All 5-digit barcodes must meet the requirements of 551.3 through 551.7, 552.2 and 552.3.

552.2 5-Digit Barcode Format. The 5-digit barcode must be prepared as described in 551.1, except that there must be a single field of 32 bars consisting of a frame bar, a series of bars that will represent the correct 5-digit ZIP Code for the address on the piece (see Exhibit 551.1), a correction digit, and a final frame bar. The correction digit will be determined by adding the numbers in the 5-digit ZIP Code and determining what single-digit number must be added to that sum to make the total a multiple of 10 (a number that ends with a zero).

552.3 5-Digit Barcode Location

552.31 5-Digit Barcodes Printed Directly on Mailpieces. The 5-digit barcode printed on mailpieces that do not have a window for a barcode insert must be located on the mailpiece in accordance with the requirements in 551.2, except that within the read area, the left-most bar of the barcode must be located between 3⅞ inches and 4 inches from the right edge of the mailpiece (see Exhibit 552.31). (Upon deployment of the Advanced Barcode System, the Postal Service plans to require that the left-most bar be located between 4⅛ and 4¼ inches from the right edge of the mailpiece.)

(Redesignate Exhibit 325.52c(1) as Exhibit 552.31.)

552.32 Barcodes Printed on Inserts. 5-digit barcodes printed on inserts that will appear through a barcode window must be located in accordance with the requirements of 551.73 or 552.31. Pieces prepared with 5-digit barcodes that appear through windows, and pieces prepared with barcode windows through which no barcode appears are not eligible for any automation-based rates.

5. In chapter 6 of the Domestic Mail Manual, make the following revisions:

Chapter 6—Third-Class Mail

* * * * *

620 CLASSIFICATION

* * * * *

624 CONDITIONS FOR SPECIFIC BULK RATE PREPARATION LEVELS

624.1 Basic Level Rate Eligibility

624.11 General. (Add the following sentence to the end of the section:) Pieces in a basic level rate mailing should not bear a 5-digit barcode. Pieces that bear either a ZIP+4 or 5-digit barcode must be prepared as specified in 550 and the barcodes must represent the correct ZIP+4 code or 5-digit ZIP Code for the delivery address on the mailpiece.

* * * * *

624.2 Five-Digit Presort Level Eligibility

624.21 General. (Add the following sentence to the end of the section:) Pieces in a 5-digit level rate mailing should not bear a 5-digit barcode. Pieces that bear either a ZIP+4 or 5-digit barcode must be prepared as specified in 550 and the barcodes must represent the correct ZIP+4 code or 5-digit ZIP Code for the delivery address on the mailpiece.

* * * * *

624.3 Carrier Route Presort Level Eligibility

624.31 General. (Add the following sentence to the end of the section:) Pieces in a carrier route presort mailing should not bear a 5-digit barcode. Pieces that bear either a ZIP+4 or 5-digit barcode must be prepared as specified in 550 and the barcodes must represent the correct ZIP+4 code or 5-digit ZIP Code for the delivery address on the mailpiece.

* * * * *

624.4 Basic ZIP+4 Rate Mailings

624.41 General. Each mailing must meet the requirements of 623 and 624.4. Only letter-size pieces that bear a correct ZIP+4 code and meet the requirements of 624.42 through 624.49 may qualify for the basic ZIP+4 rate. Pieces in a basic ZIP+4 mailing that bear only a correct 5-digit ZIP Code are subject to the basic level rate.

Note: Carrier route presort level rate pieces must not be included in a basic ZIP+4 rate mailing.

* * * * *

624.43 ZIP Code and Address Requirements

624.431 Required Percentage of ZIP+4 Coded and Properly Addressed Pieces. At least 85 percent of the total pieces in each mailing must bear the correct numeric ZIP+4 code that is the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address, as specified in 530 and 541.3. Either the correct numeric ZIP+4 code in the address or the correct ZIP+4 barcode (prepared in accordance with 551) will satisfy the requirement for a ZIP+4 code. Pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address.

Note: The 85 percent ZIP+4 code requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.482.

624.432 Addressing Requirements. Except as provided by 531.16, 534.3, and 541.22, each piece in the mailing that bears the correct ZIP+4 code (as specified in 624.431) must also bear a complete address (see 122.92) and, unless the piece bears a ZIP+4 barcode as prescribed in 624.49, the address must appear in a standardized format (see 122.92). Addresses must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

624.44 Physical Mailpiece Requirements for General Automation Compatibility. Each piece in the mailing must meet the requirements in 520.

624.45 Requirements for OCR Processing

624.451 Pieces Not Prepared with a ZIP+4 Barcode. Each piece in the mailing that does not bear a ZIP+4 barcode (prepared in accordance with 551) must meet the requirements in 540.

625.452 Pieces Prepared with a ZIP+4 Barcode. Pieces that bear a ZIP+4 barcode but are claimed at a ZIP+4 rate must meet the requirements of 550 rather than 540.

624.46 Presort. (Text of existing 624.444.)

624.47 Marking. (Text of existing 624.445.)

624.48 Documentation for Basic ZIP+4 Rate Mailings. (Text of existing 624.446; renumber existing 624.446a, 624.446a(1), 624.446a(2), and 624.446b as 624.481, 624.481a, 624.481b, 624.482, respectively. In renumbered 624.481, change the reference "624.446b" to "624.482." In renumbered 624.482, change the reference "624.446a" to "624.481.")

624.49 Pieces Prepared With Barcodes and Barcode Windows

624.491 Pieces Prepared With ZIP+4 Barcodes. The correct ZIP+4 barcode, prepared as specified in 551 and representing the finest level of ZIP+4 code for the delivery address shown on the piece (see 624.43), may appear on pieces in a basic ZIP+4 rate mailing. To qualify for the basic ZIP+4 rate, pieces that bear a ZIP+4 barcode as specified in 551 need not meet the OCR readability requirements in 540, but must bear a complete address including either the correct numeric ZIP+4 code or 5-digit ZIP Code in the address. Pieces bearing neither the correct ZIP+4 barcode nor the correct numeric ZIP+4 code must bear the correct numeric 5-digit ZIP Code and will qualify for the basic level rate.

624.492 Pieces Prepared With Five-Digit Barcodes. Mailers may place 5-digit barcodes prepared in accordance with 552 on pieces in a basic ZIP+4 rate mailing. Such pieces will qualify for the basic level rate either when they bear a numeric 5-digit ZIP Code in the address or when the 5-digit barcode appears through a window. If the 5-digit barcode is printed directly on the outside of a mailpiece that also bears a correct numeric ZIP+4 code in the address (as defined in 624.43) and meets the requirements of 540, that piece may qualify for the basic ZIP+4 rates and count toward the 85 percent ZIP+4 code requirement in 624.431. If the 5-digit barcode appears through a window, the piece neither qualifies for a ZIP+4 rate nor counts toward the 85 percent requirement in 624.431.

624.493 Pieces Prepared With Barcode Windows Through Which No Barcode Appears. Pieces prepared with a window in the barcode clear zone through which neither a ZIP+4 barcode nor a 5-digit barcode appears neither qualify for the basic ZIP+4 rates nor count toward the 85 percent ZIP+4 code requirement in 624.431.

624.5 Five-Digit ZIP+4 Rate Mailings

624.51 General. Each mailing must meet the requirements of 623 and 624.5. Only letter-size pieces that bear a correct ZIP+4 code and meet the requirements of 624.52 through 624.59 may qualify for the 5-digit ZIP+4 rate. Pieces that bear a 5-digit ZIP Code and are sorted in accordance with 624.561 may qualify for the 5-digit presort level rate. Residual pieces (see 624.562) that bear a ZIP+4 code and a complete and standardized address may qualify for the basic ZIP+4 rate. Residual pieces

that bear a 5-digit ZIP Code may qualify for the basic presort level rate.

Note: Carrier route presort level rate pieces must not be included in a 5-digit ZIP+4 rate mailing.

* * * * *

624.53 ZIP Code and Address Requirements

624.531 Required Percentage of ZIP+4 Coded and Properly Addressed Pieces. At least 85 percent of the total pieces in each mailing must bear the correct numeric ZIP+4 code that is the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address, as specified in 530 and 541.3. Either the correct numeric ZIP+4 code in the address or the correct ZIP+4 barcode (prepared in accordance with 551) will satisfy the requirement for a ZIP+4 code. Pieces bearing a ZIP+4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP+4 code in the address. Pieces bearing neither the correct ZIP+4 barcode nor the correct numeric ZIP+4 code must bear the correct numeric 5-digit ZIP Code.

Note: The 85 percent ZIP+4 code requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.582.

624.532 Addressing Requirements. Except as provided by 531.16, 534.3, and 541.22, each piece in the mailing that bears the correct ZIP+4 code (as specified in 624.531) must also bear a complete address (see 122.92) and, unless the piece bears a ZIP+4 barcode as prescribed in 624.49, the address must appear in a standardized format (see 122.92). Addresses must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

624.54 Physical Mailpiece Requirements for General Automation Compatibility. Each piece in the mailing must meet the requirements in 520.

624.55 Requirements for OCR Processing

624.551 Pieces Not Prepared with a ZIP+4 Barcode. Each piece in the mailing that does not bear a ZIP+4 barcode (prepared in accordance with 551) must meet the requirements in 540.

625.552 Pieces Prepared with a ZIP+4 Barcode. Pieces that bear a ZIP+4 barcode but are claimed at a ZIP+4 rate must meet the requirements of 550 rather than 540.

624.56 Presort. (Text of existing 624.544; renumber existing 624.544a and 624.544b as 624.561 and 624.562, respectively. In renumbered 624.561, change the reference "624.544b" to "624.562." In renumbered 624.562, change the reference "624.544a" to "624.561.")

624.57 Marking. (Text of existing 624.545.)

624.58 Documentation for Basic ZIP+4 Rate Mailings. (Text of existing 624.546; renumber existing 624.546a, 624.546a(1), 624.546a(2), 624.546a(3), 624.546b, 624.546b(1), 624.546b(2), and 624.546c as 624.581, 624.581a, 624.581b, 624.581c, 624.582, 624.582a, 624.582b, and 624.583, respectively. In renumbered 624.581, change the references "624.546b" and "624.546c" to "624.582" and "624.583," respectively. In renumbered 624.582 and 624.583, change the reference "624.546a" to "624.581.")

624.59 Pieces Prepared With Barcodes and Barcode Windows

624.591 Pieces Prepared With ZIP+4 Barcodes. The correct ZIP+4 barcode, prepared as specified in 551 and representing the finest level of ZIP+4 code for the delivery address shown on the piece (see 624.53), may appear on pieces in a 5-digit ZIP+4 mailing. To qualify for the 5-digit ZIP+4 rates, pieces that bear a ZIP+4 barcode prepared as specified in 551 need not meet the OCR readability requirements in 540 but must bear a complete address including either the correct numeric ZIP+4 code or 5-digit ZIP Code in the address. Pieces bearing neither the correct ZIP+4 barcode not the correct numeric ZIP+4 code must bear the correct numeric 5-digit ZIP Code in the address and will qualify for the 5-digit presort level rate.

624.592 Pieces Prepared With Five-Digit Barcodes. Mailers may place 5-digit barcodes prepared in accordance with 552 on pieces in a 5-digit ZIP+4 rate mailing. Such pieces will qualify for the 5-digit level rate either when they bear a numeric 5-digit ZIP Code in the address or when the 5-digit barcode appears through a window. If the 5-digit barcode is printed directly on the outside of a mailpiece that also bears a correct numeric ZIP+4 code in the address (as defined in 624.43) and meets the requirements of 540, that piece may qualify for the 5-digit ZIP+4 rates and count toward the 85 percent ZIP+4 code requirement in 624.531. If the 5-digit barcode appears through a window, the piece neither qualifies for a ZIP+4 rate nor counts toward the 85 percent requirement in 624.531.

624.593 Pieces Prepared With Barcode Windows Through Which No Barcode Appears. Pieces prepared with a window in the barcode clear zone through which neither a ZIP+4 barcode nor a 5-digit barcode appears neither qualify for the 5-digit ZIP+4 rates nor count toward the 85 percent ZIP+4 code requirement in 624.531.

624.6 ZIP+4 Barcoded Rate Mailings

624.61 General

624.611 Description. Each mailing must meet the requirements of 623 and 624.6. Only letter-size pieces that bear a correct ZIP+4 barcode and meet the requirements of 624.62 through 624.69 may qualify for the ZIP+4 Barcoded rate.

Note: Carrier route presort level rate pieces must not be included in a ZIP+4 Barcoded rate mailing.

624.612 Applicable Rates by Sortation Category

a. (Change the references "624.643a," "624.65," "624.643," and "624.66b" to "624.661," "551," "624.66," and "552," respectively; replace "624.442, 624.443, and 624.542" with "540.")

b. (Change the references "624.643b," "624.65," and "624.66b(3)(a)" to "624.662," "551," and "552.31," respectively; replace "624.442 and 624.443" with "540.")

* * * * *

624.63 ZIP+4 Barcode and Address Requirements

624.631 Required Percentage of ZIP+4 Barcoded and Properly Addressed Pieces. At least 85 percent of the total pieces in each mailing must bear a complete address (see 122.92) and the correct ZIP+4 barcode that represents the finest level (depth) of ZIP+4 code listed in the current USPS ZIP+4 database for the delivery address, as specified in 530 and 541.3. Pieces not bearing the correct numeric ZIP+4 barcode must bear the correct numeric ZIP+4 code or the correct numeric 5-digit ZIP+4.

Note: The 85 percent ZIP+4 barcode requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.582.

624.632 Addressing Requirements. Except as provided by 531.16, 534.3, and 541.22, each piece in the mailing that does not bear the correct ZIP+4 barcode (as specified in 624.631) must bear a complete address in a standardized format. Addresses must be prepared using Coding Accuracy Support System (CASS) certified ZIP+4 matching software as specified in 531 and 532.

624.64 Physical Mailpiece Requirements for General Automation Compatibility. Each piece in the mailing must meet the requirements in 520.

624.65 Requirements for OCR Processing. Each piece in the mailing

that does not bear the correct ZIP+4 barcode (see 551 and 624.63) must meet the requirements in 540.

(Delete existing Exhibits 624.65b, 624.65c, and 624.66b(3))

624.66 Presort. (Text of existing 624.643; renumber existing 624.643a and 624.643b as 624.661 and 624.662, respectively; change the references "624.643b," "624.643a," "624.65" and "624.63" to "624.662," "624.661," "551" and "624.631," respectively.)

624.67 Marking. (Text of existing 624.644)

624.68 Documentation for Basic ZIP+4 Rate Mailings. (Renumber existing 624.645a, 624.645b, 624.645c, 624.646, 624,647 as 624.681, 624.582, 683, 624.684, and 624.685, respectively, inserting the existing text and amending the numbering of subsections and internal references accordingly. In renumbered 624.681, delete the last sentence; change the references "624.65" and "624.66b(3)(a)" to "551" and "552.31," respectively; and replace "624.442 and 624.443" with "540." In renumbered 624.682, change the references "624.65" and "624.66b(3)(a)" to "551" and "552.31," respectively. In renumbered 624.684, change the references "624.645" and "624.65" to "624.681" and "551," respectively.) (Redesignate Exhibits 624.645 (p.1) and 624.645 (p.2) as 624.681 (p.1) and 624.681 (p.2), respectively; in each Exhibit, change the first foot note to read: * Does NOT include piece prepared with a window in the barcode clear zone. Pieces must contain a ZIP+4 coded in the address and meet the requirements in 540.)

624.69 Pieces Prepared With 5-Digit Barcodes and Barcode Windows

624.691 Pieces Prepared With 50-Digit Barcodes. Up to 15 percent of the pieces in a ZIP+4 Barcoded rate mailing may bear a 5-digit barcode prepared as specified in 552. Such pieces may qualify for the basic or 5-digit presort level rates (based on presort) either when they bear a numeric 5-digit ZIP Code in the address or when the 5-digit barcode appears through a window. If the 5-digit barcode is printed on the outside of a mailpiece that also bears a correct numeric ZIP+4 code in the address (see 624.53) and meets the requirements of 540, that piece may qualify for the basic or 5-digit ZIP+rates (depending on presort). If the 5-digit barcode appears through a window, the piece neither qualifies for a ZIP+4 or ZIP+4 Barcoded rate nor counts toward the 85 percent requirement in 624.631.

624.692 Pieces Prepared With Barcode Windows Through Which No Barcode Appears. Pieces prepared with a window in the barcode clear zone through which neither a ZIP+4 barcode nor a 5-digit barcode appears neither qualify for a ZIP+4 or ZIP+4 Barcode rate nor count toward the 85 percent ZIP+4 barcode reqirement in 624.631.

* * * * *

619 Mailpiece Characteristics

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629.2 Physical Limitations

* * * * *

629.22 Size, Shape, and Ratio (General Standards)

629.221 Maximum Size Standards

* * * * *

d. Basic ZIP+4, 5-Digit ZIP+4, and ZIP+4 Barcoded Rate Mail. The maximum size for mailpieces at these rates is described in 521.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted automatically to subscribers. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

BILLING CODE 7710-12-M

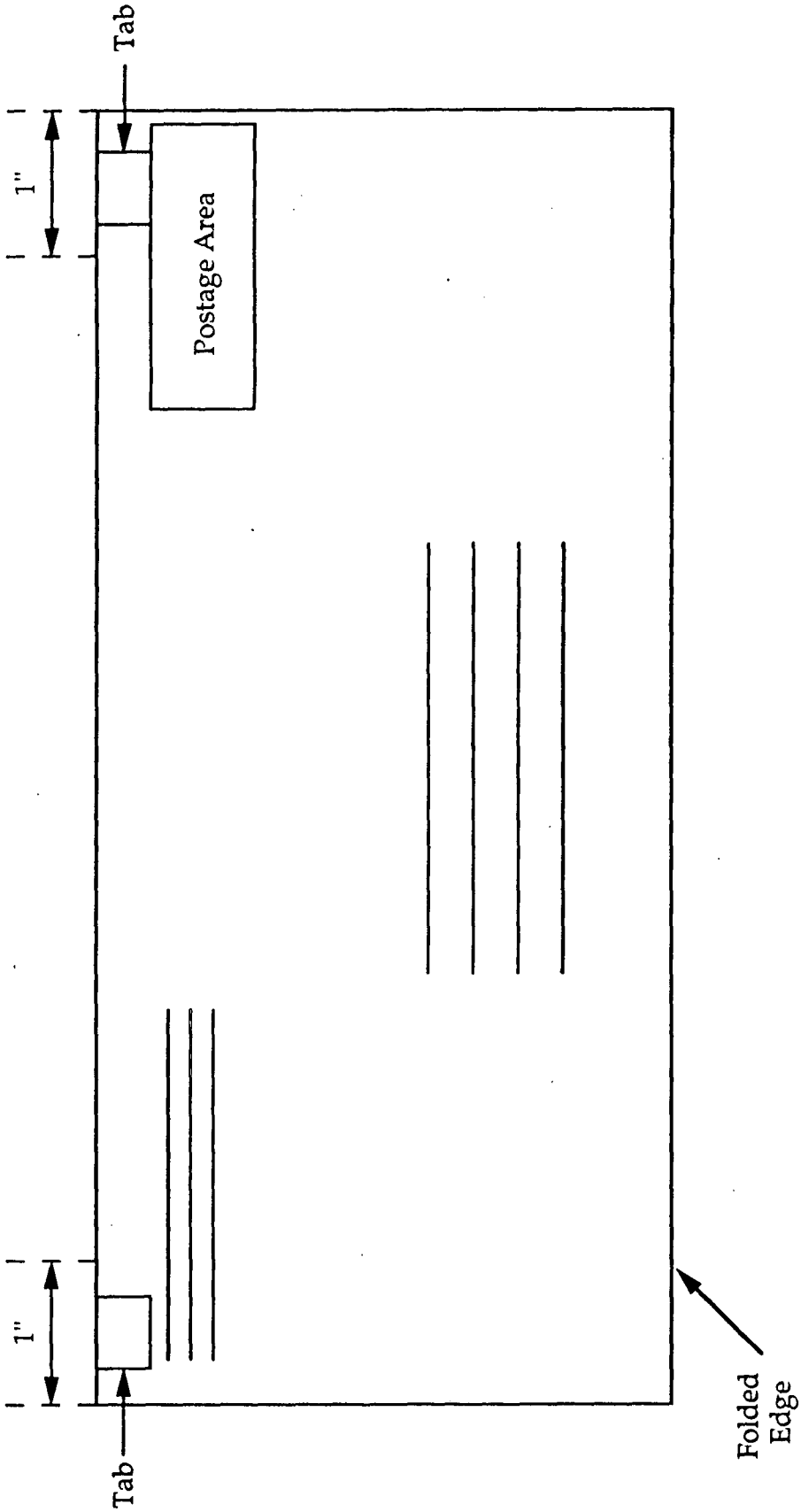

EXHIBIT 523.23 – Preparation of Folded Self-Mailers

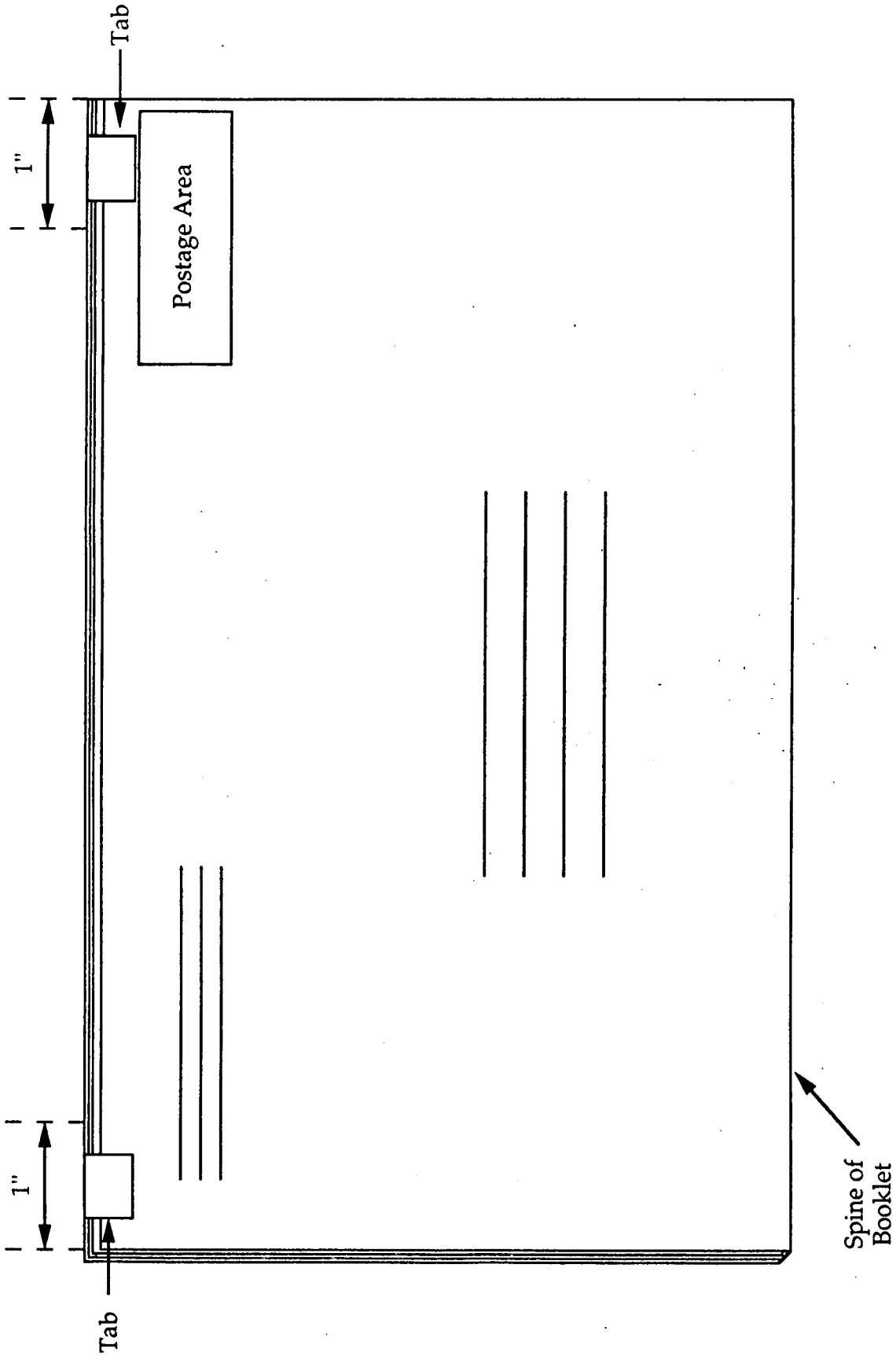

EXHIBIT 524.4 – Preparation of Booklet-Type Publications

CASS IMPLEMENTATION SCHEDULE Standardization & Default Elimination	1991											1992								
	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August	September
All mailings submitted at automation compatible rates must be produced from address lists that have been coded using CASS certified software meeting existing CASS requirements. M								1												
Coding software used to produce mailings must be CASS certified for address standardization and elimination of default codes except apartment numbers (testing for this begins August 1, 1991).							TESTING	BEGINS 1												
All mailings submitted at automation rates must be produced from address lists coded using CASS certified software meeting additional CASS requirements (address standardization & elimination of all default codes except apartment numbers). M														1						
Coding software used to produce mailings must be CASS certified for elimination of all default codes including apartment numbers (testing for this begins February 1, 1992).													TESTING	BEGINS 1						
All mailings submitted at automation rates must be produced from address lists coded using CASS certified software meeting all CASS requirements (address standardization & elimination of all default codes including apartment numbers). M																				1

NOTE: "M" indicates that this new requirement applies to mailings submitted by the date shown.

Exhibit 531.16, CASS Implementation Schedule

☐ Single List
☐ Multiple Lists (Whole)
☐ Multiple Lists (Extracts)

Coding Accuracy Support System (CASS) Summary Report

(CASS Vendor's Name(s) As It Appears On The CASS Certificate [use back of form if needed])

Date List Was ZIP+4 Coded _____ (If multiple lists, oldest coding date)

Date of ZIP+4 Database Used _____ (If multiple lists, oldest data base used)

A. LIST OWNER'S NAME (If Multiple Lists, Name of Individual Completing Form)

B. LIST NAME (If Multiple Lists Give Number Of Lists)

C. CASS OUTPUT/ NDI RATING	TOTAL ADDRESS RECORDS _____		
	TOTAL CODED	TOTAL POSSIBLE	% OF TOTAL POSSIBLE
1. ZIP+4 CODES			
2. APT NUMBERS			
3. R.R.NUMBERS			
4. 5-DIGIT CODES			
5. CR RT CODES			

D. SIGNATURE OF MAILER

I certify that the mailing submitted with this form has been ZIP+4 coded (as indicated above) using CASS Certified software meeting all requirements of *Domestic Mail Manual* section 531.

E. PRINT NAME & ADDRESS

F. DATE SIGNED

PS Form 3553, Feb. 1991

INSTRUCTIONS For Completing This Form

This form may be computer generated as the output of the address matching process using CASS certified software in conjunction with current USPS Address Data Base Files. The facsimile must provide the same information, in the same format as this form.

CASS VENDOR'S NAME - Print name as it appears on the software user's CASS certificate.

Single List - Check this box if information on this form represents one list only (see DMM 532.3).

Multiple Lists (Whole) - Check this box if information on this form summarizes two or more whole lists, and each list has been individually NDI rated using CASS certified software, and the lists are being used in their entirety for this mailing (see DMM 532.3).

Multiple Lists (Extracts) - Check this box if information on this form summarizes two or more lists, each list has been individually NDI rated, and the lists are not being used in their entirety for this mailing (all mailpieces within the mailing must have ZIP+4 codes [see DMM 532.3]).

A. LIST OWNER'S NAME - Print name of list owner or agent if this form represents one list. If more than one list, print the name of the individual completing this form.

B. LIST NAME - Print the name of the address list. If more than one list, provide the number of lists.

C. CASS OUTPUT/NDI RATING - The output of the CASS process is the rating of the list's deliverability and is referred to as the National Deliverability Index (NDI) Rating.

TOTAL ADDRESS RECORDS - Enter total of all address list records submitted for NDI rating from which this mailing is made.

1. **ZIP+4 Codes** - In *Total Coded* column, enter total address records coded with the finest level of ZIP+4 code - In the *% of Total Possible* column, enter the percent of total records coded with the finest level of ZIP + 4 codes.
2. **Apt Numbers** - In *Total Coded* column, enter total address records coded with apartment numbers. In the *Total Possible* column, enter total number of records destined to apartment buildings as identified in the ZIP+4 File. In the *% of Total Possible* column, enter the percent of possible apartment address records successfully coded with apartment numbers.
3. **R.R. Numbers** - In *Total Coded* column, enter total address records coded with rural/highway contract route and box numbers. In the Total Possible column, enter total number of records destined to rural/highway contract routes as identified in the ZIP+4 File. In the *% of Total Possible* column, enter the percent of possible rural/highway contract route address records successfully coded with rural/highway contract route and box numbers.
4. **5-Digit Codes** - In *Total Coded* column, enter total address records coded with correct 5-digit ZIP Codes. In the *% of Total Possible* column, enter the percent of total records coded with 5-digit ZIP Codes.
5. **CR RT Codes** - In *Total Coded* column, enter total address records coded with correct carrier route codes. In the *% of Total Possible* column, enter the percent of total records coded with carrier route codes.

D. SIGNATURE OF MAILER - Signature of the individual who signed the mailing statement.

E. PRINT NAME & ADDRESS - Enter name and address of the above individual.

F. DATE SIGNED - Enter date form 3553 was signed.

CASS Vendors' Names (continued)
Attach list if additional space required.

PS Form 3553, Feb. 1991

Exhibit 532.2, Form 3533. Coding Accuracy Support System (CASS) Summary Report

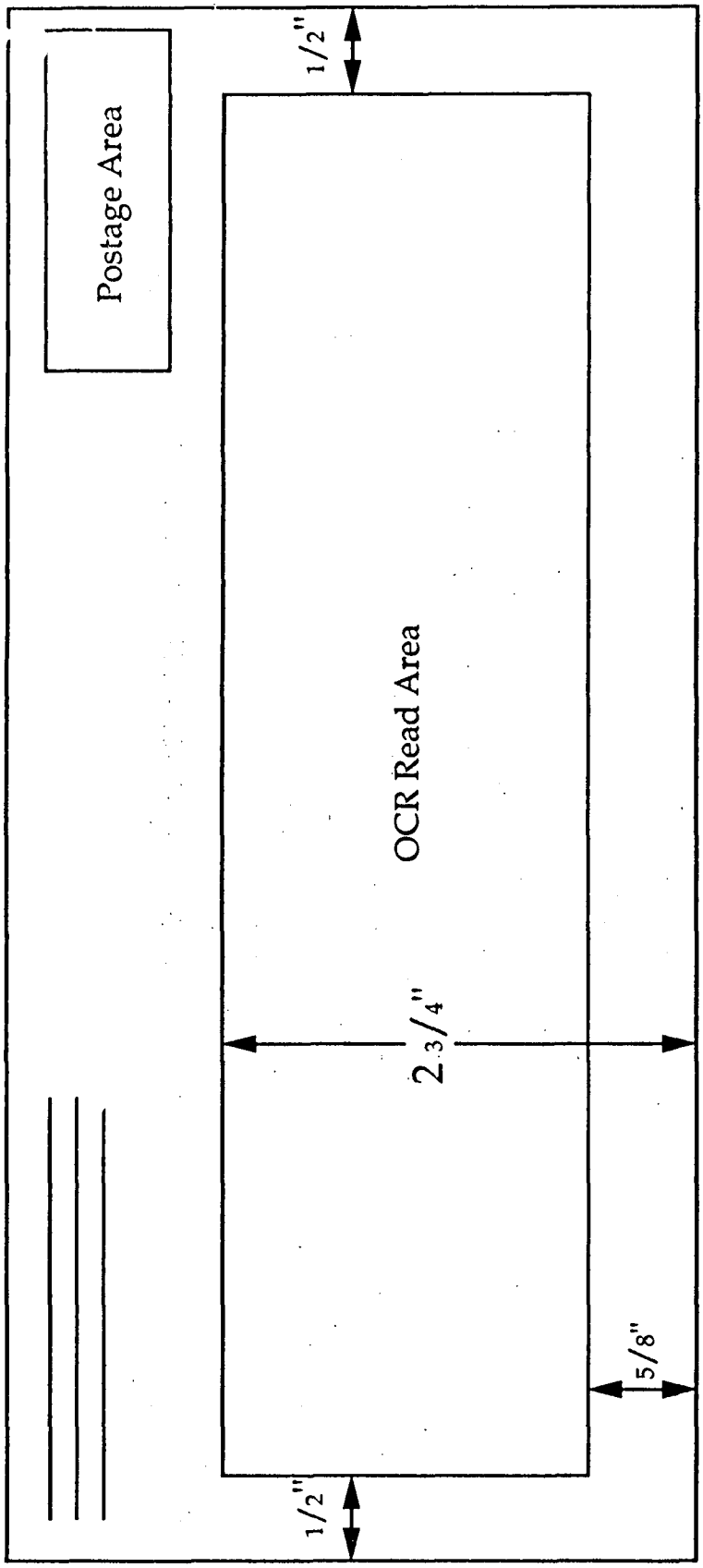

EXHIBIT 542.1 – OCR Read Area

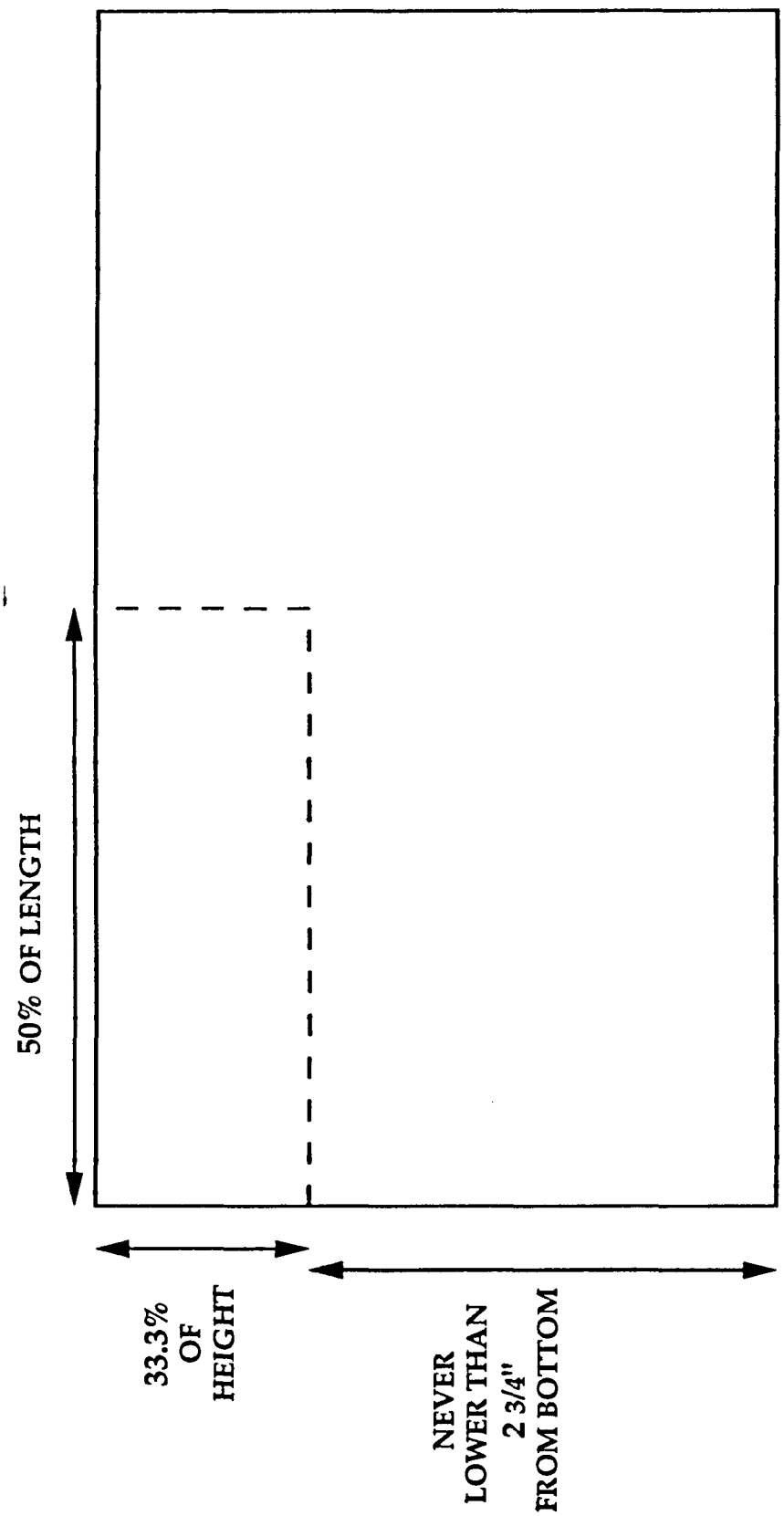

EXHIBIT 542.32 – Placement of Return Addresses

The type styles in the left column have been tested on USPS OCRs and verified to have a high degree of readability. The styles in the right column have not been tested but are considered to be equivalent type faces by the National Composition Association*. Each horizontal grouping is considered to be a family of equivalent typefaces.

Tested and Verified	Similar Styles
Century Light	Century
Schoolbook	
Elite	
Friz Quadrata	
Futura Medium	Airport
	Alphatura
	Contempra
	Future
	Photura
	Sparta
	Stylon
	Techica
	Techno
	Tempo
	Twentieth Century
	Vogue
Helios	Akzidenz-Grotesk Buch
Helios Light	Aristocrat
Helvetica	Claro
Helvetica Light	Europa Grotesk
Helvetica Regular	Geneva
Megaron Bold	Hamilton
Megaron Medium	Newton
Triumverate	Sonoman Sanserif
Triumverate Bold	Spectra
Triumverate Regular	Vega
Honeywell H200	
IBM 1403	
IBM 1428	
Manifold 72	
Koronna Regular	Aquarius
	Corona
	Crown
	Koronna
	News No. 3
	News No. 5
	News No. 6
	Nimbus
	Royal

Tested and Verified	Similar Styles
News Gothic	Alpha Gothic
Trade Gothic	Classified News
Newtext Regular Condensed	
OCR-A	
OCR-B	
Optima	Athena
	Chelmsford
	Musica
	October
	Omega
	Optimist
	Oracle
	Roma
	Theme
	Zenith
Pica	
Standard Typewriter	
Stymie Medium	Alexandria
	Beton
	Cairo
	Karnak
	Memphis
	Pyramid
	Rockwell
Univers	Alphavers
Univers 5	Eterna
Univers Medium	Galaxy
	Kosmos
	Versatile
Universal	

*Equivalent typefaces were taken from a book entitled "TYPEFACE ANALOGUE" by W. F. Wheatley for the National Composition Association.

EXHIBIT 542.41 – OCR Readable Type Fonts

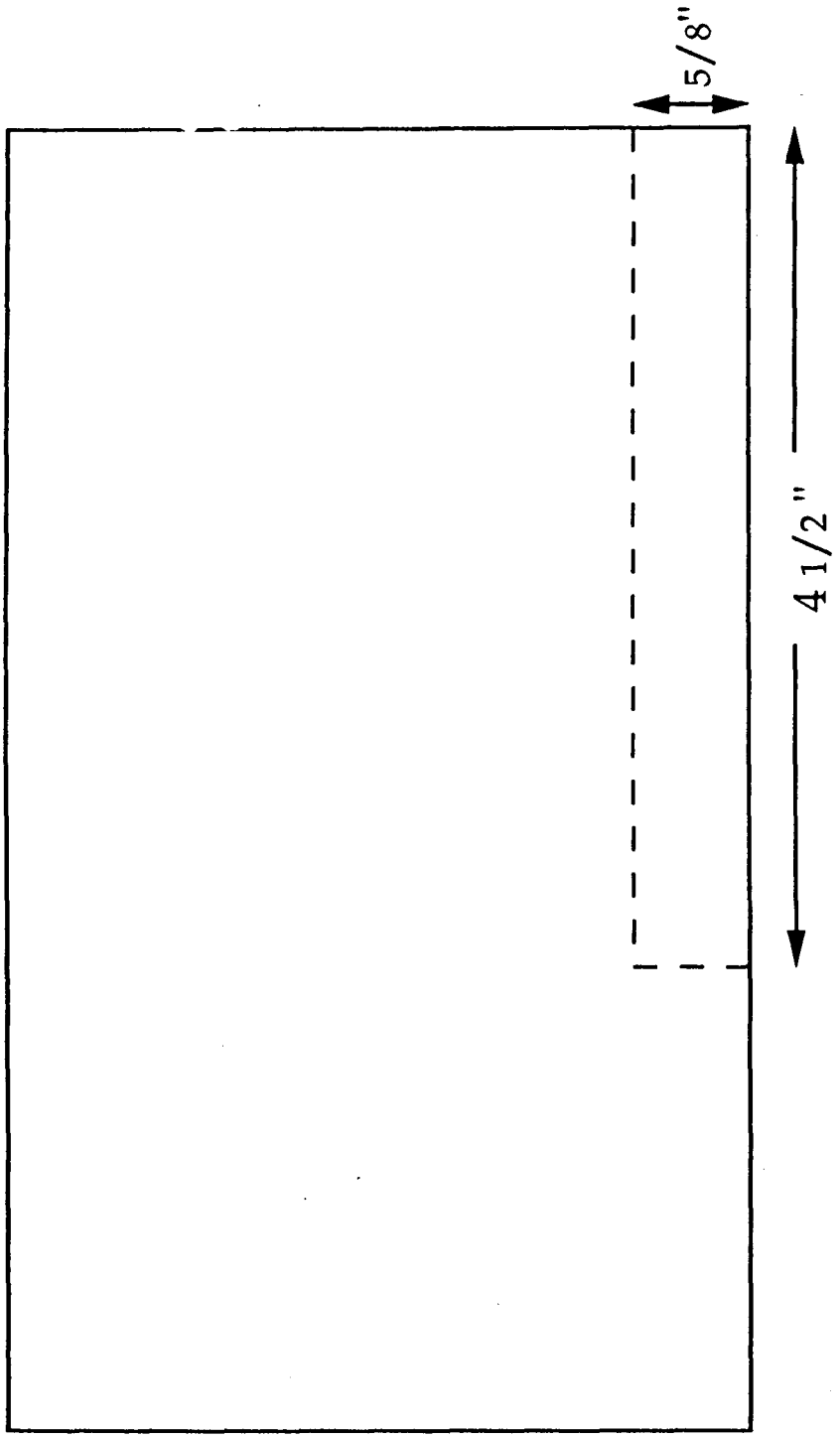

EXHIBIT 545 – Barcode Clear Zone

READING THE ZIP+4 BARCODE

The ZIP+4 barcode consists of the nine digits plus a correction character used by the barcode reader to identify reading errors. The barcode consists of 52 bars as illustrated. Each of the 10 digits contained between the frame bars consists of 2 long bars (read as 1's) and 3 short bars (read as 0's).

Reading and understanding the barcode is simple. There are 10 combinations of 5 bars, each consisting of 2 long (1's) and 3 short (0's) bars. The digits 0 through 9 have been assigned to these combinations:

0=11000 1=00011 2=00101 3=00110 4=01001 5=01010 6=01100 7=10001 8=10010 9=10100

Within the group of 5 bars, each position has a different value: from left to right 7, 4, 2, 1, and 0. Addition of the values in the two positions occupied by 1 bars gives the value of the combination, except in the case of 11000 which totals 11 and has been assigned as zero.

In addition to the ZIP+4 code, each barcode contains a correction digit. This digit appears in the last position of the barcode. Its purpose is to ensure that the machine applying the barcode is working properly. The sum of the 10 digits in the barcode (the 9-digit ZIP+4 code plus the correction digit) must always be a multiple of 10. The value of the correction digit is therefore determined by adding the numbers in the 9-digit ZIP+4 code, and then determining what single-digit number must be added to that sum to make the total a multiple of 10 (end with a zero). In the Example, the sum of the nine digits of the ZIP+4 code is 45. Using a correction character of 5 makes the sum of all 10 characters 50, a multiple of 10. If the sum of the digits is not a multiple of 10, an error has been made and the barcode must not be used.

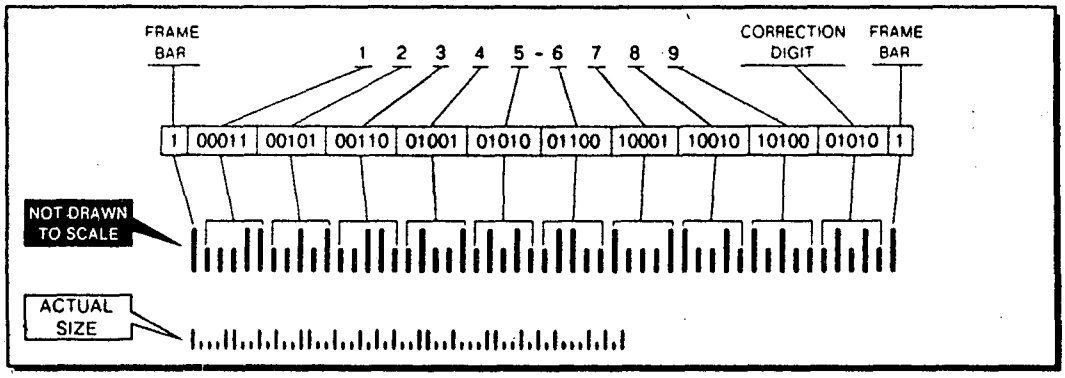

EXHIBIT 551.1 – ZIP+4 Barcode

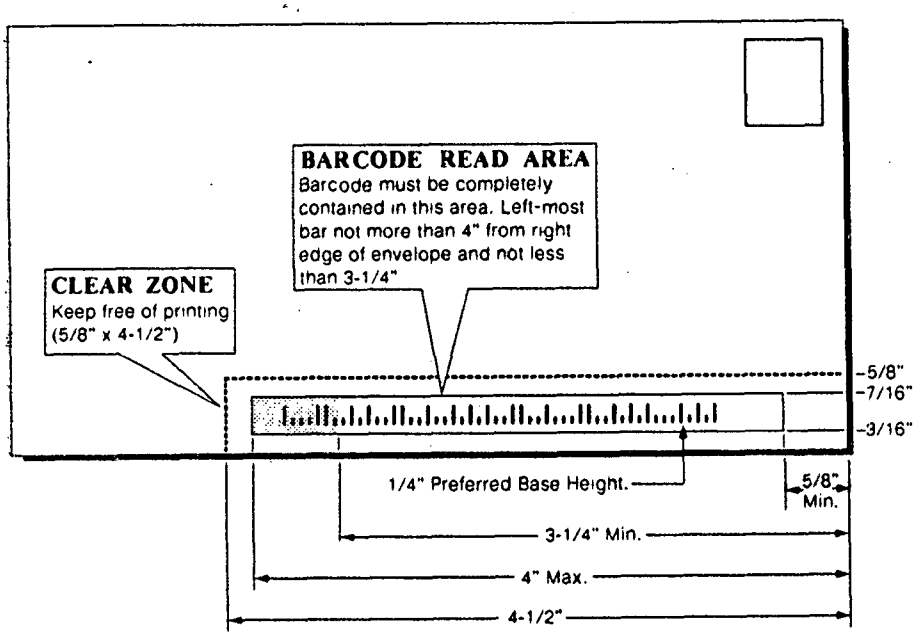

EXHIBIT 551.2 – Barcode Read Area
Note: Not drawn to scale

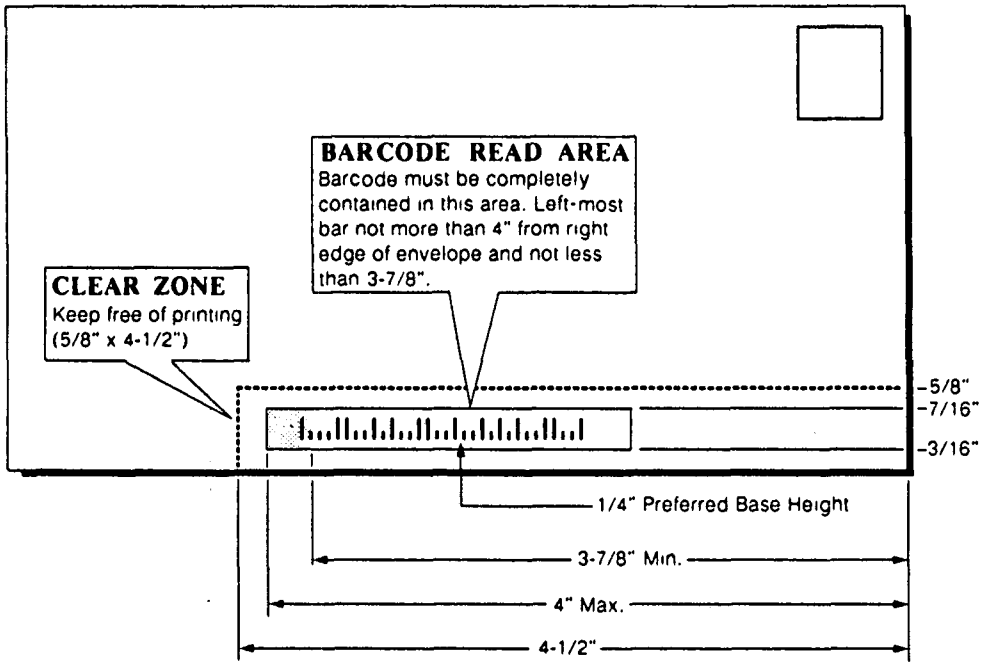

EXHIBIT 552.31, Barcode Location - 5-Digit Barcode Printed Directly on Mailpiece

[FR Doc. 91-1460 Filed 1-22-91; 8:45 am]
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federal register

Wednesday
January 23, 1991

Part VI

Department of Health and Human Services

Family Support Administration

Department of Labor

Employment and Training Administration

45 CFR Part 251

Aid to Families With Dependent Children, Job Opportunities and Basic Skills Training Program, and Program Participant Employment Protection; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

DEPARTMENT OF LABOR

Employment and Training Administration

45 CFR Part 251

RIN 0970-AA67

Aid to Families With Dependent Children, Job Opportunities and Basic Skills Training Program, and Program Participant Employment Protection

AGENCIES: Family Support Administration, HHS, and Employment and Training Administration, DOL.

ACTION: Final rule.

SUMMARY: This regulation sets forth provisions that must be met in assigning a participant to any program activity (i.e., work, education or training) in the Job Opportunities and Basic Skills Training (JOBS) program. It also establishes procedures for resolving displacement complaints by regular workers and disputes by JOBS program participants regarding on-the-job working conditions, workers' compensation coverage, and community work experience program (CWEP) wage rates. It further provides that these procedures apply to any other work-related activities authorized in connection with the AFDC program pursuant to section 1115 of the Social Security Act. This regulation establishes appropriate participation conditions, as well as grievance and appeals procedures.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: For HHS: Mr. Mark Ragan, Family Support Administration, Office of Family Assistance, 5th Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone: (202) 252-5118; for DOL: Mr. Hugh S. Davies, Employment and Training Administration, Room N-4709, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 535-0580.

SUPPLEMENTARY INFORMATION:

Timing and Form of Regulation

On April 19, 1989, a notice of proposed rulemaking (NPRM) was published in the **Federal Register** (54 FR 15902-15906). It sets forth certain requirements that a State must meet in assigning a participant to any program activity (i.e., work, education or training) in the JOBS program. It also contains the grievance and appeals procedures to resolve displacement complaints by regular workers and disputes by JOBS participants regarding on-the-job working conditions, workers' compensation coverage and CWEP wage rates.

Background

On October 13, 1988, the President signed the Family Support Act of 1988 (hereafter referred to as the Statute), Public Law 100-485. Title II of the Statute creates a new education, training and employment program known as the Job Opportunities and Basic Skills Training (JOBS) program under title IV-F of the Social Security Act. The purpose of the JOBS program is to assure that needy families with children obtain the education, training, and employment that will help them avoid long term welfare dependence.

Associated with participation in the JOBS program, the Statute requires the establishment of provisions related to on-the-job working conditions, tort claims protections, workers' compensation, displacement and grievance procedures to protect currently employed workers and program participants. As directed by the Statute, the Department of Health and Human Services (HHS) coordinated with the Department of Labor (DOL) to establish a joint regulation on these provisions.

Discussion of the Regulation

The Statute requires each State to have a JOBS program under a plan approved by the Secretary of Health and Human Services (Secretary) no later than October 1, 1990. The Statute also permits States to implement a JOBS program as of July 1, 1989, regardless of the publication of implementing regulations. It further requires each State to make the program available in each subdivision of the State where it is feasible to do so by October 1, 1992. At least every two years, the State must review and updated its JOBS plan and submit the update JOBS plan to the Secretary for approval.

In the final regulation, we have followed the format of the proposed regulation issued April 19, 1989. Preamble language generally follows the same sequence as in the preamble to the proposed regulation. A discussion of the comments and responses, as appropriate, follows a discussion of the regulation.

This regulation implements provisions in section 484 of title IV-F of the Social Security Act (as added by section 201(b) of the Statute). These provisions apply both to the JOBS program and work-related activities authorized in connection with the AFDC program under section 1115 of the Social Security Act. (Hereafter references to the JOBS program will also apply to such section 1115 activities.) These provisions require the Secretaries of Health and Human Services and Labor to issue a joint regulation with respect to on-the-job working conditions, tort claims protections, workers' compensation, and displacement as related to the JOBS program. Disputes relating to on-the-job working conditions, workers' compensation coverage, and wage rates used to calculate CWEP hours for participants in the JOBS program are to be heard under the State agency's fair hearing process. States are also to establish grievance procedures for resolving displacement complaints. Minimum standards and timeframes for State grievance procedures have been added in the final regulation. Appeals by any dissatisfied party of State decisions may be made to the Office of Administrative Law Judges, U.S. Department of Labor, under the conditions set forth in this regulation.

Section 251.1 of the regulation requires that participants be assigned to program activities within the JOBS program which they are capable of performing on a regular basis, that they not be required to travel an unreasonable distance from their homes to the program activity site, that the conditions of participation be reasonable, and that the training be appropriate. For training to be appropriate, to the extent practicable, not only must it meet local employers' requirements so that participants will be in a competitive position in the local labor market but also the training must be likely to lead to employment which meets the above criteria (e.g. individuals are capable of performing the job on a regular basis, they are not required to travel an unreasonable distance from their home to the employment site and the conditions of employment are reasonable). It would not be fruitful for States to train individuals for jobs which were not likely to be retained. By imposing these criteria on the target employment, we would greatly reduce the likelihood that trainees would quit their jobs and improve the long-term effectiveness of training programs.

Several factors are considered in determining the participant's capability to perform tasks on a regular basis. The definition of unreasonable distance incorporates a standard of two hours per day commuting time, unless community standards are higher.

This section further provides that JOBS participants in program activities

will be protected by the same State and Federal health and safety standards as other individuals in similar activities who are not participating in the JOBS program. Also, no person participating in the JOBS program will be subjected to discrimination based on race, sex, national origin, religion, age or handicapping condition. In the final regulation, to further explain how complaints alleging discrimination are to be handled we have stated that individuals alleging discrimination may choose to have their complaints processed as a JOBS program dispute pursuant to § 250.36, as a violation of other applicable State and local laws prohibiting discrimination, or as a violation of 45 CFR parts 80, 84 and 91 (which prohibit discrimination under any program or activity receiving Federal financial assistance from the Department of Health and Human Services).

Section 251.2 requires that each participant in a JOBS' work or training activity covered by a State workers' compensation statute or system will be assured of workers' compensation, including medical, accident, and income maintenance insurance at the same level and to the same extent as that available to others who are employed in similar activities. The final regulation explains that medical insurance means that the employer must provide for the participant's medical care due to injury arising from, and in the course of, the participant's work; accident insurance means tort claims protection; and income maintenance insurance means the monetary workers' compensation allowance. In work assignments, such as CWEP, where workers' compensation may not be applicable, medical and accident protection for on-site injury must be provided at the same level and to the same extent as that required by the State's workers' compensation system for covered employment. However, income maintenance insurance is not required since the family's AFDC eligibility would not be adversely affected by an accident.

Section 251.3 contains the provisions designed to protect currently employed workers from displacement. Under the regulation, these provisions apply to participants in CWEP (and other work experience programs), on-the-job training (OJT), and work supplementation programs because these are the components which involve work activities where displacement could occur. It assures that no currently employed worker or position will be displaced or have the hours of the normal workshift, wages or employment benefits reduced as the result of activities by participants in the JOBS program. Also, JOBS participants in work assignments will not impair existing contracts for services or collective bargaining agreements and will not fill established unfilled positions when workers are on layoff from the same or similar positions in the organization. In addition, currently employed workers will not be terminated in order to fill the vacancies with JOBS participants. JOBS participants will not infringe upon the promotional opportunities of any currently employed individual. Regarding the filling of any established unfilled positions, there is a special displacement provision that prohibits a JOBS participant in work assignments in the work supplementation program and CWEP from filling any established unfilled position vacancy. This special displacement provision is incorporated in the last paragraph of this section; it does not apply to OJT or other work experience assignments.

Section 251.4 requires a State to establish grievance procedures for resolving displacement complaints by regular employees. Minimum standards and timeframes for State grievance procedures have been added in the final regulation.

Section 251.5 requires the State to establish a grievance procedure under the State agency's fair hearing process to resolve disputes regarding on-the-job working conditions, workers' compensation coverage and wage rates for CWEP hours for participants in the JOBS program. Under the State agency's fair hearing process, complaints regarding workers' compensation are limited to workers' compensation coverage issues arising under § 251.2. The State agency's fair hearing process is not to be used to adjudicate individual workers' compensation claims.

Apparently, the language in the NPRM caused some confusion regarding the hearing process to be used within the State on issues covered by § 251.5. The proposed regulation provided that the grievance procedure would be established under "the State's fair hearing process," without specific reference to the State IV-A agency. Although the preamble to the proposed rule (see 54 FR 15903) indicated that the State agency's fair hearing process used for JOBS issues would be used to hear complaints under § 251.5, some thought the regulatory language did not so restrict the fair hearings process. Accordingly, we have clarified § 251.5 by making a specific reference to the State agency's fair hearing process under § 250.36.

Decisions by the State concerning displacement complaints under § 251.4 and on-the-job working conditions, workers' compensation coverage and CWEP wage rate issues under § 251.5 may be appealed to the Office of Administrative Law Judges, U.S. Department of Labor. Upon appeal, the Employment and Training Administration (ETA), DOL, will (1) investigate, as appropriate, displacement complaints and (2) review the record of complaints regarding on-the-job working conditions, workers' compensation coverage and CWEP wage rates. Through the Office of the Solicitor of Labor, ETA will file, if deemed appropriate, a legal brief or other report prepared by agency staff presenting the details of the case with the Office of Administrative Law Judges. The Family Support Administration, HHS and the State agency may also file a brief or report with the Office of Administrative Law Judges. The Administrative Law Judge's review shall be on the record of the State proceedings and any relevant briefs or reports. The review shall include questions of law; the State's findings of fact shall be conclusive if supported by substantial evidence.

The proposed regulation was modified in the final regulation to state that the decision of the Office of Administrative Law Judges shall contain findings of fact and conclusions of law and specific remedies.

The remedies for violations of the displacement provision are reinstatement, back pay, and back benefits, when appropriate. The remedies for violations of on-the-job working conditions, workers' compensation coverage and CWEP wage rates are removal of participants from inappropriate worksites, unless the violations have been corrected, and actual monetary damages, as appropriate. Actual monetary damages are not to exceed the amount of the monetary value of the benefits that the participant would have received had the participant been covered by the appropriate State workers' compensation statute. For example, if a participant lost a finger at an unsafe worksite, that participant would be entitled to no more than the scheduled amount, if applicable, prescribed under workers' compensation.

The decision may also provide for remand of the case to the State for further proceedings. The decision of the Office of Administrative Law Judges is the final decision of the Secretary of

Labor on the appeal and shall be transmitted to the parties to the appeal, the State agency and to the Assistant Secretary for Family Support, Department of Health and Human Services, for appropriate action.

Section 251.5 does not specifically define the working conditions that may be considered under the State agency's fair hearing process and which may be appealed to the Department of Labor. However, the term "on-the-job working conditions," which refers to the conditions at the place of work, has been used. For example, a condition a JOBS program participant may grieve under this section is the physical environment of the place of work. The term "on-the-job working conditions" does not refer to matters which are addressed in the assessment period prior to placement. Thus, it does not cover issues related to the process or outcome of orientations, assessments, employability planning, case management, job search, or job development or placement activities. Nor does it cover disputes about issues such as those related to family responsibilities, place of residence, child care and other support services needs, availability of resources and participant circumstances. These issues are covered solely under the State agency's fair hearing process for JOBS (45 CFR 250.36) and are not appealable to the Department of Labor.

It should also be noted that § 251.5 requires that a State establish and maintain a grievance procedure under the State agency's fair hearing process to cover the wage rates used in calculating the hours of participation required of individuals in CWEP, as well as on-the-job working conditions and workers' compensation coverage. However, this regulation does not include a description of how the Federal or State minimum wage, or the prevailing wage, is used to compute the number of hours of participation in CWEP. Instead, there is a reference to § 250.63, which describes this computation. (Section 250.63 is part of the JOBS regulation that was published in the **Federal Register** on October 13, 1989 (see 54 FR 42146 *et seq.*).)

Discussion of Comments

Comments were received from 10 interested parties regarding the proposed regulation on the JOBS program participant employment protection provisions. The commenters include four unions, two State welfare agencies, two private legal organizations, one city welfare agency and one Federal agency. These comments are discussed below:

Comment: One commenter stated the final regulation should define unreasonable distance to and from home to a program component site as involving more than two hours round trip, including travel to and from child care.

Response: The amount of time it takes to get from home to the site can be objectively calculated if one knows the distance and mode of travel. On the other hand, the amount of time it takes to deliver a child to a caregiver varies greatly by individual. Most working parents must add to the duration of their regular commute the additional time required to deliver a child to a caregiver. We believe that calculating the commute for participants in a program activity should be no different than calculating it for any working parent.

Moreover, it should be noted that excluding child care delivery time in determining commuting time has long been Federal policy (see 45 CFR 224.20(b)(6)—WIN program) and has recently been reaffirmed in the final regulation governing the JOBS program (see 45 CFR 250.30(b)(5) published in the **Federal Register** at 54 FR 42250).

Therefore, we have made no change in the final regulation regarding § 251.1(a)(2).

Comment: The proposed regulation prohibits discrimination on the basis of race, sex, national origin, religion, age or handicapping condition but does not identify which agency has responsibility for processing complaints alleging discrimination filed by participants of the JOBS program. It was suggested that we identify the Department of Health and Human Services as the agency responsible for processing such complaints because complainants and others might otherwise assume that all matters related to programs which provide for employment and training are under the jurisdiction of the Department of Labor.

Response: We agree with the comment that the regulation needs to set forth the remedies for handling discrimination complaints. Accordingly, we have revised § 251.1(c) to provide that individuals alleging discrimination may choose to have their complaints processed as a JOBS program dispute pursuant to § 250.36, as a violation of other applicable State and local laws prohibiting discrimination, or as a violation of 45 CFR parts 80, 84 and 91.

Comment: Two commenters stated that proposed § 251.1(a)(1) and § 251.1(a)(2) of the regulation limit protection to a participant's "employment or training" or "the work or training site." They suggested that the regulation should be revised to ensure that all of the safeguards in these sections apply to all program participants regardless of their program activity.

Response: Section 484(a) of the Social Security Act, as added by the Statute, requires that the work and training conditions regulation apply to participants in "any program activity." Therefore we have changed "employment or training" in § 251.1(a)(1) and "work or training" in § 251.1(a)(2) of the regulation to "program activity."

Comment: One commenter expressed concern about the emphasis on local market conditions. It was suggested that in areas where the labor market is especially depressed, it is appropriate to expand the training of participants for employment opportunities in other areas of the State and not just address local employment opportunities.

Response: Section 484(a)(5) of the Social Security Act, as added by the Statute, states that "each assignment is based on available resources, the participant's circumstances, and local employment opportunities." Section 485(e) of the Social Security Act, as added by the Statute, and the implementing regulation at § 250.12(d)(2) require that the State IV-A agency and the local welfare agencies, as appropriate, (1) consult with the private industry councils (as established under section 102 of the Job Training Partnership Act (JTPA)) to identify and obtain advice on the types of jobs available, or likely to become available in the service delivery area and (2) ensure that the State program provides training in any area for jobs of a type which are, or are likely to become available in the area. These provisions reflect congressional concern that JOBS resources not be used inefficiently, i.e., expended on training for jobs which are not available to participants. At the same time, we do not believe that Congress meant to be so limiting as to bar training for a job that happens to be in an adjacent service delivery area. Therefore, as stated in the preamble to the JOBS regulation (see 54 F.R. 42159), we believe the Statute at a minimum requires a State to provide training in an area for jobs that are likely to become available in the area. It does not preclude a State from doing more. Accordingly, we have modified the regulation at § 251.1(a)(5) to provide that training is to meet local employers' requirements "to the extent practicable."

Comment: Two commenters stated that the proposed regulation makes no reference to the provision of appropriate

tort claims protection, which is required by the Statute. The proposed regulation addresses only workers' compensation protections.

Response: Section 251.2 does provide for accident insurance which is considered to be necessary tort claims protection.

Comment: One commenter suggested that to avoid confusion as to the types of workers' compensation and tort claims protection coverage that must be provided to the different categories of program participants, the terms medical insurance, accident insurance and income maintenance insurance should be clearly defined.

Response: While these terms are generally understood, we are providing further clarification of the terms in the final regulation. For the purposes of § 251.2, we have added paragraph (c) to clarify that medical insurance means that the employer must provide for the participant's medical care due to injury arising from, and in the course of, the participant's work; accident insurance means tort claims protection; and income maintenance insurance means the monetary workers' compensation allowance.

Comment: One commenter stated that the regulation as proposed would require States to provide workers compensation and tort claims protection to participants of any work-related program authorized in connection with the AFDC program, as well as to participants of the JOBS program; and that this is inconsistent with the Act.

Response: Section 484(e) of the Social Security Act, as added by the Statute, states that "[t]he provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115." Accordingly, the provisions of section 484 governing workers compensation and tort claims protection are not limited to JOBS participants, but apply, in addition, to participants in other work-related programs and activities that are authorized under section 1115 of the Act. Therefore, no change has been made in the final regulation in response to the comment.

Comment: Several commenters noted that unlike the Statute, the proposed regulation did not prohibit the displacement of "any currently employed worker or position," but only workers.

Response: Having considered the comments received and reviewed the language in section 484(c)(1) of the Social Security Act, as added by the Statute, § 251.3(a) of the regulation has been modified to read, "Shall not result in the displacement of any currently employed worker or position, including partial displacement, such as a reduction in hours of non-overtime work, wages or employment benefits."

Comment: Several commenters suggested that we eliminate the phrase "not supported under this program" in § 251.3(c). Inclusion of this phrase would allow employers to cycle work supplementation program participants through the same positions with no obligation to hire any participants as permanent employees.

Response: The phrase "not supported under this program" has been eliminated.

Comment: Several commenters raised the issue that the Statute provides that assignment shall not result in employment or assignment of a participant or the filling of a position when any other individual is on layoff from the same or an equivalent position. They suggested that § 251.3(c) of the proposed regulation which limits this prohibition to cases where individuals were on layoff from the same or a substantially equivalent job within the same organizational unit was more restrictive than the law provided.

Response: After giving due consideration to the comment, the regulation is left as proposed. The use of the phrase "within the same organizational unit" further clarifies the parameters for the concept of "a substantially equivalent job."

Comment: Several commenters noted that section 484(c)(2)(B) of the Social Security Act, as added by the Statute, provides that assignments shall not result in employment or assignment of a participant or the filling of a position when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program. It was suggested that § 251.3(c) of the proposed regulation limited this prohibition to cases where an employer has terminated any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this program.

Response: We agree with the comments. Therefore the language in § 251.3(c)—i.e., "with the intention of filling the vacancy"—has been changed to read: "with the effect of filling the vacancy * * *."

Comment: Several commenters noted that the Statute prohibits any assignment from resulting in infringement of promotional opportunities of any currently employed individual. It was stated that § 251.3(d) of the proposed regulation prohibits infringing in any way on promotional opportunities of persons currently in jobs not funded under JOBS.

Response: We reviewed the language in section 484(c)(3) of the Social Security Act, as added by the Statute, and agree with the comments. Therefore "persons currently in jobs not funded under this program" has been changed to "any currently employed individual."

Comment: It was noted that the conference report indicates that the prohibition against using participants to fill established, unfilled position vacancies was to apply to CWEP, work supplementation, and other work experience. (H.R. Rep. No. 100–998, 100th Cong., 2d Sess. 135–136(1988).) However, § 251.3(e) of the proposed regulation limits applicability to CWEP and work supplementation.

Response: Section 484(c) of the Social Security Act, as added by the Statute, does not include other work experience. Therefore, we are not adopting the comment.

Comment: The Statute requires that States establish and maintain a grievance procedure for resolving displacement complaints, but § 251.4 of the proposed regulation provides no details on State grievance procedures. Several commenters urged that we set minimum standards for State grievance procedures, with investigation by the Secretary of Labor, if necessary, and timeframes for making decisions.

Response: In response to the comments, we have revised § 251.4 in the final regulation to provide minimum standards and timeframes for State grievance procedures to assure that an individual has a full and fair hearing, as well as to provide for investigation of displacement appeals by the Secretary of Labor, as appropriate. The State's grievance procedure, including an opportunity for informal resolution, shall not exceed 90 days from the date of the complaint, by which time the complainant shall be provided the written decision by the State. The 90-day timeframe for the issuance of a decision following the filing of a complaint by an individual is consistent with the 90-day timeframe provided in § 205.10 when an individual requests a hearing. We recognize that more actions need to be taken in the 90-day period under § 251.4 than under § 205.10, but we do not want to extend the time period because the aggrieved party does not have the same available protections

(i.e., aid paid pending) which are available under the AFDC program.

The decision of the State may be appealed by any dissatisfied party within 20 days of the receipt of the State's written decision. Although in the AFDC program, appeals must be mailed within 15 days of the date of the written decision from which the appeal was taken, we have established a 20-day period to allow the dissatisfied party additional time for consultation and formulation of the appeal. The additional time might be necessary because the displacement appeal of a regular worker may involve more parties than a typical AFDC hearing.

The minimum standards for State grievance procedures include an opportunity for informal resolution and a formal hearing procedure. The formal hearing procedure shall include an opportunity to present evidence, to bring witnesses, to cross-examine witnesses, to be represented by counsel and to receive a written decision. These minimum standards for grievance procedures are found in other hearing procedures for public assistance programs (see 45 CFR 205.10).

Comment: One commenter requested that the regulation clarify who can appeal the decision of the State.

Response: For further clarification, we have revised § 251.4(e) and § 252.5(b) of the final regulation to provide that "any dissatisfied party" may appeal the State's decision to the Office of Administrative Law Judges.

Comment: One commenter stated that the proposed regulation does not indicate that the option to appeal to the Department of Labor precludes an individual from exercising existing rights to either appeal through State courts, or to file an action alleging deprivation of rights under 42 U.S.C. 1983. It was suggested that the final regulation make clear that, if the individual chooses to appeal to the Department of Labor, any relevant statute of limitations is tolled pending outcome of the DOL decision.

Response: We felt that it is generally understood that the option to appeal to the Department of Labor does not preclude an individual from exercising any other existing right to judicial review. Therefore, this statement is not included in the regulation. Also, if an individual chooses to appeal to the Department of Labor, any relevant statute of limitations would not be tolled pending outcome of the Department of Labor decision because any relevant statute of limitations is already established under law and there is no authority under this Statute to toll it.

Comment: Four commenters requested that specific remedies be provided when there is a finding that the employer has violated the displacement provisions in the Act. Two of these commenters offered the following specific remedies: (1) The employer shall fully replace any and all workers or positions displaced by work program participants, (2) the employer shall immediately and for at least one year following the finding of displacement cease and desist its use of work program participants in any and all capacities, and (3) the agency responsible for administering the work program shall be prohibited from assigning work program participants to any employer found to have violated the displacement provision for at least one year following the finding of displacement. One commenter requested that specific remedies be given for violations of on-the-job working conditions, workers' compensation coverage and CWEP wage rates.

Response: We have adopted the commenters' suggestion that specific remedies be included in the regulation and have provided exclusive remedies for the complainant(s) which include some of those suggested by the commenters. The remedies adopted have been effectively used in other employment programs within the Department of Labor.

Accordingly, we believe they are reasonable and appropriate.

Regulatory Procedures

Executive Order 12291

This final regulation has been reviewed under Executive Order 12291 and does not meet any of the criteria for a major regulation. A regulatory impact analysis is not required because the regulation will not:

(1) Have an annual effect on the national economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions; or

(3) Have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation implements the provisions of section 484 of title IV-F of the Social Security Act (as added by section 201(b) of the Statute). Under these provisions, States have systems to resolve disputes regarding displacement of currently employed workers. In this connection, we have established minimum standards and timeframes that must be met. Disputes regarding on-the-job working conditions, workers' compensation and wage rates used to calculate CWEP hours for participants in the JOBS program are heard under the State agency's fair hearing process. In addition, this regulation will assure that there is no increase in welfare expenditures resulting from the displacement of currently employed workers. Thus, the implementing regulation will not significantly affect expenditures.

Paperwork Reduction Act

The provisions of this regulation do not contain information collection requirements as defined by the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

The Secretaries certify under 5 U.S.C. 605(b), enacted by Public Law 96-354, the Regulatory Flexibility Act, that this regulation, if promulgated, will not result in a significant impact on a substantial number of small entities because the regulation primarily affects State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required. This regulation is issued under the authority of sections 484(f) and 1102 of the Social Security Act.

(Catalog of Federal Domestic Assistance Programs: 13.780, Assistance Payments-Maintenance Assistance, 13.781, Job Opportunities and Basic Skills Training)

List of Subjects in 45 CFR Part 251

Aid to Families with Dependent Children, Grant programs-social programs, Employment, education, training, Administrative practice and procedure.

Dated: October 11, 1990.

Roberts T. Jones,

Assistant Secretary of Labor, Employment & Training Administration.

Approved: October 11, 1990.

Elizabeth Dole,

Secretary, Department of Labor.

Dated: June 8, 1990.

Jo Anne B. Barnhart,

Assistant Secretary for Family Support.

Approved: July 6, 1990.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

Title 45, chapter II, Code of Federal Regulations is amended by adding a new part 251 to read as follows:

PART 251—PROGRAM PARTICIPANT EMPLOYMENT PROTECTION

Sec.
251.0 Purpose.
251.1 Program activity conditions.
251.2 Workers' compensation and tort claims protection.
251.3 Displacement.
251.4 Grievances by regular employees.
251.5 Complaints with respect to on-the-job working conditions, workers' compensation coverage and CWEP wage rates.

Authority: Sections 484 and 1102 of the Social Security Act as amended (42 U.S.C. 684 and 1302)

§ 251.0 Purpose.

(a) The purpose of this part 251 is to set forth the conditions generally applicable when assigning participants to program activities (i.e., work, education or training) under the Jobs Opportunity and Basic Skills Training (JOBS) program. This part contains the following:

(1) The conditions that the State agency shall assure when assigning participants to any program activity;

(2) Appropriate workers' compensation and tort claims protections that must be provided to participants;

(3) Provisions to assure that work assignments shall not result in displacements;

(4) A grievance procedure for resolving displacement complaints by regular employees;

(5) A grievance procedure under the State fair hearing process with respect to on-the-job working conditions, workers' compensation, and wage rates in the case of individuals participating in community work experience programs (CWEP); and

(6) Procedures for appealing State decisions on displacement complaints and certain other complaints to the Department of Labor.

(b) The provisions of this part apply to any work-related programs and activities under JOBS and under any other work-related programs and activities authorized in connection with the Aid to Families with Dependent Children (AFDC) program under section 1115 of the Social Security Act.

§ 251.1 Program activity conditions.

(a) *Program activity.* The State agency shall assure that:

(1) The program activity shall be related to the capability of the participant to perform the task on a regular basis, including physical capacity, skills, experience, family responsibilities and place of residence.

(2) The total daily commuting time to and from home to the program activity site to which the participant is assigned shall not normally exceed 2 hours, not including the transporting of a child to and from child care. If a longer commuting distance and time is generally accepted in the community, then the round trip commuting time shall not exceed the generally accepted community standards without the participant's consent.

(3) No participant shall be required, without his or her consent, to remain away from his or her home overnight.

(4) The conditions of participation shall be reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive service needs of the participant.

(5) Training shall be appropriate. For training to be appropriate, the nature of the training shall, to the extent practicable, meet local employers' requirements (including their occupational needs) so that the participant will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the provisions in paragraphs (a)(1) through (a)(4) of this section.

(b) *Health and safety standards.* Participants are subject to the same health and safety standards established under State and Federal law that otherwise apply to other individuals in similar activities who are not JOBS participants.

(c) *Non-discrimination.* All participants will have such rights as are available under any applicable Federal, State or local law prohibiting discrimination on the basis of race, sex, national origin, religion, age or handicapping condition. Individuals alleging discrimination may choose to have their complaints processed as a JOBS program dispute pursuant to § 250.36, as a violation of other applicable State and local laws prohibiting discrimination, or as a violation of 45 CFR parts 80, 84 and 91.

§ 251.2 Workers' compensation and tort claims protections.

(a) Each participant covered by a workers' compensation statute or system shall be assured of workers' compensation including medical, accident and income maintenance insurance at the same level and to the same extent as that available to others who are similarly employed.

(b) Those participants in work assignments such as work supplementation and CWEP not covered by an applicable workers' compensation statute shall be provided with medical and accident protection for on-site injury at the same level and to the same extent as that required under the applicable State's workers' compensation statute for covered employment. Income maintenance coverage is not required for these participants.

(c) For the purpose of this section, medical insurance means that the employer must provide for the participant's medical care due to injury arising from, and in the course of, the participant's activity; accident insurance means tort claims protection; and income maintenance insurance means the monetary workers' compensation allowance.

§ 251.3 Displacement.

The State agency shall assure that CWEP, other work experience, on-the-job training (OJT), and work supplementation assignments:

(a) Shall not result in the displacement of any currently employed worker or position, including partial displacement, such as a reduction in hours of non-overtime work, wages, or employment benefits;

(b) Shall not impair existing contracts for services or collective bargaining agreements;

(c) Shall not result in the employment or assignment of a participant or the filling of a position when any other person is on layoff from the same or a substantially equivalent job within the same organizational unit, or when an employer has terminated any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created by hiring a participant whose wages are subsidized under this program;

(d) Shall not infringe in any way upon promotional opportunities of any currently employed individual; and

(e) Shall not result in the filling of any established unfilled position vacancy by a participant assigned under § 250.62 (work supplementation program) or § 250.63 (CWEP) of the JOBS program.

§ 251.4 Grievances by regular employees.

(a) The State shall establish and maintain a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual violates any of the prohibitions described in § 251.3.

(b) Such grievance procedure shall include an opportunity for informal resolution.

(c) If no informal resolution can be reached within the specified time period as established by the State as part of its grievance procedure, the dissatisfied party may file a request for a hearing with the State.

(d) The State's hearing portion of the grievance procedure shall provide the following: A written notice of the date, time and place of the hearing; a hearing on the record; an opportunity to present evidence, bring witnesses, cross-examine witnesses; representation by counsel; and a written decision.

(e) The State's grievance procedure, pursuant to the provisions in paragraphs (b), (c), and (d) of this section, shall not exceed 90 days from the date of the complaint, by which time the complainant shall be provided the written decision by the State.

(f) A decision of the State under paragraph (e) of this section may be appealed by any dissatisfied party within 20 days of the receipt of the State's written decision. The appeal shall be sent to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, room 600, 1111 20th Street, NW., Washington, DC 20036. The review shall be on the record of the State proceedings, as supplemented pursuant to paragraph (j) of this section.

(g) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

(2) The provisions of the Social Security Act or regulations believed to have been violated;

(3) A copy of the original complaint filed with the State; and

(4) A copy of the State's findings and decision regarding the appellant's complaint.

(h) The appellant under paragraph (f) of this section shall send copies of the appeal, and any brief in support thereof, to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade, SW., 6th Floor, Washington, DC 20447.

(i) Upon receipt of an appeal pursuant to paragraph (f) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of this record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (g) of this section.

(j) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (g) and (i) of this section, the Assistant Secretary for Employment and Training shall investigate, as appropriate, and, through the Office of the Solicitor of Labor, file, if deemed appropriate, a brief or report with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (f) of this section. The State agency and the Assistant Secretary for Family Support may also file a brief or report with the Office of Administrative Law Judges.

(k) The decision of the Office of Administrative Law Judges under paragraph (f) of this section shall contain conclusions of law and findings of fact (the State's findings being conclusive if supported by substantial evidence) and, as exclusive remedies for complaining employee(s), where appropriate, reinstatement, back pay, and back benefits. The decision may also provide for remand to the State for further proceedings. The decision of the Office of Administrative Law Judges is the final decision of the Secretary of Labor on the appeal and shall be transmitted to the parties to the appeal, the State agency and to the Assistant Secretary for Family Support, Department of Health and Human Services, for appropriate action.

§ 251.5 Complaints with respect to on-the-job working conditions, workers' compensation coverage and CWEP wage rates.

(a) The State shall establish and maintain a grievance procedure under the State agency's fair hearing process (see § 250.36) for resolving complaints by or on behalf of individuals participating in any work-related programs and activities under this part, including on-the-job training, work supplementation and community work experience programs, and other work-related activities authorized by the Secretary:

(1) With respect to on-the-job working conditions;

(2) With respect to workers' compensation coverage; and

(3) With respect to wage rates used in calculating the hours of participation required of individuals in community work experience programs described in § 250.63 of the JOBS program.

(b) A decision of the State under paragraph (a) of this section may be appealed by any dissatisfied party within 20 days of the receipt of the State's written decision. The appeal shall be sent to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, room 600, 1111 20th Street, NW., Washington, DC 20036. The review shall be on the record of the State proceedings. The review shall include questions of law; the State's findings of fact shall be conclusive if supported by substantial evidence.

(c) The appeal shall contain:

(1) The full name, address and telephone number of the appellant;

(2) The provisions of the Social Security Act or regulations believed to have been violated;

(3) A copy of the original complaint filed with the State; and

(4) A copy of the State's findings and decision regarding the complaint.

(d) The appellant under paragraph (b) of this section shall send copies of the appeal, and any brief in support thereof, to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, and to the Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade, SW., 6th Floor, Washington, DC 20447.

(e) Upon receipt of an appeal pursuant to paragraph (b) of this section, the Office of Administrative Law Judges shall request from the State agency, and the State shall, within 30 days of such request, certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal. The State shall send copies of the record to the Assistant Secretary for Employment and Training and the Assistant Secretary for Family Support at the addresses set forth in paragraph (c) of this section.

(f) Upon receipt of the copy of the appeal and the copy of the record pursuant to paragraphs (c) and (e) of this section, the Assistant Secretary for Employment and Training shall review the record, and, through the Office of the Solicitor of Labor, file, if deemed appropriate, a brief or report on the record of the State proceedings with the Office of Administrative Law Judges for that office's consideration pursuant to paragraph (b) of this section. The State Agency and the Assistant Secretary for Family Support shall also have the opportunity to file a similar brief or report on the record of the State proceedings with the Office of Administrative Law Judges.

(g) The decision of the Office of Administrative Law Judges under

paragraph (c) of this section shall contain conclusions of law and findings of fact (the State's findings being conclusive if supported by substantial evidence) and as exclusive remedies for the complaining participant(s), where appropriate: Removal of participants from inappropriate worksites, unless the violations have been corrected, and actual monetary damages for participants. Actual monetary damages shall not exceed the amount of the monetary value of the benefits that the participant would have received had the participant been covered pursuant to § 251.2(a) of this part. The decision may also provide for remand to the State for further proceedings. The decision of the Office of Administrative Law Judges is the final decision of the Secretary of Labor on the appeal and shall be transmitted to the parties to the appeal, the State agency and to the Assistant Secretary for Family Support, Department of Health and Human Services, for appropriate action.

[FR Doc. 91-1447 Filed 1-22-91; 8:45 am]

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federal register

Wednesday
January 23, 1991

Part VII

Information Security Oversight Office

32 CFR Part 2003

National Security Information Standard Forms; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR 2003.20 provides for: (1) The addition of a new paragraph to the Standard Form 312, "Classified Information Nondisclosure Agreement" (SF 312); the Standard Form 189, "Classified Information Nondisclosure Agreement" (SF 189); and the Standard Form 189–A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)" (SF 189–A), to comply with section 617 of the Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1991 (Pub. L. 101–509); (2) a revision in the language of paragraph 7 of the SF 312, SF 189, and SF 189–A; (3) the use of the Office of Personnel Management's Office Personnel Folder as an authorized permanent storage location for copies of the SF 312 and SF 189 executed by civilian employees of the Federal Government and the use of the Defense Industrial Security Clearance Office to store the nondisclosure agreements of terminated employees of contrators under the Defense Industrial Security Program; (4) clarification of what storage media are acceptable for maintaining an official copy of the SF 312, SF 189 and SF 189–A; and (5) notification to ISOO of the file systems that agencies use to store executed copies of these agreements.

EFFECTIVE DATE: January 23, 1991.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO. Telephone: (202) 634–6150.

SUPPLEMENTARY INFORMATION: This amendment to 32 CFR part 2003 is issued pursuant to § 5.2(b)(7) of Executive Order 12356, "National Security Information," which grants the Director of ISOO the authority to issue standardized security forms, and Paragraph 1 of National Security Decision Directive 84, March 11, 1983, which directs ISOO to issue a standardized nondisclosure agreement to be signed as a condition of access by all persons cleared for access to classified information. In fulfilling this requirement, ISOO has issued three nondisclosure agreements: (1) SF 189, "Classified Information Nondisclosure Agreement," in September 1983; (2) SF 189–A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)," in November 1986; and (3) SF 312, "Classified Information Nondisclosure Agreement," in September 1988. ISOO issued the SF 312 as a replacement for the SF 189 and SF 189–A and it is the standard classified information nondisclosure agreement being used currently in industry and Government. However, executed copies of the SF 189 and SF 189–A, for which an affected individual has made no substitution by the subsequent execution of a SF 312, remain valid. This amendment to § 2003.20 effectuates several distinct actions regarding these nondisclosure agreements:

(1) New subparagraph 2003.20(h)(4)(i) modifies the SF 312, SF 189, and SF 189–A to add a new paragraph to these nondisclosure agreements that incorporates language required by section 617 of the Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1991 (Pub. L. 101–509). Each executed copy of the SF 312, SF 189 or SF 189–A, whether executed prior or subsequent to the publication of this rule, is amended to incorporate the paragraph set forth in section 617. In signing this bill, H.R. 5241, into law on November 5, 1990, the President noted that the language of section 617 does not raise the "profound constitutional concerns" that previous legislation regarding the nondisclosure agreements had raised, provided that section 617 "is not construed in a manner that intereferes with [the President's] constitutional authority to protect national security information." The incorporated language references Executive Order 12356, "National Security Information," and a number of statutes related to the issues addressed in the nondisclosure agreements. It also provides that the "definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into [these nondisclosure agreements] and are controlling." Because the additional language references no new law, and the Government has always interpreted and enforced the nondisclosure agreements to be fully consistent with existing law, the addition of this new language to the SF 312, SF 189 and SF 189–A will result in no substantive change in the manner that the Government interprets and enforces these agreements. Rather, this language simply restates that the rights and obligations created by the nondisclosure agreements are to be read consistently with the cited Executive Order and statutes.

(2) New subparagraph 2003.20(h)(4)(ii) modifies the SF313, SF189, and SF189–A to delete in full the second sentence of paragraph 7. This sentence suggested that no signer of the SF 313, SF 189 or SF 189–A may ever have any property interest in classified information. In very limited circumstances an individual or other non-Government entity may retain a property interest in information, although control of the information in the form of classification has passed to the Government through contract or other legal instrument. Because in some instances this sentence may be construed as suggesting the forfeiture of a legitimate property interest, and because it is not deemed essential to the purposes behind the execution of nondisclosure agreements, it is being deleted. Also, the first sentence of paragraph 7 is being slightly modified to make clear that the signer of the nondisclosure agreement is also obligated to protect classified information to which he or she has access at the time of the execution of the agreement. This revised first sentence of paragraph 7 satisfies the Government's concern over the ownership or control of all classified information.

(3) Several other changes concern the storage of executed copies of the nondisclosure agreements, as provided in paragraph 2003.20(j). Because of their lengthy retention period (50 years from date of execution), their maintenance and storage has proven to be a problem for executive branch agencies and industry. A recent change in General Records Schedule (GRS) No. 1, specifically that section which mandates the retention of the right side of the Official Personnel Folder (OPF) for a period of 65 years following the employee's separation from Federal service, offers an opportunity to resolve this problem for Government civilian employees. The Office of Personnel Management (OPM), which is responsible for the OPF, has agreed that "retention of the SF189 and SF312 in the OPF is in the best interest of the Federal Government at the present time." Similarly, the Department of Defense has agreed that its Defense Industrial Security Clearance Office will serve as a central repository for copies of nondisclosure agreements executed by terminated employees of contractors under the Defense Industrial Security Program. Paragraph (j) is also being amended to provide examples of the type of storage media that may be used to retain legally enforceable facsimiles of the executed nondisclosure agreements, and to require agencies to notify ISOO of the file systems used to

store the executed agreements, so that ISOO is able to monitor their retention more effectively.

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

32 CFR part 2003 is amended as follows:

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

1. The authority citation for 32 CFR part 2003 continues to read:

Authority: Sec. 5.2(b)(7) of E.O. 12356.

Subpart B—Prescribed Forms

2. Section 2003.20 is amended by adding a new paragraph (h)(4) and revising paragraph (j) to read as follows:

§ 2003.20 Classified Information Nondisclosure Agreement SF 189; Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government):SF 189-A.

* * * * *

(h) * * *

(4) *Modification of the SF 312, SF 189 and SF 189-A.*

(i) Each executed copy of the SF 312, SF 189 and SF 189-A, whether executed prior to or after the publication of this rule, is amended to include the following paragraphs 10 and 11.

10. These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

11. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me the Executive Order and statutes referenced in this Agreement and its implementing regulation (32 CFR 2003.20) so that I may read them at this time, if I so choose.

(ii) The first sentence of paragraph 7 of each executed copy of the SF 312, SF 189 and SF 189-A, whether executed prior to or after the publication of this rule, is amended to read:

I understand that all classified information to which I have access or may obtain access by signing this Agreement is now and will remain the property of, or under the control of the United States Government unless and until otherwise determined by an authorized official or final ruling of a court of law.

The second sentence of paragraph 7 of each executed copy of the SF 312 (September 1988 version), SF 189 and SF 189-A, which reads, "I do not now, nor will I ever, possess any right, interest, title or claim whatsoever to such information," and whether executed prior to or after the publication of this rule, is deleted.

* * * * *

(j) Each agency must retain its executed copies of the SF 312, SF 189, and SF 189-A in file systems from which an agreement can be expeditiously retrieved in the event that the United States must seek its enforcement or a subsequent employer must confirm its prior execution. The original, or a legally enforceable facsimile that is retained in lieu of the original, such as microfiche, microfilm, computer disk, or electronic storage medium, must be retained for 50 years following its date of execution. For agreements executed by civilian employees of the United States Government, an agency may store the executed copy of the SF 312 and SF 189 in the United States Office of Personnel Management's Official Personnel Folder (OPF) as a long-term (right side) document for that employee. An agency may permit its contractor, licensees and grantees to retain the executed agreements of their employees during the time of employment. Upon the termination of employment, the contractors, licensee or grantee shall deliver the original or legally enforceable facsimile of the executed SF 312, SF 189 or SF 189-A of that employee to the Government agency primarily responsible for his or her classified work. A contractor, licensee or grantee of an agency participating in the Defense Industrial Security Program shall deliver the copy or legally enforceable facsimile of the executed SF 312, SF 189 or SF 189-A of a terminated employee to the Defense Industrial Security Clearance Office. Each agency shall inform ISOO of the file systems that it uses to store these agreements for each category of affected individuals.

* * * * *

Dated: January 17, 1991.

Steven Garfinkle,

Director, Information Security Oversight Office.

[FR Doc. 91-1538 Filed 1-22-91; 8:45 am]

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federal register

Wednesday
January 23, 1991

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Housing and Development

Supportive Housing Demonstration; Fund Availability for Permanent Housing for Handicapped Homeless Persons; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Housing and Development

[Docket No. N-90-3192; FR-2391-N-01]

Supportive Housing Demonstration; Fund Availability for Permanent Housing for Handicapped Homeless Persons

AGENCY: Office of the Assistant Secretary for Community Housing and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This Notice announces the availability of $50,000,000 in funds for applications for assistance under the permanent housing for the handicapped homeless program of the Supportive Housing Demonstration.

DATES: Applications for permanent housing assistance must be received by closing time April 30, 1991 at the HUD Field Office serving the area in which the applicant's project is located. Applications received after that date and time will not be accepted even if postmarked by the deadline date. This is a change from the procedure used last year. This year, the application must be *actually received* by the HUD *Field* Office by closing time on the deadline date.

ADDRESSES: A list of Field Offices and contact persons appears at the end of this Notice. A copy of the application must also be sent to: Department of Housing and Urban Development, Office of Community Planning and Development, Special Needs Assistance Programs, room 7262, 451 Seventh Street SW., Washington, DC 20410, Attention: Mr. James N. Forsberg. This copy must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at the appropriate Field Office as listed at the end of this Notice. Application packages are available from these Field Offices and additional information regarding the submission of applications is included in the package.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for the area in which the project is located.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this Notice have been approved under the Paperwork Reduction Act of 1980 by the Office of Management and Budget (OMB), and were assigned OMB control number 2506-0112.

Background Information

The assistance made available under this Notice is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11381-11388), as implemented by HUD regulations at 24 CFR part 578 and supplemented by this Notice. (Recent amendments to the McKinney Act not reflected in the regulations are made applicable to the assistance under this Notice, as described under "Legislative Changes.")

This Notice announces the availability of $50,000,000 in funds for assistance under the Permanent Housing Program. The funds, appropriated by the HUD appropriations act for fiscal year 1991 (Pub. L. 101-507, enacted November 5, 1990), are available for assistance in the form of grants for: (1) Acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures; (2) new construction (under limited circumstances); (3) moderate rehabilitation of existing structures; and (4) operating and supportive services costs (up to five years).

Eligible applicants are States in which the permanent housing project is to be located, and Indian tribes. An applicant may be the State housing financing agency (or other State agency) that customarily implements housing programs for the State and that is identified by statute to participate in housing programs in the State. A project sponsor may be a private nonprofit organization that an authorized official of the applicant approves as financially responsible, or a public housing agency (PHA). The project sponsor must operate the permanent housing and must provide or coordinate the provision of supportive services to the permanent housing residents. Applicants may be eligible for one or any combination of the types of assistance.

To be considered for permanent housing assistance, an applicant must meet the application requirements at 24 CFR 578.210 of the HUD regulations, as modified by new legislative changes described below, as well as those requirements contained in the application. (A copy of the regulations is included in the application package.)

Legislative Changes

The Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, enacted November 28, 1990) (NAHA) makes several changes to the Permanent Housing Program which will be the subject of a proposed rule, thereby providing the opportunity for public comment. Because of the limited time between enactment and this Notice of Funding Availability, and the time required to develop a proposed rule and take public comment, those changes that HUD has determined must be implemented by notice-and-comment rulemaking procedures will not be effective for this 1991 funding round. The NAHA also makes the following changes which HUD has determined to implement immediately through this Notice for the assistance to be provided:

1. Increases the maximum allowable number of handicapped homeless persons in a permanent housing project from 8 to 16, but only if not more than 20 percent of the units in a project are designated for such persons (section 833(b)). Therefore, in cases where the permanent housing for the handicapped is part of a larger project providing housing for persons not eligible for such permanent housing, this increase is permitted provided that not more than 20 percent of the units in the project are designated for handicapped homeless persons.

2. Replaces advances with grants for acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures and for new construction (under limited circumstances) (section 833(c)(1) (A) and (B)).

3. Changes the extent to which HUD may provide assistance for operating costs and supportive services (section 833(d)). In conformity with grants for operating costs and supportive services under the Transitional Housing program (24 CFR part 577), HUD will now provide assistance for up to 75 percent of the total cost for each of the first two years and up to 50 percent of the cost for each of the remaining three years (section 833(d)).

4. Eliminates site control as an application ranking criterion, as described in § 578.215(b)(8) (section 833(d)).

5. Requires the applicant to certify that it will develop and implement procedures to ensure confidentiality of records pertaining to any individual provided family violence prevention or treatment services assisted with permanent housing funds and that the address or location of any family violence housing project assisted with such funds will, except with written authorization of the person or persons responsible for the operation of the facility, not be made public (section 833(i)).

6. For projects not involving permanent housing assistance for the activities of acquisition, rehabilitation, or new construction, replaces the 10-year certification, described in

§ 578.210(b)(8), with an annual assurance (for each year during which permanent housing assistance is received for any of the program's other eligible activities) that the project will be operated for the purpose specified in the application for that year (section 833(j)(1)).

7. Adds Indian Tribes as eligible applicants, using the definition of Indian Tribe set forth in section 102(a)(17) of the Housing and Community Development Act of 1974 ("any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512)") (section 833(k)).

8. Allows the waiver of the site control requirement in § 578.210(b)(11) on a case by case basis where HUD determines that the families or individuals to be served own or control, or will eventually own or control, the site (section 833(f)).

Rating and Ranking

Due to limited resources and considerations of relative need, HUD will only accept applications under this funding round proposing assistance for handicapped persons who lack adequate resources to obtain housing and: (1) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; (2) have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill, but excluding prisons and other detention facilities); or (3) are about to be released from an institution and are at risk of imminent homelessness because no subsequent residences have been identified and they lack the support networks needed to obtain access to housing. HUD will *not* accept applications under this funding round proposing assistance for handicapped persons who are currently housed but are at risk of becoming homeless due to such factors as living in overcrowded or substandard conditions, because HUD believes the limited resources available should be targeted to persons with the most critical needs.

Applications will be rated and ranked, with a maximum of 1,000 points, based upon eight criteria. To be eligible for an award, applicants must achieve points under each criterion, with the exception of criteria 2 and 5 (innovative quality and matching). The criteria, which are described in detail in § 578.215 of the permanent housing final rule, are:

1. Project sponsor capacity (200 points)—HUD will award up to 200 points based on the project sponsor's relative ability to carry out activities under the program within a reasonable time and in a successful manner.

2. Innovative quality of proposal (50 points)—HUD will award up to 50 points based on the innovative quality of the proposal in providing permanent housing and supportive services for handicapped homeless persons.

3. Need for permanent housing (150 points)—HUD will award up to 150 points based on the extent to which the applicant domonstrates an unmet need for the proposed permanent housing.

4. Delivery of supportive services (300 points)—HUD will award up to 300 points based on the extent to which the quality and comprehensiveness of the proposed supportive services are related to the goal of maximizing the ability of residents to live more independently within a permanent housing environment, regardless of whether permanent housing assistance for supportive services is requested.

5. Matching (50 points)—HUD will award up to 50 points based on the extent to which an applicant will match the HUD assistance with more than the required amount of non-Federal funds.

6. Cost effectiveness (100 points)—HUD will award up to 100 points based on the extent to which the applicant's proposed costs are reasonable in relation to the work to be done and the goods and services to be purchased, and are effective in accomplishing the purposes of the proposal. HUD believes that cost-effective approaches are important, but recognizes that such approaches can be difficult to measure. The allocation of only 100 points out of 1,000 for cost effectiveness reflects an understanding of this difficulty, not a lack of emphasis on the importance of this criterion.

7. Project quality (100 points)—HUD will award up to 100 points based on the extent to which the proposed project will meet the needs of handicapped homeless persons in the State.

8. Integration into the neighborhood (50 points)—HUD will award up to 50 points based on the extent to which the proposed project is integrated in to the neighborhood in which it is, or is proposed to be, located.

HUD expects to announce awards of permanent housing funds by July 31, 1991. Applications will be notified about whether their application will be funded. In the event of a tie between applicants, the applicant with the highest total points for criteria 3 (need for permanent housing) and 4 (delivery of supportive services) will be chosen for funding. In the event of a procedural error that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during the funding round under this Notice, HUD may fund that applicant in the next funding round.

Pre- and Post-Application Deadline Procedures

In order to afford applicants every opportunity to submit a ratable application, while at the same time ensuring the fairness and integrity of the selection process, HUD is adopting the following pre- and post-application deadline procedures:

Prior to the application deadline, HUD Field Offices will be available to provide advice and guidance to potential applicants on application requirements and program policies.

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during the rating process, the applicant will be notified by telephone of the deficiencies, and given 7 calendar days from the date following the phone call to correct the deficiencies. The corrections must be actually received in the Headquarters by close of business on the seventh day. The telephone call will be confirmed in writing.

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New York (Upstate): Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203-1780; (716) 846-5768.

(Downstate): Joan Dabelko, 26 Federal Plaza, New York, NY 10278-0068; (212) 264-2885.

North Carolina: Charles T. Ferebee, 415 N. Edgeworth St., Greensboro, NC 27401-2107; (919) 333-5711.

North Dakota: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Ohio: Jack E. Riordan, 200 North High St., Columbus, OH 43215-2499; (614) 469-6743.

Oklahoma: Katie Worsham, Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102-3202; (405) 231-4973.

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(Southern): Robert W. Hicks, Washington Sq., 800 Dolorosa, San Antonio, TX; (512) 229-6820.

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Vermont: David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640.

Virginia: Joseph Aversano, Fed. Bldg., 400 N. 8th St., P.O. Box 10170, Richmond, VA 23240-9998; (804) 771-2624.

Washington: John Peters, Arcade Plaza Bldg., 1321 2nd Ave., Seattle, WA 98101-2054; (206) 442-0374.

West Virigina: James A. Getsy, 412 Old Post Office Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493.

Wisconsin: Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Ste. 1380, Milwaukee, WI 53203-2289; (414) 297-3113.

Wyoming: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Other Matters

During the development of the final rule for the Supportive Housing Demonstration, the General Counsel, as the designated official under Executive Order 12606, *The Family*, and Executive Order 12612, *Federalism*, made determinations on the impact of the rule on the family and on implications of federalism contained in the rule. Those determinations, published November 8, 1989 (54 FR 47204), have not been altered by any announcements contained in this Notice.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Dated: January 16, 1991.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 91-1547 Filed 1-22-91; 8:45 am]

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federal register

Wednesday
January 23, 1991

Part IX

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Housing Development

Supportive Housing Demonstration; Fund Availability for Transitional Housing Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-91-3193; FR-2930-N-01]

Supportive Housing Demonstration; Fund Availability for Transitional Housing Program

AGENCY: Office of the Assistant Secretary for Community Housing and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This Notice announces the availability of approximately $100,000,000 in funds for applications for assistance under the Transitional Housing program of the Supportive Housing Demonstration.

DATES: Applications for transitional housing must be received by closing time on May 31, 1991 at the HUD Field Office serving the area in which the applicant's project is located. Applications received after that date and time will not be accepted even if postmarked by the deadline date. This is a change from the procedure used last year. This year, the application must be actually received by the HUD Field Office by closing time on the deadline date.

ADDRESSES: A list of Field Offices and contact persons appears at the end of this Notice. A copy of the application must also be sent to: Department of Housing and Urban Development, Office of Community Planning and Development, Special Needs Assistance Programs, room 7262, 451 Seventh Street SW., Washington, DC 20410, Attention: Mr. James N. Forsberg. This copy must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at the appropriate Field Office as listed at the end of this Notice. Application packages are available from these Field Offices and additional information regarding the submission of applications is included in the package.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for the area in which the project is located.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this Notice have been approved under the Paperwork Reduction Act of 1980 by the Office of Management and Budget (OMB), and were assigned OMB control number 2506-0112.

Background Information

The assistance made available under this Notice is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11381-11388), as implemented by HUD regulations at 24 CFR part 577 and supplemented by this Notice. (Recent amendments to the McKinney Act not reflected in the regulations are made applicable to the assistance under this Notice, as described under "Legislative Changes.")

This Notice announces the availability of $100,000,000 in funds appropriated by the HUD appropriations act for fiscal year 1991 (Pub. L. 101-507, enacted November 5, 1990) and any additional funds that may become available as a result of deobligation from previous awards. The funds are available for assistance in the form of grants for: (1) Acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures; (2) new construction (under limited circumstances); (3) moderate rehabilitation of existing structures; (4) operating and supportive services costs (up to five years); (5) establishing and operating employment assistance programs (up to five years); and (6) establishing and operating child care services for homeless families (up to five years). Eligible applicants are States, metropolitan cities, urban counties, governmental entities, tribes, and private nonprofit organizations. Applicants may be eligible for one or any combination of the types of assistance.

In accordance with section 428(b) of the McKinney Act, HUD will allocate not less than $20,000,000 of the available funds to transitional housing projects that serve homeless families with children. (The Transitional Housing rule (24 CFR 577.5) defines a homeless family with children as a homeless family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant woman, or a homeless individual in the process of securing legal custody of any person who has not attained the age of 18 years.) After applications are rated and ranked, based on the six criteria described below, HUD will determine if the tentatively selected projects include not less than $20,000,000 for projects that will serve homeless families with children. If less than that amount is included in the tentatively selected projects, HUD will substitute, to the extent necessary to achieve the $20,000,000 set-aside for projects to serve homeless families with children, lower-ranked projects that will serve homeless families with children for projects at the bottom of the list of tentatively selected projects.

To be considered for Transitional Housing assistance, an applicant must meet the application requirements at 24 CFR 577.210 of the HUD regulations, as modified by the legislative changes described below, as well as those requirements contained in the application. (A copy of the regulations is included in the application package.)

Legislative Changes

The Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, enacted November 28, 1990) (NAHA) makes several changes to the Transitional Housing program which will be the subject of a proposed rule, thereby providing the opportunity for public comment. Because of the limited time between enactment and this Notice of Funding Availability, and the time required to develop a proposed rule and take public comment, those changes that HUD has determined must be implemented by notice-and-comment rulemaking procedures will not be effective for this 1991 funding round.

The NAHA also makes the following changes which HUD has determined to implement immediately through this Notice for the assistance to be provided:

1. Replaces advances with grants for acquisition, substantial rehabilitation, or acquisition and substantial rehabilitation of existing structures and for new construction (under limited circumstances) (section 833(c)(1)(A) and (B));

2. Authorizes, as a separate activity, grants to: (a) Establish, license, and operate on-site child care facilities for the residents of transitional housing; (b) make contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and (c) provide counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible. Grants for any child care services program will not exceed an amount equal to 75 percent of the cost of operating the program for a period of up to five years. Child care services provided with respect to a child care services program assisted with funds under this Notice must meet any applicable State and local laws and regulations (section 833(g)).

In conformity with the transitional housing rule on grants for operating costs and supportive services (§ 577.115) and grants for employment assistance programs (§ 577.117), HUD will provide grants for child care services, as described above, for a period not to exceed five years. Assistance for this category of funding will be made available for up to 75 percent of the total cost for each of the first two years and

up to 50 percent of the cost for each of the remaining three years;

3. Eliminates site control and employment assistance programs as application ranking criteria, as described in § 577.215(b)(7) and (8) (section 833(h));

4. Requires the applicant to certify that it will develop and implement procedures to ensure confidentiality of records pertaining to any individual provided family violence prevention or treatment services assisted with transitional housing funds and that the address or location of any family violence housing project assisted with such funds will, except with written authorization of the person or persons responsible for the operation of the facility, not be made public (section 833(i));

5. For projects *not* involving transitional housing assistance for the activities of acquisition, rehabilitation, or new construction, replaces the 10-year certification (§ 577.210(b)(7) with an annual assurance (for each year during which transitional housing assistance is received for any of the program's other eligible activities) that the project will be operated for the purpose specified in the application for that year (section 833(j)(1)); and

6. Allows the waiver of the site control requirement in § 577.210(b)(8) on a case-by-case basis where HUD determines that the families or individuals to be served own or control, or will eventually own or control, the site (section 833(f)).

Rating and Ranking

Due to limited resources and considerations of relative need, HUD will only accept applications under this funding round proposing assistance for: (1) Families or individuals who lack the resources to obtain housing and who: (a) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; (b) have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill, but excluding prisons and other detention facilities); or (c) are at imminent risk of homelessness because they face immediate eviction and have been unable to identify a subsequent residence, which would result in emergency shelter placement; or (2) handicapped persons who are about to be released from an institution and are at risk of imminent homelessness because no subsequent residences have been identified and because they lack the resources and support networks needed to obtain access to housing. HUD will *not* accept applications under this funding round proposing assistance for families or individuals who are currently housed but are at risk of becoming homeless due to such factors as living in overcrowded or substandard conditions, because HUD believes the limited resources available should be targeted to persons with the most critical needs.

Applications will be rated and ranked, with a maximum of 1,000 points, based upon six criteria. To be eligible for an award, applicants must achieve points under each criterion, with the exception of criteria 2 and 5 (innovative quality and matching). The criteria, which are described in detail in § 577.215 of the Transitional Housing rule, are:

1. Applicant capacity (200 points)—HUD will award up to 200 points based on the applicant's relative ability to carry out activities under the program within a reasonable time and in a successful manner.

2. Innovative quality of proposal (50 points)—HUD will award up to 50 points based on the innovative quality of the proposal in providing housing and supportive services for homeless persons in a manner that facilitates their transition to independent living.

3. Need for transitional housing (200 points)—HUD will award up to 200 points based on the extent to which the applicant demonstrates an unmet need for the proposed transitional housing.

4. Delivery of supportive services (400 points)—HUD will award up to 400 points based on the quality and comprehensiveness of the proposed supportive services, the appropriateness of the services to the population to be served, and the use of or coordination with other public or private entities to provide the services, regardless of whether transitional housing assistance for supportive services is requested.

5. Matching (50 points)—HUD will award up to 50 points based on the extent to which an applicant will match the HUD assistance with more than the required amount of non-Federal funds.

6. Cost effectiveness (100 points)—HUD will award up to 100 points based on the extent to which the applicant's proposed costs are reasonable in relation to the work to be done and the goods and services to be purchased, and are effective in accomplishing the purposes of the proposal. HUD believes that cost-effective approaches are important, but recognizes that such approaches can be difficult to measure. The allocation of only 100 points out of 1,000 for cost effectiveness reflects an understanding of this difficulty, not a lack of emphasis on the importance of this criterion.

HUD expects to announce awards of transitional housing funds by August 31, 1991. Applicants will be notified about whether their application will be funded. In the event of a tie between applicants, the applicant with the highest total points for criteria 3 (need for transitional housing) and 4 (delivery of supportive services) will be chosen for funding. In the event of a procedural error that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during the funding round under this Notice, HUD may fund that applicant in the next funding round.

Pre- and Post-Application Deadline Procedures

In order to afford applicants every opportunity to submit a ratable application, while at the same time ensuring the fairness and integrity of the selection process, HUD is adopting the following pre- and post-application deadline procedures:

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New Jersey: Frank Sagarese, Military Park Bldg., 60 Park Pl., Newark, NJ 07102-5504; (201) 877-1776.

New Mexico: R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth TX; 76113-2905; (817) 885-5483.

New York (Upstate): Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203-1780; (716) 846-5768.

(Downstate): Joan Dabelko, 26 Federal Plaza, New York, NY 10278-0068; (212) 264-2885.

North Carolina: Charles T. Ferebee, 415 N. Edgeworth St., Greensboro, NC 27401-2107; (919) 333-5711.

North Dakota: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Ohio: Jack E. Riordan, 200 North High St., Columbus, OH 43215-2499; (614) 469-6743.

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Pennsylvania (Western): Bruce Crawford, 412 Old Post Office Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493.

(Eastern): John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2665.

Puerto Rico: Miguel A. Caban, 159 Carlos Chardon Ave., San Juan, PR 00918-1804; (809) 766-5935

Rhode Island: Frank Del Vecchio, Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343.

South Carolina: Bernard Jenkins, Fed. Bldg., 1835-45 Assembly St., Columbia, SC 29201-2480; (803) 765-5564.

South Dakota: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Tennessee: Virginia Peck, 710 Locust St., Knoxville, TN 37902-2526; (615) 549-9422.

Texas (Northern): R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX; 76113-2905; (817) 885-5483.

(Southern): Robert W. Hicks, Washington Sq., 800 Dolorosa, San Antonio, TX; (512) 229-6820.

Utah: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Vermont: David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487: (603) 666-7640.

Virginia: Joseph Aversano, Fed. Bldg., 400 N. 8th St., P.O. Box 10170, Richmond, VA 23240-9998; (804) 771-2624.

Washington: John Peters, Arcade Plaza Bldg., 1321 2nd Ave., Seattle, WA 98101-2054; (206) 442-0374.

West Virginia: James A. Getsy, 412 Old Post Office Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493.

Wisconsin: Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Ste. 1380, Milwaukee, WI 53203-2289; (414) 297-3113.

Wyoming: Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Other Matters

During the development of the final rule for the Supportive Housing Demonstration, the General Counsel, as the designated official under Executive Order 12606, *The Family*, and Executive Order 12612, *Federalism*, made determinations on the impact of the rule on the family and on implications of federalism contained in the rule. Those determinations, published November 8, 1989 (54 FR 47024), have not been altered by any announcements contained in this Notice.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Dated: January 16, 1991.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 91-1546 Filed 1-22-91; 8:45am]

BILLING CODE 4210-29-M

federal register

Wednesday
January 23 1991

Part X

The President

Executive Order 12743—Ordering the Ready Reserve of the Armed Forces to Active Duty

Executive Order 12744—Designation of Arabian Peninsula Areas, Airspace, and Adjacent Waters as a Combat Zone

Federal Register
Vol. 56 No. 15
Wednesday, January 23, 1991

Presidential Documents

Title 3—

The President

Executive Order 12743 of January 18, 1991

Ordering the Ready Reserve of the Armed Forces to Active Duty

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code; in furtherance of Executive Order No. 12722, dated August 2, 1990, which declared a national emergency to address the threat to the national security and foreign policy of the United States posed by the invasion of Kuwait by Iraq; and, in accordance with the requirements contained in section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby order as follows:

Section 1. To provide additional authority to the Department of Defense and the Department of Transportation to respond to the continuing threat posed by Iraq's invasion of Kuwait, the authority under section 673 of title 10, United States Code, to order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty (other than for training) for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject, in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term "Secretary concerned" is defined in section 101(8) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air Force with respect to the Air Force; and, the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

Sec. 2. To allow for the orderly administration of personnel within the armed forces, the authority vested in the President by section 527 of title 10, United States Code, to suspend the operation of sections 523–526 of title 10, United States Code, regarding officer strength and officer distribution in grade, is invoked to the full extent provided by the terms thereof.

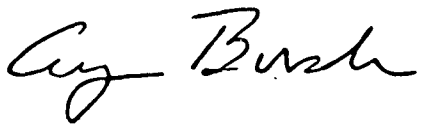
Sec. 3. To allow for the orderly administration of personnel within the armed forces, the authority vested in the President by section 644 of title 10, United States Code, to suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, or Marine Corps, is invoked to the full extent provided by the terms thereof.

Sec. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 527 and 644 of title 10, United States Code, as invoked by sections 2 and 3 of this order, to suspend the operation of certain provisions of law.

Sec. 5. The authorities delegated by sections 1 and 4 of this order may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

Sec. 6. This order is intended to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 7. This order is effective immediately, and shall be transmitted to the Congress and published in the **Federal Register.**



THE WHITE HOUSE,
January 18, 1991.

[FR Doc. 91-1727
Filed 1-22-91; 10:59 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12744 of January 21, 1991

Designation of Arabian Peninsula Areas, Airspace, and Adjacent Waters as a Combat Zone

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I hereby designate, for purposes of that section, the following locations, including the airspace above such locations, as an area in which Armed Forces of the United States are and have been engaged in combat:

—the Persian Gulf

—the Red Sea

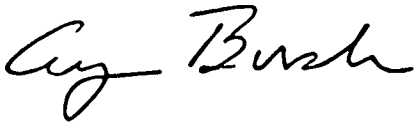
—the Gulf of Oman

—that portion of the Arabian Sea that lies north of 10 degrees north latitude and west of 68 degrees east longitude

—the Gulf of Aden

—the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates.

For the purposes of this order, the date of the commencing of combatant activities in such zone is hereby designated as January 17, 1991.



THE WHITE HOUSE,
January 21, 1991.

[FR Doc. 91-1728
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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-275-3030).

H.J. Res. 77/Pub. L. 102-1
Authorization for Use of Military Force Against Iraq Resolution. (Jan. 14, 1991; 105 Stat. 3; 2 pages) Price: $1.00

Public Laws

102d Congress, 1st Session, 1991

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 1st Session, 1991.

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J. 51-999 Hollar 11-28-90 File **519999** [Work Disk ORDER FORM 11] Ft. (JS 8) 2500, 2504, 8934, 8935, (JS 10) 8839, 2248, (JS 11) 2246, (JS 31) 8404