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Presidential Documents

Title 3—

The President

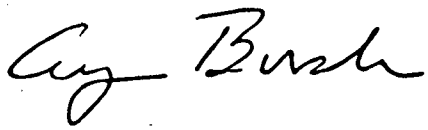
Presidential Determination No. 92–46 of September 4, 1992

Determination on Export-Import Bank Support for United States Exports to Romania

Memorandum for the Secretary of State

Pursuant to section 2(b)(4) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(4)), I hereby determine that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Romania.

You are authorized and directed to report this determination to the Congress, along with the justification explaining the basis for this determination, and to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 4, 1992.

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Rules and Regulations

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 209

[INS No. 1426-91]

RIN 1115-AC50

Adjustment Procedures for Aliens Granted Asylum

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule implements section 104 of the Immigration Act of 1990, which amended procedures to be used in filing for adjustment to lawful permanent resident status under section 209(b) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. This rule establishes the availability of adjustment without numerical restriction for certain asylee adjustment applicants, and increases from 5,000 to 10,000 the annual limitation on asylee adjustments. This rule is necessary to allow certain asylees to adjust to permanent resident status even though they are no longer refugees due to a change in circumstances in their country of origin.

EFFECTIVE DATE: This final rule is effective September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Marilyn Lee, Senior Supervisory Asylum Officer, Immigration and Naturalization Service, (INS) 425 I Street NW., room 1203, Washington, DC 20536, telephone (202) 514-5498.

SUPPLEMENTARY INFORMATION: Section 104 of the Immigration Act of 1990 includes a provision increasing the number of asylee adjustments to lawful permanent resident status allowed each year under section 209(b) of the Immigration and Nationality Act from 5,000 to 10,000. The law also provides for the adjustment of certain aliens who have been granted asylum but whose country conditions have changed so that they no longer continue to be refugees within the definition of section 101(a)(42) of the Immigration and Nationality Act. This provision applies to asylees who were or would be qualified for adjustment as of November 28, 1990, but for the requirements that the alien have been physically present in the United States for one year and continue to be a refugee or a spouse or child of such refugee. These aliens may be adjusted and are exempt from the numerical limitations of section 209(b) of that Act, provided they were granted asylum prior to November 29, 1990. Section 104 of the Immigration Act of 1990 also exempts from numerical limitation all asylees who filed for adjustment prior to June 1, 1990.

An interim rule with request for comments was published in the **Federal Register** on June 12, 1991, at 56 FR 26897-26898. The INS received three comments. These comments are discussed as follows:

One commenter stated that the paragraph numbers set forth in § 209.2(a)(1)(v) should be renumbered to correspond to the numbers as amended by the Immigration Act of 1990. The INS agrees and has amended the final rule accordingly.

Another commenter suggested that asylees should not be charged a fee to adjust. The INS has determined that a fee should be charged to the applicant filing Form I-485 so that applicants for adjustment to lawful permanent resident status who receive special services and benefits that do not accrue to the public at large are responsible for bearing the Government's cost of providing these special services. An asylee who has been in the United States for a year, unlike the applicant who may have recently arrived, has normally had employment authorization for at least a year and should be treated no differently than other adjustment applicants in this respect. A fee waiver is available under 8 CFR 103.7(c) for any applicant who is genuinely unable to pay the fee. Alternatively, the Service would be forced to charge other applicants for adjustment of status a higher fee to cover the costs of processing adjustment of status applications for asylees. The INS is in the process of amending the fee schedule and has published a proposed rule on Fees for Processing Certain Asylee-Related and Refugee-Related Applications with request for comments at 57 FR 1404-1405 (January 14, 1992).

Another commenter suggested that the rule should reconcile the language in § 209.2(c) regarding asylum seekers in deportation proceedings with that referring to asylum seekers in exclusion proceedings. The INS agrees with this comment and has amended the final rule to reflect this change.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB Control Number for this collection is contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 209

Administrative practice and procedure, Aliens, Asylum, Immigration, Refugees, Reporting and recordkeeping requirements.

Accordingly, under the authority of 8 U.S.C. 1101, 1103, 1157, 1158, and 1159, the interim rule amending 8 CFR part 209, which was published at 56 FR 26897-26898 on June 12, 1991, is adopted as a final rule with the following changes.

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

1. The authority citation for part 209 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1157, 1158, and 1159.

§ 209.2 [Amended]

2. In § 209.2, paragraph (a)(1)(v) is amended by revising the reference "paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act," to read

"paragraphs (4), (5)(A), (5)(B), and (7)(A)(i) of section 212(a) of the Act,".

3. In § 209.2, paragraph (c) is amended in the last sentence by revising the phrase "If an alien has been served with an order to show cause or placed under exclusion proceedings" to read "If an alien has been placed in deportation or exclusion proceedings".

Dated: July 13, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-22424 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Parts 214 and 274a

[INS NO. 1455-92]

RIN 1115-AD13

N—Nonimmigrant Classes; Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rulemaking will expand the list of aliens authorized to accept employment in the United States by including those nonimmigrant employment-authorized classifications created by the Immigration Act of 1990 (IMMACT). Failure to include these new employment-authorized classes could result in confusion by employers regarding whether a particular alien is authorized to accept employment and (if so) under what restrictions. Also, it could affect adversely the Service's efforts to impose sanctions against employers or unauthorized aliens. This rulemaking will alleviate problems for both employers and Service personnel seeking to determine whether an alien is authorized to accept employment in the United States. This rulemaking also eliminates a misleading phrase from § 214.2(n)(4) which has caused some people to think mistakenly that N nonimmigrants are not required to apply for and obtain an employment authorization document.

EFFECTIVE DATE: This final rule is effective September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., room 7228, Washington, DC 20536, telephone (202) 514-3240.

SUPPLEMENTARY INFORMATION: Section 274A of the Immigration and Nationality Act ("the Act") provides for the imposition of sanctions against employers who employ aliens who are not authorized to work in the United States. Section 274A(h)(3) of the Act defines an unauthorized alien for employment purposes as an alien who is not either (A) an alien lawfully admitted for permanent residence or (B) authorized to be so employed by the Act or by the Attorney General. Those classes of aliens who are authorized to be employed in the United States are listed in 8 CFR 274a.12.

On November 29, 1990, President Bush signed the Immigration Act of 1990 ("IMMACT") into law. Sections 207, 208, and 209 of IMMACT created new nonimmigrant categories for aliens of extraordinary ability (O-1), accompanying aliens (O-2), athletes and entertainers (P-1, P-2, and P-3), international cultural exchange program participants (Q), and aliens in religious occupations (R-1), all of whom are authorized to work in the United States. Accordingly, the Service is revising 8 CFR 274a to include these nonimmigrant classifications in the list of aliens who are authorized for employment with a specific employer incident to status contained in 8 CFR 274a.12(b). In so doing, the Service is also designating such aliens as among those who, upon filing a timely application for extension of nonimmigrant status, may continue to work for a period of 240 days for the same employer as previously authorized during the pendency of such application. (IMMACT also created classifications for dependents of the O, P, and R nonimmigrants, but these dependents are not authorized to accept employment in the United States.)

Finally, this rulemaking eliminates the phrase "and such authorization need not be requested." from the discussion of employment authorization for certain nonimmigrant parents and children of section 101(a)(27(I) special immigrants (N nonimmigrants) at 8 CFR 214.2(n)(4). This action is being taken because § 214.2(n)(4) already states that employment is authorized incident to N status, making the phrase being deleted redundant; and because the phrase had given rise to the erroneous impression that N nonimmigrants were not required to apply for and obtain an employment authorization document.

The Service's implementation of this rule as a final rule is based upon the "good cause" exceptions found at 5 U.S.C. 553(b) (A)-(B) and (d)(3). This rulemaking falls under the good cause exception because it immediately incorporates the statutory changes made by IMMACT and implemented by other regulatory action. A notice and comment period would have been impracticable and contrary to the public interest. Moreover, this rulemaking confers a benefit upon eligible persons, clarifies an ambiguity, and does not impose a penalty of any kind. It is imperative that this final rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly. This action will simply bring 8 CFR 214.2(n) and 274a.12(b) into conformity with other regulatory provisions.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a; 8 CFR part 2.

§ 214.2 [Amended]

2. In § 214.2, paragraph (n)(4) is amended by replacing the "," with a "." after the phrase "type of employment", and by removing the phrase "and such authorization need not be requested.".

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

3. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

4. Section 274a.12 is amended by:

a. Redesignating paragraphs (b)(13) as (b)(17), (b)(14) as (b)(18), (b)(15) as (b)(20), and (b)(16) as (b)(19);

b. Removing the word "or" at the end of newly redesignated paragraph (b)(18);

c. Replacing the "." at the end of newly redesignated paragraph (b)(19) with "; or"; and

d. Adding new paragraphs (b)(13), (b)(14), (b)(15) and (b)(16), and revising the first sentence of newly redesignated paragraph (b)(20) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(13) An alien having extraordinary ability in the sciences, arts, education, business, or athletics (O–1), and an accompanying alien (O–2), pursuant to § 214.2(o) of this chapter. An alien in this status may be employed only by the petitioner through whom the status was obtained;

(14) An athlete, artist or entertainer (P–1, P–2 or P–3), pursuant to § 214.2(p) of this chapter. An alien in this status may be employed only by the petitioner through whom the status was obtained;

(15) An international cultural exchange visitor (Q), pursuant to § 214.2(q) of this chapter. An alien in this status may only be employed by the petitioner through whom the status was obtained;

(16) An alien having a religious occupation, pursuant to § 214.2(r) of this chapter. An alien in this status may be employed only by the religious organization through whom the status was obtained;

* * * * *

(20) A nonimmigrant alien within the class of aliens described in paragraphs (b)(2), (b)(5), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (b)(14), (b)(16), and (b)(19) of this section whose status has expired but who has filed a timely application for an extension of such stay pursuant to § 214.2 of this chapter. * * *

* * * * *

Dated: August 13, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–22425 Filed 9–16–92; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 87–015F]

RIN 0583–AA78

Use of Binders in Certain Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to permit the use of food starch-modified, sodium caseinate, isolated soy protein, and carrageenan as binders, individually, and not in combination, in cured pork products labeled as "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." The use of such binders would prevent purging of the pumped brine solution from the products. This final rule is in response to petitions submitted by various companies and industry associations.

EFFECTIVE DATE: October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205–0080.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule under Executive Order 12291. It will not 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 export or domestic markets.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat products that are in addition to, or different than, those imposed under the FMIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat products that are outside official establishments for the purpose of preventing the distribution of meat products that are misbranded or adulterated under the FMIA, or in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the FMIA, States that maintain meat and poultry inspection programs must impose requirements on State-inspected products and establishments that are at least equal to those required under the FMIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule. However, the administrative procedures specified in 9 CFR 306.5 must be exhausted prior to any judicial challenge of the application of the provisions of this rule.

Effects on Small Entities

The Administrator, FSIS, has made a determination that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule permits the use of certain binders to prevent purging of added brine solution in specific cured pork products. Manufacturers opting to use such binders in this manner will be required to revise the ingredients statements of their labels to show the presence of such binders. However, the use of these binders would be voluntary and any costs associated with new label applications are covered under existing approved paperwork requirements of FSIS's prior label approval system.

Currently, there are approximately 1,079 establishments, both large and small, producing "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." Decisions by individual manufacturers on whether to use binders in these pork products would be based on their conclusions that the benefits would outweight the implementation costs.

Background

FSIS has been petitioned to permit the following substances as binders to prevent purging of added brine solution in certain cured pork products, as provided in 9 CFR 319.104, as follows:

1. *Food starch-modified,* submitted by Corn Refiners Association, Inc., Washington, DC, to be used at a level not to exceed 2 percent of the product formulation. The Federal meat inspection regulations do not currently permit the use of food starch-modified for any purpose in meat food products.

The Food and Drug Administration (FDA) lists food starch-modified as a direct food additive at 21 CFR 172.892 for use in foods when used in accordance with good manufacturing practices.

2. *Sodium caseinate,* submitted by DVM Campina, Inc., Stone Mountain, GA, to be used at a level not to exceed 2 percent of the product formulation. The

Federal meat inspection regulations permit the use of sodium caseinate as a binder and extender at a level sufficient for purpose in imitation sausage, nonspecific loaves, soups, and stews (9 CFR 318.7(c)(4)).

FDA lists sodium caseinate as generally recognized as safe (GRAS) for use in foods at 21 CFR 182.1748 when used in accordance with good manufacturing practices.

3. *Isolated soy protein,* submitted by Protein Technologies International, St. Louis, MO, to be used at a level not to exceed 2 percent of the product formulation. The use of isolated soy protein has been permitted in certain meat food products since 1965 as a result of a final rule published by the Department (30 FR 8673). The Federal meat inspection regulations permit the use of isolated soy protein as a binder and extender in sausage, chili con carne, spaghetti with meatballs, and similar products at levels ranging between 2 percent and 12 percent, depending on the product in which it is used (9 CFR 318.7(c)(4)).

Although FDA does not currently list isolated soy protein in its regulations, FDA has determined, in a February 8, 1977, memorandum, that isolated soybean protein is a food and therefore GRAS.[1] During the development of this rulemaking, FSIS reconfirmed FDA's earlier determination. FDA has permitted the use of isolated soy protein in a variety of foods, including meat products, when used within good manufacturing practices.

4. *Carrageenan,* submitted jointly by Hercules, Wilmington, DE, and FMC Corporation, Rockland, ME, to be used at a level not to exceed 1.5 percent of the product formulation. The Federal meat inspection regulations permit the use of carrageenan as an extender and stabilizer in breading mixes and sauces at a level sufficient for purpose in formulating meat products (9 CFR 318.7(c)(4)).

FDA lists carrageenan at 21 CFR 172.620 as a direct food additive that may be safely used in the amount necessary as an emulsifier, stabilizer, or thickener in foods when used in accordance with good manufacturing practices. It is common practice in the meat industry to use these terms of technical functions interchangeably with "binder." Thus, these functions are considered in this rulemaking under the category of "binders."

[1] A copy of this memorandum is available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

Regulations on Cured Pork Products

Section 319.104 of the Federal meat inspection regulations (9 CFR 319.104) provides standards of composition and labeling requirements for cured pork products depending on the product's minimum protein fat-free content; for example, "Ham", "Ham with Natural Juices", "Ham Water Added", and "Ham and Water Product—X% of Weight is Added Ingredients." However, 9 CFR 319.104 does not currently provide for the use of binders or extenders in these products. FSIS has determined that it is appropriate to permit the addition of certain binders and extenders in the cured pork products labeled as "Ham Water Added", and "Ham and Water Product—X% of Weight is Added Ingredients" for the reasons discussed below.

During manufacturing, the cured pork products labeled as "Ham Water Added", and "Ham and Water Product—X% of Weight is Added Ingredients" are pumped with a brine solution in an amount equal to various percentages of the weight of the green ham. These two products are normally packaged in clear plastic and are enclosed by a vacuum seal. As the brine drains from the product, it settles in the package around the product. This drained brine solution may appear to consumers as excessive and may create an aesthetically displeasing product. As a result, some retailers remove and discard these products well before the shelf life expiration date, creating economic losses for both industry and consumers. None of the ingredients in the brine solution, either alone or in combination, serves to completely control purging of the moisture in these products.

The petitioners contend that the addition of food starch-modified, sodium caseinate, isolated soy protein, or carrageenan to these products will prevent moisture purge. They have supplied technical data information supporting their claims regarding the technical effects of these individual binders at the requested use levels.[2]

Proposed Rule

After reviewing the petitioners' technical data and information, the Administrator determined that (1) the proposed use of these binders would be in compliance with applicable FDA requirements, (2) their use would be functional and suitable for the products intended, (3) the substances would be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances in products would not render them adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act. In addition, the use of binders will not affect the protein fat-free calculations for the products to which they are added. All added nonmeat proteins are subtracted from the total protein of the finished product by the laboratory before calculating the protein fat-free value of the product.

On January 31, 1992, FSIS proposed to allow the use of carrageenan at a level not to exceed 1.5 percent of the product formulation, and food starch-modified, sodium caseinate, and isolated soy protein at a level not to exceed 2 percent of the product formulation (57 FR 3732). The substances would not be permitted in combination with one or more such substances because the data presented by the petitioners involved only the use of each individual binder.

Discussion of Comments

FSIS received 16 comments in response to the proposed rule—9 from food ingredients manufacturers, 4 from trade associations, 1 from a food processor, 1 from a university professor, and 1 from a food consulting firm. All of the comments supported the intent of the proposed rule, but some suggested changes or additions to various elements of the proposed rule. The following are their comments and FSIS's response to each:

1. *Comment:* The consulting firm and two food ingredient manufacturers requested that FSIS provide for the use of other additional substances, such as hydrolyzed rice protein, in cured pork products. The food processor requested that the proposed substances be allowed in cured turkey ham.

Response: FSIS's proposed rule to add the use of food starch-modified, carrageenan, isolated soy protein, and sodium caseinate to prevent purging in cured pork products was based on two solid reasons. First, these substances have been evaluated by FDA and determined to be either GRAS or may be safely used in food. Second, technical data and information submitted with the petitions requesting the use of each substance supported the efficacy of these substances in cured pork products. FSIS cannot propose the use of any substance in any meat or poultry product without adequate supporting technical data demonstrating the safety of the intended use of a specific substance in a specific product.

[2] A copy of the supporting data is available for public review in the FSIS Hearing Clerk's office.

FSIS welcomes the commenters to submit petitions, along with supporting data, to allow the use of carrageenan, food starch-modified, sodium caseinate, and isolated soy protein in cured turkey ham, or to allow the use of additional substances in cured pork products. It should be noted, however, that the additional substances requested for use in cured pork products are not currently listed as GRAS in FDA's regulations.

2. *Comment:* A food ingredient manufacturer submitted supplementary data for petition submitted in 1989 for the use of soy protein concentrate at a level of 2 percent in cured pork products to prevent purging.

Response: FSIS has evaluated the data and intends to issue a separate proposed rule requesting comments on the use of soy protein concentrate at a level of 2 percent in cured pork products to prevent purging.

3. *Comment:* A trade association expressed that FSIS should adjust the table of approved substances in 9 CFR 318.7 through automatic publication of final rules without issuing proposed rules.

Response: The Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) requires that general notice of proposed rulemaking shall be published in the **Federal Register** to provide interested parties an opportunity to submit written data, views, or arguments concerning the proposed rulemaking. Therefore, FSIS cannot automatically issue only final rules involving any amendments to the Federal meat and poultry products inspection regulations.

4. *Comment:* A university professor and a trade association believe that food starch-modified should be used at levels higher than the proposed 2 percent level. However, a food ingredient manufacturer voiced strong opposition to the proposed level of food starch-modified stating that such level was too high.

Response: FSIS believes that the data submitted by the petitioner adequately demonstrated that levels of food starch-modified up to 2 percent are effective in preventing purging of added brine solution in cured pork products.

5. *Comment:* A food ingredient manufacturer opposed the use of semi-refined seaweed flour (or Philippine Natural Grade (PNG)) as carrageenan in cured pork products. The commenter noted that although FDA classifies PNG as carrageenan, European regulations do not permit the use of PNG in food nor allow the product to be labeled as carrageenan. According to the commenter, this could prevent U.S. producers of cured pork products from selling their products in international commerce.

Response: The classification of PNG as carrageenan does not fall within the scope of this rulemaking. The evaluation and classification of direct food ingredients, such as carrageenan, to be used in foods, including meat and poultry products, fall under FDA's authority. FDA has determined that carrageenan is GRAS and thus approved for use in foods in the amount necessary under specific conditions as prescribed in 21 CFR 172.620, 172.623, and 172.626.

6. *Comment:* Several commenters pointed out the incorrect reference of 21 CFR 172.602 as the FDA regulations citing the approval of carrageenan as a food additive. The correct citations are 21 CFR 172.620, 172.623, and 172.626.

Response: FSIS has revised the chart to reference the correct FDA citations.

7. *Comment:* A university professor and a food ingredient manufacturer requested an extension of the comment period on the proposed rule.

Response: FSIS believes that sufficient time was provided to allow interested parties an opportunity to comment on the proposed rule.

Final Rule

After careful consideration of the comments, FSIS is adopting the proposed rule as final.

List of Subjects

9 CFR Part 318

Food additives, Food packaging, Laboratories, Meat inspection, Reporting and recordkeeping requirements, Signs and symbols.

9 CFR Part 319

Food grades and standards, Food labeling, Frozen foods, Meat inspection, Oils and fats.

Accordingly, FSIS is amending 9 CFR Parts 318 and 319 of the Federal meat inspection regulations as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. In the chart in § 318.7(c)(4), the Class of substance "Binders and extenders" is amended by adding at the end thereof the following new entries to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Binders and extenders				
*	*	*	*	*
	Carrageenan	To prevent purging of brine solution.	Cured pork products as provided in 9 CFR 319.104.	Not to exceed 1.5 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.620, 172.623, and 172.626.
	Food starch modified	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.892.
	Sodium caseinate	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 182.1748.
	Isolated soy protein	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products.
*	*	*	*	*

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

4. Section 319.104 would be amended by adding a new paragraph (d) to read as follows:

§ 319.104 Cured pork products.

* * * * *

(d) The binders provided in § 318.7(c)(4) of this subchapter for use in cured pork products may be used singly in those cured pork products labeled as "Ham water added" and "Ham and water product—X% of weight is added ingredients." These binders are not permitted to be used in combination with one or more such binders approved for use in cured pork products. When any such substance is added to these products, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance.

Done at Washington, DC on:

Dated: September 1, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–22398 Filed 9–16–92; 8:45 am]

BILLING CODE 3410-DM-M

FARM CREDIT ADMINISTRATION

12 CFR Part 603

RIN: 3052-AB31

Privacy Act Regulations; New Exempt System of Records; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under part 603 on July 22, 1992 (57 FR 32420). The final regulations amend 12 CFR part 603 to exempt the system of records, "Office of Inspector General (OIG) Investigative Files—FCA," from certain Privacy Act provisions, due to the law enforcement nature of the records. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is September 16, 1992.

EFFECTIVE DATE: September 16, 1992.

FOR FURTHER INFORMATION CONTACT:

Elizabeth M. Dean, Counsel to the Inspector General, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4030,

or

Rebecca S. Orlich, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: September 11, 1992.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 92–22404 Filed 9–16–92; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 935 and 940

[No. 92-533.3]

Advances

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is revising its regulation and statement of policy regarding Federal Home Loan Bank (FHLBank) advances to members by eliminating the 20-year maximum maturity on FHLBank advances. The interim final rule provides the Banks with the discretion to make advances with maturities greater than 10 years, consistent with safe and sound operation.

DATES: This rule is effective September 17, 1992. Comments must be submitted by October 19, 1992.

ADDRESSES: Mail comments to Elaine Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Christine M. Freidel, Financial Analyst, (202) 408–2976; Thomas D. Sheehan, (202) 408–2870, Assistant Director, District Banks Directorate; or James H. Gray, Jr., (202) 408–2552, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Part 935 of the Finance Board's regulations governs the granting of advances by the FHLBanks to their members. Section 935.6 (12 CFR 935.6) currently authorizes the FHLBanks to make advances with maturities of up to 20 years. Section 940.1 (12 CFR 940.1) codifies the Finance Board's policy regarding FHLBank advances to members, directing the FHLBanks to offer advances with maturities of up to 10 years, and allowing the Banks the discretion to offer advances with maturities of up to 20 years.

Today, the Finance Board is amending 12 CFR 935.6 and 940.1 to authorize the FHLBanks to make advances of any maturity, consistent with safe and sound operation. It is anticipated that this expanded authority will afford greater opportunity for the FHLBanks in providing flexible and affordable housing finance to their members.

It is anticipated that eliminating the 20-year maturity limit on advances will facilitate the asset/liability management of FHLBank members engaged in affordable housing by permitting participants to lock-in FHLBank financing over the life of a project. Members are often understandably reluctant to provide such long-term financing without matched funding, particularly for mortgage loans that would not conform to secondary market standards. The regulatory change will be especially beneficial to those members engaged in multi-family and other affordable housing loans that are not normally eligible for securitization.

The Banks are encouraged to offer such funding only to the extent they are able to limit their own interest rate risk exposure. Although offering longer-term funding could expose the Banks to additional interest rate risk, their ability to raise long-term debt, the availability of hedging options, and their expertise in asset/liability management should allow the Banks to offer a broad range of advance maturities without undue financial risk.

This interim final rule is being adopted in advance of other changes the Finance Board expects to make in the near future to part 935 of its regulations. The Finance Board is currently reviewing its advances regulations in

their entirety to ensure conformity with the legislative intent that the Banks make affordable housing finance available to all eligible institutions.

The Finance Board is adopting these regulations as an interim final rule, effective immediately. However, the Finance Board is incorporating a 30-day comment period. The Administrative Procedures Act (APA) requires executive agencies to publish a substantive rule in the **Federal Register** not less than 30 days prior to its effective date. 5 U.S.C. 553(d) (Supp. I 1989). The APA provides an exception to the 30-day publication requirement when the substantive rule in question relieves a restriction. 5 U.S.C. 553(d)(1). Although these regulations will be effective immediately, the Finance Board recognizes the importance and value of public input on FHLBank System operations. Accordingly, the Finance Board has provided for a 30-day comment period from the date of publication of these regulations. The comments received during this 30-day period may result in revisions to these regulations after their effective date.

List of Subjects in 12 CFR Parts 935 and 940

Advances, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby amends Parts 935 and 940, Subchapter B, Chapter IX of Title 12 of the Code of Federal Regulations, as set forth below.

PART 935—ADVANCES

1. The authority citation for Part 935 continues to read as follows: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b); sec. 10, 47 Stat. 731, as amended (12 U.S.C. 1430).

2. Section 935.6 is revised to read as follows:

§ 935.6 Terms of advances.

The Banks shall offer advances with maturities of up to 10 years and may offer advances with longer maturities, consistent with safe and sound operation.

PART 940—STATEMENTS OF POLICY

1. The authority citation for part 940 continues to read as follows:

Authority: Sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464; secs. 802–806, 91 Stat. 1147–1148 (12 U.S.C. 2901 et seq.); sec. 701, as added by sec. 503, 88 Stat. 1521 (15 U.S.C. 1691); sec. 16, 16 Stat. 144, as amended (42 U.S.C. 1981); secs. 801–819, 82 Stat. 81–89, as amended (42 U.S.C. 3601–3619); E.O. 11063, 27 FR 11527.

2. Section 940.1(b) is revised to read as follows:

§ 940.1 Policy on advances to members.

* * * * *

(b) *Terms and conditions.* The Banks shall offer a range of advances with maturities of up to 10 years and may offer advances with longer maturities, consistent with safe and sound operation. Advances shall be offered within a range of rates established by the Board that is above the current replacement cost of Federal Home Loan Bank obligations of comparable maturities. Prepayment and commitment fees which protect the Banks from undue interest-rate risk generally shall be required.

* * * * *

Dated: July 17, 1992.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 92–21842 Filed 9–16–92; 8:45 am]

BILLING CODE 6725-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN1-1-5092; FRL-4202-3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a revision to the Indiana State Implementation Plan (SIP) for ozone. On April 11, 1988, the Indiana Department of Environmental Management (IDEM) submitted to USEPA amendments to the Indiana Administrative Code (IAC) 14–1, General Provisions; 326 IAC 14–8, Emission Standards for Equipment Leaks; and 326 IAC 14–9, Emission Limitations for Benzene from Furnace Coke Oven By-product Recovery Plants. The requested revisions to the SIP pertain to the control of volatile organic compound (VOC) emissions from coke oven by-product recovery plants, located in the ozone nonattainment counties of Lake and Porter. USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of part D of the Clean Air Act (Act).

DATES: This action will be effective November 16, 1992 unless notice is received by October 19, 1992 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the regulations being incorporated by reference in today's rule are available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

Comments on this rulemaking should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (5AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Fayette Bright (5AR–18J), Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6069.

SUPPLEMENTARY INFORMATION: Under section 107 of the pre-amended Act, USEPA designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for ozone. For Indiana, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978) and 40 CFR 81.315. For these areas, part D of the pre-amended Act required that the State revise its SIP to provide for attaining the primary NAAQS as expeditiously as practicable, but not later than December 31, 1982. Part D allowed USEPA to grant extensions up to December 31, 1987, to those States that could not demonstrate attainment of the ozone standard by December 31, 1982, if certain conditions were met by the State in revising its air pollution program. Indiana requested an extension, and on February 11, 1982, (47 FR 6276) USEPA granted an extension to December 31, 1987, for achieving the ozone NAAQS for four counties: Clark, Floyd, Lake, and Porter ("extension counties").

The requirements for an approvable SIP under the pre-amended Act are described in the "General Preamble" for part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

On January 22, 1981, (46 FR 7182) USEPA published guidance for the development of 1982 ozone SIPs in "State Implementation Plans: Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension". The pre-amended Act required that for stationary sources, an approvable SIP must include legally enforceable requirements reflecting the application of reasonably available control technology (RACT) to VOC sources. (For a definition of RACT see December 9, 1976, memorandum from the Assistant Administrator of Air and Waste Management.)

In Indiana's 1982 ozone plan,[1] it committed to obtain VOC emission reductions in Lake and Porter Counties either from the implementation of the NESHAP for coke oven by-product recovery plants or by other regulations comparable in emission reductions adopted under State rules. Because the USEPA had not promulgated a NESHAP for this source category,[2] Indiana adopted State rules to control emissions from coke oven by-product recovery plants.

USEPA notified the Governor of Indiana of its VOC SIP deficiencies on May 26, 1988, and a follow-up SIP call letter was sent to the IDEM on June 17, 1988, reiterating the State's RACT VOC requirements and acknowledging the receipt of Indiana's coke oven rules which were under USEPA review. (For further detail a copy of these letters may be obtained from USEPA, Region 5).

In partial response to the requirement for RACT VOC rules, on April 11, 1988, the State of Indiana submitted to USEPA for incorporation into the Indiana Ozone SIP, regulations which control VOC emissions from coke oven by-product recovery plants located in Indiana's ozone nonattainment counties of Lake and Porter, the only extension counties where such major sources exist. The submittal consists of the following rules: 326 IAC 14-1—General Provisions; 326 IAC 14-8—Emission Standards for Equipment Leaks (Fugitive Emission Sources); and 326 IAC 14-9—Emission Limitations for Benzene from Furnace Coke Oven By-Product Recovery Plants. Some of these rules adopt certain provisions in USEPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations at 40 CFR part 61, subpart A and L, by reference.

The Clean Air Act Amendments (Amendments) of 1990 were enacted on November 15, 1990, Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 740-7671q. In amended section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone nonattainment areas fix up their RACT rules for ozone. Areas designated nonattainment before enactment of the Admendments and which retained that designation were classified as marginal or above as of enactment and are required to meet the RACT fix-up requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b), as that requirement was interpreted in USEPA's pre-amendment guidance.[3] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Lake and Porter counties are classified as severe 17.[4] Therefore, these areas are subject to the RACT fix-up requirement and the May 15, 1991, deadline.

Although this submittal preceded the date of enactment of the Amendments, it was intended to fulfill part of the "RACT fix-up" requirement of section 182(a)(2)(A) for Lake and Porter Counties. Indiana subsequently requested that USEPA take rulemaking action on this SIP revision.

USEPA's evaluation of the State's submittal is contained in technical support documents which are available at the Region 5 office. The following paragraphs provide a summary of the State's submittal.

A. Summary of State's Submittal

1. 326 IAC 14-1-1-(b)—Applicability

This rule is revised to exclude 40 CFR 61.11(f) and 61.12(d) from the incorporation by reference into the State rules. Section 61.11(f) states that granting of a waiver under § 61.11 shall not abrogate the USEPA Administrator's authority for inspection, monitoring and entry under section 114 of the Act. Because the State is not directly bound by the Act, this section has not been adopted. (The USEPA, however, will retain its inspection, monitoring and entry rights as they apply to sources under part 61, subpart A and section 114 of the Act, and will not be bound by any waivers that may be granted by the State.) Section 61.12(d) states that the Administrator will publish a notice in the **Federal Register** if he decides to approve alternative means of emission limitations. Since the State cannot publish in the **Federal Register**, § 61.12(d) has not been adopted by reference.

2. 326 IAC 14-1-2—Definitions

This section contains nonsubstantive wording changes that do not affect regulatory requirements.

3. 326 IAC 14-8-1-(b)—Applicability

Indiana's rule adopts by reference 40 CFR part 61, subpart V, concerning equipment leaks [5] with the exception of revisions to 40 CFR 61.241, 61.245, 61.246 and 61.247 specified in 326 IAC 14-8-2 through 326 IAC 14-8-5. The revision is consistent with 40 CFR part 61, subpart V.

4. 326 IAC 14-8-2—Definitions

Indiana's rule revises certain definitions contained in 40 CFR 61.241 to include Indiana's definitions of terms applicable to 326 IAC 14-8. The revised definitions are consistent with 40 CFR part 61, subpart V.

5. 326 IAC 14-8-3—Test Methods and Procedures

This rule expands upon 40 CFR 61.245(b), (c), and (d)(3) to extend the applicability of these sections to equipment leaks from coke oven by-product recovery plants. 326 IAC 14-8-

[1] USEPA disapproved this plan for Lake and Porter Counties on November 18, 1988, (53 FR 46609), because of continued violations of the ozone NAAQS in the greater Chicago area. Even though USEPA disapproved this plan, it is continuing to rulemake on individual elements within Indiana's ozone plan, and Indiana is continuing to submit such elements in the effort to improve further Indiana's air quality. On October 23, 1990, and August 19, 1991, the IDEM submitted regulations intended to address many of the deficiencies identified by USEPA in Indiana's Stationary Source Control Strategy for VOC. On March 6, 1992, (57 FR 8062), USEPA approved the incorporation of these measures into the Indiana SIP.

[2] USEPA ultimately promulgated the NESHAP standard for benzene on September 14, 1989, (54 FR 38044). The purpose of this standard is to regulate benzene emissions from coke oven by-product recovery plants (40 CFR part 61, subpart L). Regulating hazardous pollutants under section 112 of the Act often requires more stringent controls than non-hazardous pollutants. The emission limits and other requirements in the Indiana rule may be (and, in certain areas, are) less stringent than those in the NESHAP rule. However, the VOC RACT regulations USEPA is approving today are in addition to, and not in lieu of, the NESHAP regulations. Affected industry must comply with both sets of regulations.

[3] Among other things, the pre-amendment guidance consists of the Post-87 policy, 52 FR 45044 (November 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to appendix D of November 24, 1987, **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing Control Techniques Guidelines (CTGs).

[4] Lake and Porter counties retained their designation of nonattainment and were classified by operation of law pursuant to section 107(d) and 181(a) upon enactment of the Amendments, 56 FR 56694. These areas have 17 years from the date of enactment (November 15, 1990) to come into attainment.

[5] Please note that all 40 CFR part 61 requirements continue to apply to all sources in Indiana affected by 326 IAC Article 14.

3(c) states that: "Samples used in determining the percent volatile hazardous air pollutant (VHAP) content shall be representative, as determined by the Commissioner, of the process fluid that is contained in or contacts the equipment or the gas being combusted in the flare." This language differs from the Federal NESHAP rule [40 CFR 61.245(d)(3)] in that it provides for a State commissioner determination of representativeness. It should be noted that USEPA retains its authority for such determinations under the NESHAP rule.

6. 326 IAC 14-9-4—Recordkeeping Requirements and 326 IAC 14-9-5—Reporting Requirements

Indiana's rules expand upon 40 CFR 61.246 and 61.247(b)(5) to include the applicability of these sections to equipment leaks from coke oven by-product recovery plants.

7. 326 IAC 14-9-1—Applicability

This rule states that 326 IAC 14-9 applies to furnace coke oven by-product recovery plants in Lake and Porter Counties. It also specifies that once a plant becomes a furnace coke oven by-product recovery plant, it will continue to be considered a furnace coke oven by-product recovery plant under rule 326 IAC 14-9 regardless of the type of coke produced in the future. Because there currently are no foundry coke oven by-product plants in Lake and Porter Counties, this rule applies to all coke oven by-product plants in these counties.

8. 326 IAC 14-9-3—Light-oil Sumps and 326 IAC 14-9-4—Final Coolers and Final-Cooler Cooling Towers

These rules contain standards for light oil pumps, final coolers, and final-cooler cooling towers. 326 IAC 14-9-3 requires installation and maintenance of a closed system to contain emissions from light-oil pumps. 326 IAC 14-0-4 requires zero benzene emissions from final coolers and final-cooler cooling towers.

9. 326 IAC 14-9-5—Equipment Leaks

This rule contains standards for equipment leaks at coke oven by-product recovery plants.

10. 326 IAC 14-9-6—Compliance Determinations

This rule specifies methods of determining compliance with the requirements of 326 IAC 14-9-3 through 326 IAC 14-9-5.

11. 326 IAC 14-9-7—Compliance Schedule

This rule specifies the following compliance schedules which apply to 326 IAC 14-9-3 through 326 IAC 14-9-5:

(a) Each owner or operator shall comply with the requirements of 326 IAC 14-9-3, prior to June 30, 1989.

(b) Each owner or operator shall comply with the requirements of 326 IAC 14-9-5, prior to November 30, 1988.

(c) Each owner or operator shall comply with the requirements of 326 IAC 14-9-4 prior to December 31, 1990.

12. 326 IAC 14-9-8—Test Methods and Procedures and 326 IAC 14-9-9—Recordkeeping and Reporting Requirements

These rules specify test methods and procedures and recordkeeping and reporting requirements for sources subject to 326 IAC 14-9.

B. Summary of USEPA's Final Rulemaking Action

USEPA believes that Indiana's rule controls the applicable sources to at least RACT for VOC. USEPA has determined that these rules will result in reduced VOC emissions in northwest Indiana, thereby resulting in lower ambient ozone levels in the greater Chicago area. USEPA approves the incorporation of the State's revised regulation into the Indiana ozone SIP.

USEPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will become effective on November 16, 1992. However, if we receive notice by October 19, 1992 that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective November 16, 1992.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

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

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Ozone.

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

Dated: August 26, 1992.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set out in the preamble, part 52 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart P—Indiana

Authority: 42 U.S.C. 7401–7671(q).

2. Section 52.770 is amended by adding paragraph (c)(81) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(81) On April 11, 1988, the State submitted, as a portion of its 1982 ozone plan, rules to control volatile organic compound (VOC) emissions in Lake and Porter Counties. These rules consist of the provisions and requirements in 326 IAC 14–1, General Provisions; 326 IAC 14–8, Emission Standards for Equipment Leaks; and 326 IAC 14–9, Emission Limitations for Benzene from Furnace Coke Oven By-product Recovery Plants.

(i) Incorporation by reference.

(A) Amendments to title 326, Air Pollution Control Board, Indiana Administrative Code (IAC) 14–1 General Provisions; 326 IAC 14–8 Emission Standards for Equipment Leaks; (Fugitive Emission Sources); and 326 IAC 14–9 Emission Limitations for Benzene from Furnace Coke Oven By-Product Recovery Plants, as published in the June 1, 1988, Indiana Register (IR) at 11 IR 3011. Filed with the Secretary of State on April 13, 1988.

* * * * *

[FR Doc. 92–22299 Filed 9–16–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[Region II Docket No. 108; FRL–4203–5]

Approval and Promulgation of Implementation Plans; Revisions to the State of New Jersey State Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action announces that the Environmental Protection Agency is approving a request by New Jersey to revise its State Implementation Plan for attainment of the ozone and carbon monoxide national ambient air quality standards. The result of this revision is the incorporation of revised regulations concerning the State's motor vehicle emissions inspection and maintenance program.

EFFECTIVE DATE: This action will be effective October 19, 1992.

ADDRESSES: Copies of the State submittals are available for inspection at the following addresses during normal business hours:

Environmental Protection Agency, Air Programs Branch, Jacob K. Javits Building, 26 Federal Plaza, Room 1034A, New York, New York 10278.

New Jersey Department of Environmental Protection and Energy, Division of Environmental Quality, Bureau of Air Pollution Control, 401 East State Street, CN–027, Trenton, New Jersey 08625.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Jacob K. Javits Federal Building, 26 Federal Plaza, room 1034A, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On November 9, 1983, the Environmental Protection Agency (EPA) announced final approval of a revision to the New Jersey State Implementation Plan (SIP) (48 FR 51472). As part of that revision, the State committed to study and, as appropriate, to implement certain improvements to its motor vehicle emissions inspection and maintenance (I/M) program. On March 6, 1987, New Jersey submitted a revision to its SIP which included the results of this study and the adopted regulations. New Jersey also committed to implement additional program improvements. On October 2, 1990, EPA proposed approval of this revision to the New Jersey SIP (55 FR 40202). Specifically, this revision includes:

- Adoption of more stringent emissions standards,
- Implementation of an I/M program for heavy-duty gasoline vehicles,
- Establishment of an anti-tampering/malfunction diagnosis program for light-duty vehicles, and
- Elimination of the 24–35 month inspection exemption for new vehicles.

These measures are described fully on EPA's October 2, 1990 proposal.

In its October 2, 1990 notice, EPA proposed to require that New Jersey submit a schedule re-establishing the fuel inlet restrictor inspection portion of the anti-tampering check as part of the normal inspection process. While the provisions requiring the inspection were adopted and initially implemented, the inspection of inlet restrictors had been suspended on April 24, 1987 due to the inspectors' concerns about exposure to gasoline during the inspection. A subsequent study concluded that there is no increased health risk and EPA has received notification from New Jersey stating that this inspection was formally re-established on June 1, 1990. EPA is satisfied with New Jersey's fulfillment of its commitment to implement this inspection and a schedule is not needed.

Section 15.8 of Chapter 27 permits the Director of the Division of Motor Vehicles (DMV) in consultation with the Commissioner of the Department of Environmental Protection and Energy to prescribe alternative emission inspection standards should a particular vehicle or vehicle class not be able to comply with the provisions in this regulation. In this regard it should be noted that EPA cannot recognize any variance or alternate requirement until it is submitted to EPA by the State for approval as a SIP revision. Approval will be based on the effect of the proposed variance on air quality and on the ability of the vehicle or vehicle class to comply with the existing regulation.

EPA has reviewed New Jersey's request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments to the Clean Air Act enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment. The revision incorporates program modifications which are equivalent to those committed to in the SIP, and results in a more effective program which obtains greater emission reductions than those provided by the current SIP. Therefore, New Jersey's meets the requirements of Section 193 (specifically, the second sentence of the provision). Beyond that, the revision in no way would interfere with the SIP's ability to meet the new Act's requirements, and thus meets the test in section 110(l).

Under the provisions of section 183(f) of the amended Clean Air Act, EPA is required to publish in the **Federal Register** guidance on enhanced vehicle I/M programs. EPA published the preamble to the proposed regulations on July 13, 1992 (57 FR 134), while the actual SIP requirements were published on July 28, 1992 (57 FR 145). When finalized the states must rely on this guidance in meeting enhanced I/M

provisions. The guidance will specify when the states need to revise their regulations. Should New Jersey's regulations not meet this guidance, the State will be required to make the appropriate revisions. Today's action provides an improvement over the program contained in the current SIP.

Conclusion

EPA received no comments on the October 2, 1990 proposed rulemaking action. Therefore, EPA is approving New Jersey's March 6, 1987 SIP revision which incorporates the four amendments to two State regulations into the SIP. These regulations have been adopted by the State and are currently in effect.

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

Today's action makes final the action proposed on October 2, 1990. As noted, EPA received no adverse public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 1 to Table 2 under the processing procedures established at 54 FR 2214, January 19, 1989.

EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by references, Ozone, Reporting and Recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1992.

Dated: August 13, 1992.

Constantine Sidamon-Eristoff,

Regional Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671g.

SUBPART FF—New Jersey

2. Section 52.1570 is amended by adding paragraph (c)(47) to read as follows:

§52.1570 Identification of plan.

* * * * *

(c) * * *

(47) Revisions to the New Jersey State Implementation Plan (SIP) for ozone concerning the motor vehicle inspection and maintenance (I/M) program dated March 6, 1987, submitted by the New Jersey Department of Environmental Protection (NJDEP).

(i) Incorporation by reference.

(A) Amendments to title 7, chapter 27, subchapter 15 of the New Jersey Administrative Code, entitled "Control and Prohibition of Air Pollution From Gasoline-Fueled Motor Vehicles," effective January 21, 1985.

(B) Amendments to title 13, chapter 20, subchapter 28 of the New Jersey Administrative Code, entitled "Enforcement Service Inspection of New Passenger Vehicles and New Motorcycles," effective January 21, 1985.

(ii) Additional material.

(A) July 24, 1990 letter from David West, NJDEP, to Rudolph Kapichak, EPA, submitting the results of the study by Pacific Environmental Services on the health risks of performing the fuel inlet restrictor inspections.

(B) July 1, 1990 letter from David West, NJDEP, to Rudolph Kapichak, EPA, notifying of the resumption of fuel inlet restrictor inspections.

3. Section 52.1605 is amended by revising the entry for Title 7, Chapter 27: Subchapter 15 and adding a new entry for Title 13: Chapter 20, Subchapter 28 in numerical order as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * *	* * *	* * *	* * *
Title 7, Chapter 27:			
* * *	* * *	* * *	* * *
Subchapter 15, "Control and Prohibition of Air Pollution From Light-Duty Gasoline-Fueled Motor Vehicles".	Jan. 21, 1985	September 17, 1992. Citation of this action.	Variances adopted by the State pursuant to § 15.8 become applicable only if approved by EPA as SIP revisions.
* * *	* * *	* * *	* * *
Title 13, Chapter 20:			
Subchapter 28, "Enforcement Service Inspection of New Passenger Vehicles and New Motorcyles".	Jan. 21, 1985	September 17, 1992. Citation of this action.	
* * *	* * *	* * *	* * *

[FR Doc. 92–22300 Filed 9–16–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[PA-12-1-5343; FRL-4204-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Good Engineering Practice Stack Height Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. These revisions to chapters 121 and 141 of the Pennsylvania SIP conform with the revised stack height regulations promulgated by EPA on July 8, 1985 (50 FR 27892). EPA is also approving revisions to delete outdated provisions of chapter 141 pertaining to variances. The intended effect of this action is to approve revisions submitted by the Commonwealth of Pennsylvania which meet the stack height regulation.

EFFECTIVE DATE: This rule will become effective on October 19, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: U.S. Environmental Protection Agency Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107; Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, Post Office Box 2357, Harrisburg, PA 17120; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joseph W. Kunz (3AT11) at the EPA, Region III address above or telephone (215) 597-8486.

SUPPLEMENTARY INFORMATION: On December 8, 1987, EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Pennsylvania (52 FR 46495). The NPR proposed to approve the revisions to chapters 121 & 141 of the Pennsylvania regulations to conform with the revised stack height regulation of July 8, 1985 (50 FR 27892) and to delete outdated provisions of chapter 141 pertaining to variances.

A description of the revision was provided in the NPR and will not be restated here. As discussed in the NPR, the Pennsylvania submittal did not include definitions of "Emission limitation" and "Stack" which were added to part 51 with the stack height regulations promulgated on February 8, 1982 (47 FR 5868).

On March 11, 1986, Pennsylvania submitted a letter committing the Department of Environmental Resources to conduct new source review in accordance with the good engineering practice requirements of EPA. Pennsylvania's regulations in 25 PA Code Chapter 127, require, at § 127.12(4) and § 127.22(5), that new sources being reviewed for permits comply with all requirements promulgated by the Administrator of the United States Environmental Protection Agency pursuant to provisions of the Clean Air Act. EPA has agreed that the language of 25 PA Code Chapter 127, along with the letter of commitment, satisfies the requirements of 40 CFR part 51, subpart I for applying the stack height revision to new source review. The omitted definitions are implicitly applicable through the requirements of 25 PA Code § 127.12(4) and § 127.22(5).

Public Participation

The SIP revision was proposed under a procedure called "parallel processing" (47 FR 27073). Under this procedure, the State and EPA propose the regulation at the same time, announce concurrent comment periods, and jointly review the comments. If the State and EPA do not receive comments that would necessitate changes to the regulation, it is adopted by the State and submitted to EPA. The State adopted regulation is then processed by EPA as a final rulemaking. If significant changes are made to the regulation, EPA would have to propose the regulation again. In the case of Pennsylvania's stack height regulation, public hearings were held on August 24, August 26, and August 31, 1987. On July 19, 1988, Pennsylvania submitted the adopted regulations and a summary of comments. The only changes to the regulations were revisions to the referenced portions of 40 CFR part 51, to reflect the recodification promulgated on November 7, 1986, (51 FR 40656). There were no comments received by EPA on the NPR published on December 8, 1987, proposing to approve this revision.

Stack Height Remand

The EPA's stack height regulations were challenged in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration.

These provisions are:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements [40 CFR 51.100(kk)(2)];
2. Dispersion credit for sources originally designed and constructed with merged or multiflue stacks [40 CFR 51.100(hh)(2)(ii)(A)]; and
3. Grandfathering pre-1979 use of the refined H+1.5L formula [40 CFR 51.100(ii)(2)].

Although the EPA generally approves Pennsylvania's stack height rules on the grounds that they satisfy 40 CFR part 51, EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the *NRDC* remand modifies the July 8, 1985 regulations, EPA will notify the State of Pennsylvania that its rules must be changed to comport with EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by Pennsylvania and source owners or operators.

Final Action

EPA is approving the amendments to chapters 121 and 141 of the Pennsylvania regulations submitted on July 19, 1988, by the Department of Environmental Resources as revisions to the Pennsylvania SIP.

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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

This action to approve Pennsylvania's GEP stack height regulations has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive

Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Sulfur oxides.

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

Dated: September 1, 1992.

Edwin B. Erickson,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(73) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(73) Good engineering practice stack height regulations were submitted by the Secretary, Pennsylvania Department of Environmental Resources on July 19, 1988.

(i) Incorporation by reference.

(A) Letter from the Pennsylvania Department of Environmental Resources dated July 19, 1988, submitting a revision to the Pennsylvania State Implementation Plan.

(B) Amendments to Pennsylvania regulations, title 25, part I, subpart C, article III; chapters 121 (definitions) and 141 (variances and alternate standards) adopted May 14, 1988.

(ii) Additional materials.

(A) Remainder of the State submittal including the letter of commitment dated March 11, 1986, from the Department of Environmental Protection stating that new source review shall be conducted in accordance with the good engineering practice requirements of 40 CFR part 51.

[FR Doc. 92–22301 Filed 9–16–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[WV-6-1-5551; FRL-4204-5]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Revised Regulations Controlling Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision consists of revised regulations which establish and require reasonably available control technology (RACT) for volatile organic compound (VOC) emissions in Putman, Kanawha, Wood, Cabell, Wayne and Greenbrier Counties, and the Valley Magisterial District of Fayette County. The intended effect of this action is to approve VOC RACT regulations that West Virginia submitted in response to EPA's November 8, 1989 SIP Call letter.

EFFECTIVE DATE: This rule will become effective on October 19, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: Jacqueline R. Lewis, 3AT13, at the above listed EPA Region III address. Phone (215) 597–6863.

SUPPLEMENTARY INFORMATION: On May 5, 1992, EPA published a Notice of Proposed Rulemaking (NPR) for a revision to the West Virginia SIP. The NPR proposed approval of amendments to Series 21, 23, and 24 of the regulations of the West Virginia Air Pollution Control Commission (WVAPCC) (57 FR 19271). The formal SIP revision was submitted by the WVAPCC on June 4, 1991.

Background

On November 8, 1989, EPA sent a "SIP call" letter to Gaston Caperton, Governor of West Virginia, notifying him that the West Virginia SIP was substantially inadequate to achieve the National Ambient Air Quality Standard (NAAQS) for ozone n Putnam, Kanawha, and Greenbrier Counties. Through a SIP call, EPA makes a finding that the SIP does not provide for attainment of the NAAQS and EPA requires the State to revise the SIP to correct the inadequacies. In response to the SIP call letter, the state was required to: (1) Correct identified deficiencies in the existing SIP's VOC regulations, (2) adopt VOC regulations previously required or committed to but never adopted, and (3) update the areas' based year emissions inventory. On December 1, 1989, EPA sent a letter to the Director of WVAPCC outlining specific corrections to West Virginia's existing VOC regulations necessary to eliminate the deficiencies and inconsistencies in the regulations identified in the November 8, 1989 SIP call.

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to section 107(d) of the Act, the counties of Greenbrier, Putnam, Kanawha, Cabell, Wayne, and Wood were designated as ozone nonattainment areas in a November 6, 1991 **Federal Register** Notice, with an effective date of January 6, 1992 (56 FR 56694). Putnam, Kanawha, Cabell, Wayne, and Wood Counties are classified as moderate ozone nonattainment areas. Greenbrier County is classified as a marginal nonattainment area. Fayette County, which includes the Valley Magisterial District, is designated unclassifiable/attainment.

Under section 182(b)(2) of the Act, moderate ozone nonattainment areas must adopt RACT for sources covered by a pre- or post-amendment CTG and for major sources of VOC emissions that are not covered by a CTG. The West Virginia SIP submittal fulfills this requirement for source categories covered by three pre-amendment CTGs—bulk gasoline terminals, petroleum refineries, and storage of petroleum liquids in fixed roof tanks. Areas that are not classified as moderate (or more serious) ozone nonattainment areas are not subject to this RACT requirement. Therefore, Greenbrier and Fayette Counties (including the Valley Magisterial District) are not subject to the requirements of section 182(b)(2).

Specific requirements of the revised regulations and the rationale for EPA's

proposed action are explained in the NPR and will not be restated here. In response to the proposed rulemaking, a comment was received from the U.S. Small Business Administration (U.S. SBA). The comment and EPA's response are summarized below.

Public Comment

The U.S. SBA commented that the proposed rule indicates that compliance with the Regulatory Flexibility Act (RFA) is inadequate because no explanation was provided for EPA's certification of the proposed rule. The U.S. SBA further stated that section 605(b) of the RFA requires that the certification and statement be transmitted to the U.S. SBA Chief Counsel for Advocacy.

Response: For the reasons stated in the "Final Action" section below, EPA has complied with the requirements of section 605(b) of the RFA. Furthermore, the Small Business Administration previously waived the requirement in the RFA that EPA transmit a copy of the regulatory flexibility certification for SIP approval's to the U.S. SBA's Chief Counsel for Advocacy.

Final Action

EPA is approving a revision to the West Virginia SIP submitted on June 4, 1991, by the WVAPCC as meeting the RACT catch-up requirement of section 182(b)(2) as it applies to Putnam, Kanawha, Cabell, Wayne, and Wood Counties. In addition, EPA is approving the June 4, 1991, submittal as strengthening the SIP as it applies to Greenbrier County and the Valley Magisterial District of Fayette County. This revision includes amendments to the following WVAPCC regulations: Series 21, "Regulations to Prevent and Control Air Pollution From the Emissions of Volatile Organic Compounds From the Storage of Petroleum Liquids in Fixed Roof Tanks," Series 23, "Regulations to Prevent and Control Air Pollution From the Emissions of Volatile Organic Compounds From the Bulk Gasoline Terminals," and Series 24, "Regulations to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds from Petroleum Refinery Sources." These amendments are designed to make the regulations consistent with EPA guidance.

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

Under 5 U.S.C. section 605(b), the Administrator certifies that SIP approvals under sections 107, 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. SIP approvals do not create any new requirements but simply approve requirements that are already State law. SIP approvals, therefore, do not add any additional requirements for small entities. Moreoever, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis for a SIP approval would constitute Federal inquiry into the economic reasonableness of the State actions. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds.

This action has been classified as a Table 3 action for signature by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, approving West Virginia's RACT requirements on Series 21, 23, and 24, relating to fixed roof tanks, bulk gasoline terminals, and petroleum refinery sources, respectively, as a SIP revision, must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 1, 1992.

Edwin B. Erickson,

Regional Administrator, Region III.

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

PART 52 [AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(25) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(25) Revisions to the State Implementation Plan submitted by the West Virginia Air Pollution Control Commission, which define and impose RACT to control volatile organic compound emissions from bulk gasoline terminals, petroleum refineries, and storage of petroleum liquids in fixed roof tank facilities.

(i) Incorporation by reference.

(A) A letter from the West Virginia Air Pollution Control Commission dated June 4, 1991, submitting a revision to the West Virginia State Implementation Plan.

(B) Amendments to Series 21, 23, and 24 of the regulations of the West Virginia Air Pollution Control Commission, submitted June 4, 1991, and effective May 6, 1991.

(ii) Additional materials.

(A) The nonregulatory portions of the state submittal.

[FR Doc. 92–22302 Filed 9–16–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 400

Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance

AGENCY: Administration for Children and Families (ACF), HHS, Office of Refugee Resettlement.

ACTION: Final rule.

SUMMARY: This rule amends current rules to continue a duration of 8 months for the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) in Federal FY 1993. Under current regulations, the duration of RCA and RMA reverts to 12 months on October 1, 1992. Changing current policy by regulation is necessary to avoid the needless litigation which would likely occur if a reduction in RCA and RMA coverage were implemented outside the regulatory process. If a regulation is not issued, funds for RCA and RMA are expected to be insufficient under current policy to provide support during the latter months of FY 1993, seriously jeopardizing the health and welfare of an estimated 30,000 refugees who are not eligible for AFDC, Medicaid, or SSI.

EFFECTIVE DATE: October 1, 1992.

ADDRESSES: Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo A. Biddle, (202) 401-9253.

SUPPLEMENTARY INFORMATION:

Background

Current regulations at 45 CFR 400.203(b) and 400.204(b) provide for Federal refugee funding, subject to the availability of funds, to be provided to States for the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) "during the 12-month period (except during Federal FY 1992, 8-month period) beginning with the first month the refugee entered the United States."

Description of the Proposed Regulation

The Department expects that funds will not be sufficient in FY 1993 to provide RCA and RMA for more than the 8-month level currently in effect for FY 1992. The Department anticipates that appropriations for the refugee program for FY 1993 will not exceed the FY 1992 appropriation level, which is sufficient for only 8 months of RCA and RMA, and, therefore, will not be sufficient to sustain a 12-month RCA/RMA eligibility period to which the program would revert in FY 1993 in the absence of additional regulatory action.

Subject to the availability of funds, the Department expects to continue the RCA/RMA eight-month eligibility period during a transition period to the new Private Resettlement Program (PRP) as approved in the report accompanying the House-passed appropriations bill, H.R. Rep. No. 708, 102d Congress, 2d Sess. 116-117 (1992). If necessary, the Department intends to issue a second regulation to accommodate FY 1993 funding levels.

The Department considers it of the utmost importance to provide refugee support at a level that does not exceed available funds. Failure to do so would result in an insufficient level of support during the latter months of FY 1993, seriously jeopardizing the health and welfare of an estimated 30,000 needy refugees who are not eligible for AFDC, Medicaid, or SSI.

This rule will address this issue by continuing the current 8-month period of RCA/RMA eligibility, and therefore reducing costs, during FY 1993 in order to help assure the availability of refugee cash and medical support during the remainder of the year.

Consistent with the preceding actions, 45 CFR 400.2, 400.60(b), 400.100(b), 400.203(b), 400.204(b), and 400.209(b) are being amended to continue the duration of RCA and RMA for a refugee's first 8 months in the U.S. during FY 1993.

Justification for Dispensing With Notice of Proposed Rulemaking

A period of public comment is not being provided because it would be impracticable, unnecessary, and not in the public interest for the following reasons:

In FY 1992, Congress appropriated $234 million to fund cash and medical assistance provided to refugees, which enabled ORR to make RCA and RMA available during a refugee's first 8 months in the United States. While the appropriations process for FY 1993 is not yet completed, the report accompanying the House-passed appropriations bill substantially reduces the amount that could be used for similar purposes in FY 1993.

ORR must necessarily base its FY 1993 RCA/RMA time-eligibility period on the reasonable and historically supported assumption that Congress will not increase ORR's FY 1993 appropriations for RCA/RMA over the FY 1992 appropriations level. Therefore, based on all available evidence and with past experience as a guide, ORR does not anticipate a final appropriations level which will permit RCA and RMA to be provided to an eligible refugee for a period greater than 8 months in FY 1993.

Given the current time constraints, it is impracticable to consider other options through the rulemaking process without adversely impacting the public interest in avoiding the premature exhaustion of funds and having a finite amount equitably distributed throughout the fiscal year. Because there is a continuing flow of refugees into the United States and because States are continually incurring costs for RCA and RMA, any delays in maintaining an 8-month period of time-eligibility in FY 1993 will create a dire situation. If this final regulation is not published immediately, the time-eligibility period will revert back to 12 months on October 1, 1992, with the harsh result that when the FY 1993 appropriation runs out, the assistance that refugees are currently receiving will be abruptly terminated and refugees arriving after that point in time will receive no Federal refugee assistance. Accordingly, the Secretary finds good cause for issuance of an immediately effective final rule.

Regulatory Procedures

Regulatory Impact Analysis

Under Executive Order 12291, we must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation does not meet the definition of a "major" regulation because it does not have a $100 million annual impact.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule does not contain collection-of-information requirements.

Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9), authorizes the Secretary of HHS to issue regulations needed to carry out the program.

(Catalogue of Federal Domestic Programs: 93.026, Refugee and Entrant Assistance—State-Administered Programs)

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

Dated: August 8, 1992.

JoAnne B. Barnhart,

Assistant Secretary for Children and Families.

Approved: August 28, 1992.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR part 400 is amended as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.2 [Amended]

2. Section 400.2 is amended in the definitions of "Refugee cash assistance" and "Refugee medical assistance" by removing the words "(except during Federal FY 1992, less than an 8-month period)" and by inserting in their place "(except during Federal FY 1993, less than an 8-month period)".

§§ 400.60(b) and 400.100(b) [Amended]

3. Sections 400.60(b) and 400.100(b) are amended by removing the words "(except during Federal FY 1992, 8-month period)" and inserting in their place "(except during Federal FY 1993, 8-month period)".

§§ 400.203(b) and 400.204(b) [Amended]

4. Sections 400.204(b) and 400.203(b) are amended by removing the words "(except during Federal FY 1992, 8-month period)" and inserting in their place "(except during Federal FY 1993, 8-month period)".

§ 400.209(b) [Amended]

5. Section 400.209(b) is amended by removing the words "(except during Federal FY 1992, 8 months)" and inserting in their place "(except during Federal FY 1993, 8 months)".

[FR Doc. 92-22542 Filed 9-16-92; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 920400-2100]

Pacific Coast Groundfish Fishery

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

ACTION: Closure and request for comments.

SUMMARY: NOAA announces a prohibition on further processing at sea of Pacific whiting. This action is necessary to provide adequate amounts of whiting for delivery to shorebased processors and to achieve the allocations adopted for 1992.

DATES: Effective from 1400 hours (local time) September 12, 1992, until modified, superseded, or rescinded. Comments will be accepted through October 2, 1992.

ADDRESSES: Submit comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN-C15700, Seattle, Washington 98115-0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd; Suite 4200, Long Beach, California 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526-6140; or Rodney McInnis at (310) 980-4040.

SUPPLEMENTARY INFORMATION: The emergency interim rule allocating the 1992 Pacific whiting resource at 50 CFR 663.23(b)(5) (57 FR 13661, April 17, 1992, extended at 57 FR 32181, July 21, 1992) initially limited the amount of the 1992 Pacific whiting (whiting) harvest guideline of 208,800 metric tons (mt) that could be processed at sea, in the exclusive economic zone off the coasts of Washington, Oregon and California (fishery management area), to 98,000 mt, with 80,000 mt set aside for shoreside processing and the remaining 30,000 mt set aside as a reserve. At-sea processors took 98,979 mt before they were closed on May 6, 1992; the 179 mt overage was deducted from the reserve. The remainder of the reserve of whiting (29,821 mt) was released for at-sea processing on September 4, 1992 (57 FR 40136, September 2, 1992), increasing the limit for at-sea processing from 98,800 mt to 128,800 mt. Additional amounts of whiting may be made available for at-sea processing on October 1, 1992, or soon thereafter, as set forth at 57 FR 13661.

The best available information on September 9, 1992, indicates that approximately 116,000 mt of whiting had been processed at sea through September 8, 1992, and that the 128,800-mt limit for at-sea processing would be reached by 1400 hours (local time) September 12, 1992.

The regulations at 50 CFR 663.23(b)(5)(vii) state that the Secretary of Commerce will announce in the **Federal Register** when additional amounts made available for at-sea processing have been reached, at which time further at-sea processing in the fishery management area will be prohibited. Also in accordance with 50 CFR 663.23(b)(5)(vii), and in order to prevent exceeding the limits or underutilizing the resource, adjustments may be made effective immediately by actual notice to fishermen and processors, followed by publication in the **Federal Register**. The at-sea processing industry was advised of this action by "actual notice" on September 10, 1992, to avoid exceeding the limit for at-sea processing. This **Federal Register** notice confirms the action.

Secretarial Action

For the reason stated above, at 1400 hours (local time) on September 12, 1992, further at-sea processing of Pacific whiting in the fishery management area is prohibited (except for Pacific whiting that was on board the processing vessel prior to that time), and further taking and retaining, or receiving (except as cargo) of Pacific whiting by a vessel with processed whiting on board is prohibited.

Classification

This action is taken under the authority of, and in accordance with 50 CFR 663.23(b)(5)(iv) and (vii). The aggregate data upon which this action is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until October 2, 1992.

This action is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, and Recordkeeping and reporting requirements.

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

Dated: September 11, 1992.

David S. Crestin,

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

[FR Doc. 92-22394 Filed 9-11-92; 4:03 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 181
Thursday, September 17, 1992

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1033, 1036, and 1049

[Docket Nos. AO-166-A61, AO-179-A56; and AO-319-A39; DA-90-015]

Milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania and Indiana Marketing Areas; Extension of Time for Filing Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the time for filing exceptions to a recommended decision issued July 30, 1992, concerning proposed amendments to the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Indiana milk marketing orders. Counsel for a group of proprietary handlers requested the additional time to complete exceptions to the recommended decision.

DATES: Exceptions now are due on or before October 2, 1992.

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

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 720-2357.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding:

Notice of Hearing: Issued July 25, 1990; published July 31, 1990 (55 FR 31056).

Notice of Reconvened Hearing: Issued August 21, 1990; published August 23, 1990 (55 FR 34509).

Recommended Decision: Issued July 30, 1992; published August 13, 1992 (57 FR 36536).

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Indiana marketing areas which was issued July 30, 1992, is hereby extended from September 14 to October 2, 1992.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Dated: September 14, 1992.

Daniel Haley,
Administrator.

[FR Doc. 92-22549 Filed 9-14-92; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1413

RIN 0560-AC73

Common Provisions for the 1993 Wheat, Feed Grains, Cotton, and Rice Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Act of 1949 (1949 Act) sets forth numerous discretionary provisions that may be implemented by the Commodity Credit Corporation (CCC) with respect to the 1993 crops of wheat, feed grains, upland and Extra Long Staple (ELS) cotton, and rice. CCC proposes to make the following program determinations with respect to the price support and production adjustment programs: (a) The types of crops that may not be planted on "flexible acreage"; (b) targeted option payments (TOP); (c) allowing the planting of designated crops on up to one-half of the reduced acreage; (d) allowing the planting of oats on wheat and feed grains acreage conservation reserve (ACR); (e) planting of conserving crops on ACR; (f) allowing alternatives crops on conserving use acreage for payment; and (g) whether producers of malting barley should be exempt from complying with the acreage reduction requirements and maintain eligibility for feed grain loans, purchases, and payments. This proposed rule sets forth CCC's proposed action regarding these determinations.

DATES: Comments must be received on or before October 19, 1992 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to Deputy Administrator, Policy Analysis, P.O. Box 2415, Washington, DC 20013-2415, telephone number 202-702-7583.

FOR FURTHER INFORMATION CONTACT: James A. Langley, Senior Policy Analyst, Office of the Deputy Administrator, Policy Analysis, U.S. Department of Agriculture (USDA), Agricultural Stabilization and Conservation Service, room 3090-S, P.O. Box 2415, Washington, DC 20013-2415 or call 202-690-0445.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of the implementation of each option is available on request from the above-named individual.

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of the proposed rule are not retroactive and preempt State laws only to the extent such provisions are inconsistent with State laws. Before any judicial action may be brought concerning these provisions, the administrative appeal remedies at 7 CFR part 780 must be exhausted.

The titles and numbers of the Federal assistance programs, as found in the catalog of Federal Domestic Assistance, to which this final rule applies are as follows:

Titles	Numbers
Commodity loans and purchases	10.051
Cotton production stabilization	10.052

Titles	Numbers
Feed grains production stabilization	10.055
Wheat production stabilization	10.058
Rice production stabilization	10.065

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The amendments to 7 CFR 1413 set forth in this proposed rule do not contain information collections that require clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

Background

This proposed rule would amend 7 CFR part 1413 to set forth the determination of whether certain discretionary provisions of the 1949 Act will be implemented and, if implemented, the manner in which implementation would be made.

Accordingly, the following program determinations are proposed to be made with respect to the provisions that are applicable to the 1993 crops of wheat, feed grains, upland and ELS cotton, and rice:

A. The Types of Crops That May Not Be Planted on Flexible Acres

Section 504 of the 1949 Act states that producers may plant crops other than the program crop on up to 25 percent of any participating crop acreage base. This acreage is known as "flexible" acreage.

Crops that may be planted on flexible acreage are: (1) Any program crop; (2) any oilseed crop; (3) any other crop, except any fruit or vegetable crop (including potatoes, dry edible beans, lentils and peas); and (4) mung beans. The planting of certain fruits or vegetables may be permitted if such crop is an industrial or experimental crop, or if no substantial domestic production or market exists for the crop. The planting of any crop on flexible acres may also be prohibited.

CCC intends to permit the same crops to be grown on flexible acreage in 1993 as were allowed in 1992. however, CCC will consider adding or removing crops to the list of prohibited crops that is set forth at 7 CFR 1413.11(b)(4).

B. Whether the TOP Will Be Implemented

Sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the 1949 Act, with respect to wheat, feed grains, upland cotton, or rice, provide that if an acreage limitation program is in effect, the Secretary may offer producers the option of increasing or decreasing the acreage reduction level, within certain restrictions, with a corresponding decrease or increase in the target price. The target price may be decreased or increased by not less than 0.5 percent nor more than 1 percent for each percentage point change in the acreage reduction level. The acreage limitation requirement cannot be increased by more than 15 percentage points or above 25 percent total for wheat; by more than 10 percentage points or above 20 percent of the total for feed grains; by more than 10 percentage points or above 25 percent of the total for cotton; and by more than 5 percentage points for rice. The decrease in the acreage limitation requirement for all crops cannot be more than one-half of the announced acreage limitation percentage.

The Secretary shall, to the extent practicable, ensure that the TOP does not have a significant effect on program participation, total production or budget outlays.

It is proposed that this provision not be implemented for the 1993 crops.

C. Whether To Permit the Planting of Designated Crops on up to Half of the Announced Acreage Reduction

Sections 107B(e)(2)(F)(i), 105B(e)(2)(F)(i), 103B(e)(2)(F)(i), and 101B(e)(2)(F)(i) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, provide that the Secretary may permit producers to plant a designated crop on not more than one-half of the reduced acreage on the farm.

The designated crops may be: (a) Any oilseed crop; (b) any industrial or experimental crop designated by CCC; and (c) any other crop, except any fruit or vegetable (including potatoes and dry edible beans), not designated by the Secretary as (i) an industrial or experimental crop, or (ii) a crop for which no substantial domestic production or market exist. In addition, program crops may not be planted on the reduced acreage on the farm.

If producers on a farm elect to plant a designated crop, the amount of deficiency payments that the producers are otherwise eligible to receive shall be reduced, for each acre that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate. Such reductions in deficiency payments must be sufficient to ensure that this provision does not increase CCC outlays.

Comments on whether this provision should be implemented for the 1993 crops are requested.

D. Whether To Permit the Planting of Oats on ACR

In any crop year that it is determined that projected domestic production of oats will not fulfill the projected domestic demand for oats, CCC: (A) May provide that acreage designated as ACR under the wheat and feed grains programs may be planted to oats for harvest under sections 107B(e)(8) and 105B(e)(8) of the 1949 Act; (b) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 105B of the 1949 Act for oats planted on ACR; and (c) shall not make program benefits other than the benefits specified in (b) available to producers with respect to acreage planted to oats under this provision.

It is proposed that the planting of oats on wheat and feed grains ACR for harvest not be permitted for the 1993 crops.

E. Whether To Permit Conserving Crops To Be Planted on ACR

Under sections 107B(e)(4)(B)(iii), 105B(e)(4)(B)(iii), 103B(e)(4)(B)(iii), and 101B(e)(4)(B)(iii) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, producers may be authorized to plant all or any part of the ACR to be planted to castor beans, crambe, sweet sorghum, guar, sesame, plantago ovato, triticale, rye, mung beans, milkweed or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program and will not adversely affect farm income.

It is proposed that this provision not be implemented for the 1993 crops.

F. Alternative Crops on Conserving Use Acres

Under sections 107B(c)(1)(F)(i), 105B(c)(1)(F)(i), 103B(c)(1)(E)(i), and 101B(c)(1)(E)(i) of the 1949 Act, with

respect to wheat, feed grains, upland cotton, and rice, producers may be authorized to plant all or any part of acreage otherwise required to be devoted to conserving uses as a condition of qualifying for payment under the 0/92 or 50/92 provisions to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, or commodities grown for experimental purposes (including kenaf and milkweed). The Secretary may permit these crops to be planted on conserving use acres only if the Secretary determines that the production is not likely to increase the cost of the price support program, is needed to provide an adequate supply of the commodities, or is needed to encourage domestic manufacture of industrial raw materials derived from these crops.

Comments on whether this provision should be implemented for the 1993 crops are requested.

G. Malting Barley Exemption From Acreage Reduction Requirements

Under section 105B(p) of the 1949 Act with respect to feed grains, the Secretary may exempt producers of malting barley, as a condition of eligibility for feed grain loans, purchases and payments, from complying with the acreage reduction requirements.

It is proposed that malting barley not be exempted from the feed grain acreage reduction requirements for the 1993 crop.

Accordingly, comments are requested with respect to these foregoing issues.

List of Subjects in 7 CFR Part 1413

Cotton, Feed grains, Price support programs, Rice, Wheat.

Accordingly, it is proposed that 7 CFR part 1413 be amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 1413.11, paragraph (b)(4)(iii) is added to read as follows:

§ 1413.11 Planting flexibility.

* * * * *

(b) * * *

(4) * * *

(iii) For 1993, any other crop with the exception of those crops listed in paragraphs (b)(4)(i) and (b)(4)(ii) of this section.

* * * * *

3. In § 1413.54, paragraphs (b) and (e) are revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

* * * * *

(b) Targeted option payments shall not be available with respect to the 1991, 1992, and 1993 crops of wheat, feed grains, upland cotton, and rice.

* * * * *

(e) With respect to the 1991, 1992, and 1993 crop years, in order to receive feed grain loans, purchases and payments in accordance with this part and part 1421 of this title, producers of malting barley must comply with the acreage reduction requirements of this part.

* * * * *

Signed September 11, 1992, at Washington, DC.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–22548 Filed 9–16–92; 8:45 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 26, 70 and 73

RIN: 3150–AD30 and 3150–AD68

Physical Fitness Programs and Day Firing Qualifications for Security Personnel at Category I Licensee Fuel Cycle Facilities and Fitness-for-Duty Requirements for Licensees Who Possess, Use, or Transport Category I Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: On December 13, 1991, the Nuclear Regulatory Commission (NRC) published a proposed rule (56 FR 65204) that would amend security personnel performance regulations in 10 CFR Part 73 for fuel cycle facilities possessing formula quantities of strategic special nuclear material (Category I licensees). Certain security personnel at these facilities would be required to participate in a continuing physical fitness training program and pass an annual performance test according to new criteria. These individuals would also be required to qualify and annually requalify according to new criteria for day firing using their assigned weapons. In addition, on April 30, 1992, the NRC published a proposed rule (57 FR 18415) that would amend 10 CFR Parts 26, 70, and 73 to establish fitness-for-duty requirements for licensees authorized to possess, use, or transport unirradiated formula quantity of strategic special nuclear material (Category I material).

Babcock & Wilcox, Naval Nuclear Fuel Division has requested a meeting with NRC staff to discuss their comments on these proposed rules. The Nuclear Regulatory Commission is making this meeting open to the public and is announcing it in this document.

DATES: September 17, 1992, 9 a.m.

ADDRESSES: 11555 Rockville Pike, Room: 1–F–5, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore S. Sherr, Chief, Domestic Safeguards Branch, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 504–3371.

Dated at Rockville, Maryland, this 11th day of September, 1992.

For the Nuclear Regulatory Commission.

Robert F. Burnett,

Director, Division of Safeguards and Transportation.

[FR Doc. 92–22546 Filed 9–16–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 92–18]

Risk-Based Capital: Multifamily Housing Loans

AGENCY: Office of the Comptroller of the Currency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is issuing this proposed rule to implement the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA). The purposes of this proposed rule is to permit national banks to hold less capital against certain loans secured by qualifying multifamily residential property. This proposed rule amends the risk-based capital guidelines to include in the 50% risk weight category certain loans secured by qualifying multifamily residential properties. This proposed rule also will have an effect on the risk weighting of certain privately-issued mortgage-backed securities (MBS). The proposed rule amends the risk-based

capital guidelines to permit MBSs to qualify for a 50% risk weight if at the time of origination of the MBSs, they are secured by qualifying multifamily residential property loans which have performed in accordance with the terms of the loans for at least one year.

In addition, this proposed rule amends the risk-based capital guidelines to provide that the portion of multifamily residential property loans that is sold subject to a *pro rata* loss sharing arrangement may be treated by the selling bank as sold to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a *pro rata* basis with the selling bank. The OCC notes that this provision is consistent with the current OCC policy with respect to assets sold with resources.

DATES: Comments must be received on or before October 19, 1992.

ADDRESSES: Interested persons are invited to submit written comments to Docket No. [92-18], Communications Division, Ninth Floor, Office of the Comptroller of the Currency, 250 E Street, Southwest, Washington, DC 20219. Attention: Karen Carter. Comments will be available for inspection and photocopying at that address.

FOR FURTHER INFORMATION CONTACT: Donna E. Duncan, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5070; James Wright, Community Development Specialist, Customer and Industry Affairs, (202) 874-4930; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner, (202) 874-5070; Elizabeth Milor, Financial Economist, Economic and Regulatory Policy Analysis, (202) 874-5220; or Ronald Shimabukuro, Senior Attorney, Legal Advisory Services Division, (202) 874-5330.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The OCC's risk-based capital guidelines were adopted in 1989 (codified at 12 CFR part 3, appendix A.) See 54 FR 4168 (January 27, 1989). The risk-based capital guidelines impose capital requirements based on the credit risk profiles of financial institutions. The risk-based capital guidelines implement the Agreement on International Convergence of Capital Measurement and Capital Standards of July 1988, as reported by the Basle Committee on Banking Supervision (the Basle Agreement) and were developed in cooperation with the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Board (FRB).

The risk-based capital guidelines are structured so that all assets receive a 100% risk weight unless the asset specifically qualifies for some lower risk weight category. Under the current risk-based capital guidelines, loans secured by first liens on multifamily rental properties are risk weighted at 100%.

However, 12 CFR part 3, appendix A, section 3(a)(3)(iii) specifically provides that a loan secured by a first mortgage on a one-to-four family residential property qualifies for a 50% risk weight.[1]

The purpose of this proposed rule is to implement section 618(b) of RTCRRIA, Public Law 102-233, 105 Stat. 1761 (December 12, 1991) and section 305(b)(1)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law 102-242, 105 Stat. 2236 (December 19, 1991). Section 618(b) of RTCRRIA provides that the OCC and the other federal bank supervisory agencies should implement the requirements by April 10, 1992. Because of this deadline and the potential benefit of these amendments to national banks, the OCC has made every effort to promulgate this rule as quickly as possible. Therefore, the OCC is issuing this proposed rule with a 30 day comment period. The FRB, FDIC, and the Office of Thrift Supervision (OTS) are also working on similar proposals.

The main purpose of RTCRRIA is to recapitalize the Resolution Trust Corporation. However, RTCRRIA also contains provisions relating to the capital treatment of certain single-family and multifamily residential property loans. Specifically, section 618(b) of RTCRRIA requires the OCC to promulgate regulations providing a 50% risk weight, with certain conditions, for loans secured by multifamily residential properties.

Under section 618(b)(1)(B), in order for a multifamily residential property loan to qualify for a 50% risk weight (1) the loan must be secured by a first lien on a multifamily residential property consisting of 5 or more dwelling units, (2) if the loan has a rate of interest that does not change over the term of the loan, then (A) the loan to value ratio cannot exceed 80%, and (B) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan cannot be less than 120%, (3) if the loan has a variable rate, then (A) the loan to value ratio cannot exceed 75%, and (B) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan cannot be less than 115%, (4) the loan must have a maturity of not less than seven years but not more than 30 years, (5) the loan must have been performing according to its terms for at least one year, and (6) the loan must satisfy prudent underwriting standards as established by the appropriate federal banking agency.

Section 618(b)(1) also provides that any security collateralized by a qualifying multifamily residential property loan shall be considered as a loan or security within the 50% risk weight category. In addition, section 618(b)(2) requires that the portion of any loan fully secured by a first lien on a multifamily housing property that is sold by a bank subject to a *pro rata* loss sharing arrangement shall be treated as a sale to the extent that loss is incurred by the purchaser of the loan. Furthermore, section 618(b)(3) permits the OCC discretion to treat any other loan fully secured by a first lien on a multifamily housing project sold by a bank not on a *pro rata* loss sharing arrangement as a sale and not as a recourse transaction. In addition to the requirements in RTCRRIA, section 305(b)(1(B) of FDICIA, among other things, requires the OCC to revise the risk-based capital guidelines to reflect the actual performance and expected risk of loss of multifamily mortgages.

The purpose of this proposed rule is to amend the risk-based capital guidelines to implement section 618(b)[2] of RTCRRIA and section 305(b)(1)(B) of FDICIA. Therefore, pursuant to section 618 of RTCRRIA, section 305(b)(1)(B) of FDICIA, and 12 U.S.C. 83a, the OCC is amending 12 CFR part 3, appendix A, section 3(a)(3), to include in the 50% risk weight category, certain loans fully secured by a first lien on multifamily residential properties. It should be noted that paragraph numbers of the proposed regulatory text are based on a prior notice of proposed rulemaking on the capital treatment of residential construction loans secured by presold homes. See 57 FR 12218 (April 9, 1992).

[1] Under section 3(a)(3)(iii) residential property may be either owner occupied or rented; however, the mortgage cannot be more than 90 days past due, on nonaccrual or restructured.

[2] Section 618(a) of RTCRRIA requires the OCC to promulgate regulations providing a 50% risk weight for certain loans to builders to finance the construction of one-to-four family residential construction. A notice of proposed rulemaking to implement section 618(a) was published in the Federal Register on April 9, 1992. See 57 FR 12218 (April 9, 1992).

Proposal

A. Proposed 50% Risk Weight for Multifamily Housing Loans

Currently, loans secured by multifamily residential properties consisting of five or more dwelling units are risk weighted at 100%. In order to implement section 618(b) of RTCRRIA and section 305(b)(1)(B) of FDICIA, the OCC is proposing to amend 12 CFR part 3, appendix A, section 3, by adding a new paragraph (a)(3)(v) to permit certain loans secured by multifamily residential properties to qualify for a 50% risk weight. Specifically, loans secured by multifamily residential properties qualify for a 50% risk weight subject to the following conditions:

(1) The loan must be secured by a first mortgage on a multifamily residential property consisting of five or more dwelling units;

(2) The amortization of principal and interest must not exceed 30 years;

(3) The minimum maturity for repayment of principal must not be less than seven years;

(4) All principal and interest payments must have been made on a timely basis in accordance with the terms of the loan for at least one year before the loan may qualify for a 50% risk weight;

(5) The loan cannot be more than 90 days past due or carried in nonaccrual status;

(6) The loan must be in accordance with applicable lending limit requirements and prudent underwriting standards;

(7) The multifamily residential property securing the loan must have a sustained average annual occupancy rate of at least 80% of the total units; and

(8) If the rate of interest does not change over the term of the loan, then the loan amount at origination must not exceed 80% of the appraised value of the property, and in the most recent fiscal year, the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan must not be less than 120%; or

(9) If the rate of interest changes over the term of the loan, then the loan amount at origination must not exceed 75% of the appraised value of the property, and in the most recent fiscal year, the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan must not be less than 115%.

Two general aspects of this proposed rule should be noted. First, the term "multifamily residential property" is defined as residential property [3] consisting of five or more dwelling units. This proposed rule does not place any upper limit on the number of units that can be in a multifamily residential property. The OTS risk-based capital rules already permit loans secured by multifamily residential property to qualify for a 50% risk weight. The OTS risk-based capital rules define multifamily residential property to mean residential property consisting of five to 36 units. See 12 CFR 567.1(v) and 567.6(a)(1)(iii)(B). The OCC is considering the adoption of the OTS definition of multifamily residential property. However, more data is required to distinguish the credit risks between multifamily residential properties based on the number of units.

Second, this proposed rule affects the risk weighting of private-issued MBSs by amending 12 CFR part 3, appendix A, section 3(a)(3)(iv), to permit privately issued MBSs to qualify for a 50% risk weight if, at the time the MBSs are issued, the MBSs are fully secured by mortgages that qualify for a 50% risk weight. The result of this amendment is to permit MBSs secured by multifamily residential property loans to qualify for a 50% risk weight if, at the time the MBSs are issued (rather than at the time the underlying mortgages are originated), each of the underlying multifamily residential property loans qualify for a 50% risk weight.

Currently, section 3(a)(3) includes in the 50% risk weight category:

> Privately-issued mortgage-backed securities, *i.e.*, those that do not carry the guarantee of a government or a government sponsored agency, fully secured by mortgages that, *at the time of origination*, qualify for this 50% risk weight * * *

See 12 CFR part 3, appendix A, section 3(a)(3)(iv) (emphasis added). Section 3(a)(3)(iv) permits privately issued MBSs to qualify for a 50% risk weight only if the underlying mortgages were originated. This means that with respect to the multifamily residential property loans, MBSs secured by multifamily residential property loans could never have qualified for a 50% risk weight because the underlying loans themselves could not qualify for the 50% risk weight at the time of origination. As discussed above, multifamily residential property loans do not qualify for a 50% risk weight at the time of origination; rather, multifamily residential property loans must perform in accordance with the terms of the loans for at least one year before they could qualify for the lower 50% risk weight.

The OCC believes that for prudential reasons, multifamily residential property loans should be required to perform in accordance with the terms of the loans for at least one year before qualifying for the lower 50% risk weight. However, the OCC does not believe that this requirement should prohibit MBSs secured by multifamily residential property loans from ever qualifying for the 50% risk weight. Consequently, this proposed rule would amend section 3(a)(3)(iv) to permit MBSs to qualify for a 50% risk weight if fully secured by qualifying multifamily residential property loans which have performed in accordance with their terms for at least one year.

Most of the conditions described in this proposed rule are conditions specifically imposed by section 618(b) of RTCRRIA. However, section 618(b)(1)(B)(iv) gives the OCC discretion to establish other underwriting standards consistent with the purposes of the minimum acceptable capital requirement to maintain the safety and soundness of national banks. Therefore, pursuant to section 618(b)(1)(B)(iv) and to maintain consistency with the Basle Agreement, this proposed rule would impose certain additional requirements to ensure that the more favorable 50% risk weight is warranted for qualifying multifamily residential property loans as distinguished from nonqualifying multifamily residential property loans risk weighted at 100%.

The following table gives the aggregate real estate performance figures (in percentages) of national banks for 1991.

[3] 12 CFR part 3, appendix A, section 1(c)(21) defines residential property to mean "houses, condominiums, cooperative units, and manufactured homes . . . [but] does not include boats or motor homes, even if used as a primary residence."

TABLE 1.—REAL ESTATE PERFORMANCE FOR NATIONAL BANKS (1991)

Type of loan	Volume of loans (thousands of dollars)	Charge-offs	Recoveries	Net charge-offs	Past due (30 to 90 days)	Past due (Over 90 days)	Non-accrual	Non-performing
Secured by multifamily	14,168,747	2.52	0.08	2.44	2.84	0.73	6.04	6.77
Secured by 1-4 family residential	251,686,223	0.20	0.02	0.17	1.73	0.43	1.07	1.50
Construction and land development	62,325,535	4.12	0.12	4.00	4.75	1.19	15.40	16.59
Secured by farmland	7,061,018	0.56	0.12	0.44	1.33	0.40	3.57	3.96
Secured by nonfarm nonresidential	144,340,290	1.57	0.08	1.49	2.88	0.47	6.46	6.92
Total loans secured by real estate	479,581,813	1.19	0.06	1.14	2.50	0.55	4.74	5.29

Amounts given as percentages unless otherwise specified. Charge-offs and recoveries are for full year 1991. All other data as of December 31, 1991. Domestic offices, all national banks. Primary data as of December 31, 1991.

Source Reports of Condition and Income (Call Reports). Compiled by OCC Banking Research & Statistics (March 18, 1992).

As indicated by the data in Table 1, the net charge-off rate for multifamily residential property loans by all national banks for 1991 was 2.44% of total multifamily residential property loans outstanding. The percentage of multifamily residential property loans that were 90 days or more past due as of December 31, 1991, was 0.73%. The percentage of multifamily residential property loans that were in nonaccrual status as of that same date was 6.04%.

By contrast, the net charge-off rate for qualifying single-family residential property loans in the 50% risk weight category, for 1991, was only 0.17% of the total qualifying single-family residential property loans outstanding. Qualifying single-family residential property loans that were 90 days or more past due or in nonaccrual status as of December 31, 1991, were 0.43% and 1.07%, respectively.

The next charge-off rates indicate that the overall credit risk for multifamily residential property loans is significantly greater than the credit risk for qualifying single-family residential property loans. Notwithstanding the relatively greater credit risk, certain multifamily residential property loans can merit a 50% risk weight if they are well-secured, demonstrate consistent good performance, and conform with prudent underwriting standards.

In addition, the OCC believes that certain other requirements are necessary to make the proposed rule consistent with the Basle Agreement. Under the Basle Agreement, "loans fully secured by mortgages on residential property which is rented or is (or is intended to be) occupied by the borrower" may be assigned a 50% risk weight. *See* Paragraph 41, Basle Agreement. However, the Basle Agreement also cautions that the bank supervisory authorities should apply the "concessionary [50%] weight * * * restrictively for residential purposes and in accordance with strict prudential criteria. This may mean, for example, that in some member countries the 50[%] weight * * * will only be applied where strict, legally-based, valuation rules ensure a substantial margin of additional security over the amount of the loan." *Id.* For these reasons, and for the reasons discussed below, the OCC is adopting certain additional underwriting requirements beyond the requirements specified by section 618 of RTCRRIA.

While RTCRRIA provides specific minimum loan-to-value ratios for qualifying multifamily residential property loans (based on whether the interest rate is fixed or variable), section 618(b) is unclear as to when the bank must attain these loan-to-value ratios. This proposed rule would require that the bank meet these loan-to-value ratios at the time of the origination of the loan. Prudent real estate loan underwriting dictates that a borrower have a substantial equity interest in the property to demonstrate a commitment to repay the loan.

Where the borrower has a substantial equity commitment in the property, the risk of losing this equity interest provides strong motivation for the borrower to properly service the loan. Therefore, the loan-to-value ratio at the time of origination of the loan is an important factor in determining whether the multifamily residential property loan qualifies for a 50% risk weight. This requirement is consistent with the OTS risk-based capital rules for thrift institutions. *See* 12 CFR 567.1(v).

A borrower can build equity over time as the principal amount of the loan is repaid or if the appraised value of the property securing the loan increases. Conversely, the equity of the borrower can also decline if the appraised value of the property declines. In view of these possibilities, the OCC is considering whether a multifamily residential property loan that does not satisfy the applicable loan-to-value ratio at the time of origination may qualify for a 50% risk weight at some later time during the life of the loan. The OCC also is considering whether a multifamily residential property loan that satisfies the applicable loan-to-value ratio at the time of origination, but subsequently does not, should be ineligible for a 50% risk weight.

Section 618(b)(1)(B)(iii)(III) requires timely payment of all principal and interest in accordance with the terms of the loan in order to qualify for a 50% risk weight. A borrower may have made all scheduled payments for the past 12 months but may have missed several scheduled payments in previous periods that remain unpaid under the existing loan terms. In addition, a situation may occur (such as a sudden significant increase in the vacancy rate) that indicates that full payment of principal and interest will not be made, notwithstanding past repayment experience, cash flow, and occupancy rates. As a result, in addition to the one year timely payment requirement, the OCC is requiring that the multifamily residential property loan cannot be more than 90 days past due or in nonaccrual status. This condition is consistent with the risk-based capital requirements for qualifying single-family residential property loans. See 12 CFR part 3, appendix A, section 3(a)(3)(iii).

This proposed rule also would require that multifamily residential property securing the loan have a sustained average annual occupancy rate of at least 80% of the total number of units. This provision complements the annual net income requirement in section 618(b)(1)(B). While a high occupancy rate by itself does not guarantee that the multifamily residential property will generate sufficient cash flow to service a loan secured by the property, the combination of cash flow and occupancy rate requirements increases the probability that the loan will be repaid. The OCC believes that the occupancy rate requirement further ensures that only multifamily residential property loans of high credit quality will qualify for a 50% risk weight. This

requirement is consistent with the current OTS risk-based capital rules for thrift institutions. See 12 CFR 567.1(v).

Finally, this proposed rule would require that a multifamily residential property loan be made in accordance with the applicable legal lending limit as well as other prudent underwriting standards. The legal lending limit promotes risk diversification and thereby avoids undue concentrations of credit with a single borrower. Bank compliance with prudent underwriting standards likewise will manage and control the credit risks inherent in the lending process. These requirements are also necessary to maintain consistent treatment with one-to-four family residential property loans under the risk-based capital guidelines. As with any other type of loan, the bank must maintain sufficient documentation on each multifamily residential property loan to permit OCC examiners to determine that the loan qualifies for a 50% risk weight.

B. Recourse Arrangements

This proposed rule would permit the portion of multifamily residential property loans that is sold subject to a *pro rata* loss sharing arrangement to be treated by the selling bank as sold to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a *pro rata* basis with the selling bank. This provision is required by section 618(b)(2) of RTCRRIA, which provides that any loan fully secured by a first lien on a multifamily housing project that is sold is subject to a *pro rata* loss sharing arrangement shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. Section 618(b)(2) further defines *pro rata* loss sharing arrangement as an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a *pro rata* basis.

While sales treatment is required by section 618(b)(2) for that portion of multifamily residential property loans sold on a *pro rata* loss sharing basis, the OCC notes that this statutory requirement restates the current OCC policy on assets sold with recourse. Under the risk-based capital guidelines, the definition of the sale of assets with recourse is adopted from the definition of the sale of assets with recourse is adopted from the definition contained in the instructions to the Reports of Condition and Income (Call Reports). See 12 CFR part 3, appendix A, section 3(b)(1)(iii) (footnote 14). Specifically, the instructions to the Call Reports state:

> if the risk retained by the seller is limited to some fixed percentage of any loss that might be incurred and there are no other provisions, resulting in retention of risk, either directly or indirectly, by the seller, the maximum amount of possible loss for which the selling bank is at risk (the stated percentage times the sale proceeds) shall be reported as a borrowing and the remaining amount of the assets transferred reported as a sale.

See Call Report, Glossary—Sale of Assets: Interpretation and illustrations of the general rule ¶ 2, A–50 (5–89). Therefore, the sale of a loan fully secured by a first lien on a multifamily residential property is accorded sales treatment and not treated as recourse to the extent that loss is shared proportionately by the purchaser of the loan.

Section 618(b)(3) of RTCRRIA also permits the OCC to consider other loss sharing arrangements (besides *pro rata* loss sharing arrangements) in connection with the sale of a loan fully secured by a multifamily residential property. As explained above, the risk-based capital guidelines do not provide a separate recourse rule for the sale of multifamily residential property loans. At this time, the OCC is not adopting any other loss sharing arrangement specifically regarding the sale of multifamily residential property loans. Instead, this proposed rule would amend 12 CFR part 3, appendix A, section 3(a)(3), to make clear that with respect to recourse arrangements other than on a *pro rata* loss sharing basis the sale of multifamily residential property loans is accorded the same capital treatment as the sale of any other type of loan.

As to the general capital treatment of asset sales with recourse, two proposals have been published. On October 17, 1990, the OCC published in the Federal Register a notice of proposed rulemaking (NPRM) to amend the risk-based capital guidelines. See 55 FR 42017 (October 17, 1990). In particular, the OCC proposed to amend 12 CFR part 3, appendix A, section 3(b)(1)(iii) (footnote 14), to clarify that assets sold with recourse may be subject to the risk-based capital provisions for off-balance sheet activities even if the transaction qualifies for sales treatment under the Call Report instructions. See *id.* at 42019–42020. However, the NPRM also proposed an exception for mortgage sales in which the bank retains insignificant recourse and meets certain other conditions. See *id.* In addition to the NPRM issued by the OCC, on June 29, 1990, the Federal Financial Institutions Examination Council (FFIEC) also published in the Federal Register, a request for comment concerning the overall treatment of asset sales with recourse. See 55 FR 26766 (June 29, 1990).

C. Issues for Specific Comment

The OCC invites comments on all aspects of this proposed rule; however, the OCC is particularly interested in comments on the following specific issues:

(1) Should there be a restriction on the maximum number of units a multifamily residential property can have before it can qualify for a 50% risk weight?

(2) What should be the proper treatment for MBSs secured by qualifying multifamily residential property loans?

(3) Should multifamily residential property loans that do not satisfy the appropriate loan-to-value ratio at the time of origination be permitted to do so at some later time?

(4) Should a multifamily residential property loan that satisfies the applicable loan-to-value ratio at the time of origination, but subsequently does not, be thereafter ineligible for a 50% risk weight?

(5) Is the 80% occupancy rate requirement for the multifamily residential property securing the loan appropriate?

(6) Will this proposed rule assist organizations in their ability to provide low and moderate-income multifamily housing (rehabilitated or new construction)?

(7) Are there any other loss sharing arrangements, other than *pro rata* loss sharing, that should be permitted to qualify for sales treatment?

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is hereby certified that this proposed rule, if adopted as a final rule, will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

This proposed rule reduces the amount of capital required to be maintained by national banks for qualifying multifamily residential property loans. However, lowering the capital requirements for these types of loans should not significantly impact national banks, regardless of size. Nonetheless, the OCC believes that this proposed rule, if adopted as a final rule, will reduce somewhat the cost of bank operations. In addition, this proposed rule would affect all national banks and would not have a disproportionate effect on small banks.

Executive Order 12291

The OCC has determined that this proposed rule does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a regulatory impact analysis is not required. This proposed rule will reduce the amount of capital required to be maintained by national banks for qualifying multifamily residential property loans. However, lowering the capital requirements for these types of loans should not significantly impact national banks, regardless of size. Nonetheless, the OCC believes that this proposed rule will reduce somewhat the cost of bank operations.

List of Subjects in 12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

Authority and Issuance

For the reasons set forth in the preamble, appendix A of title 12 chapter I, part 3 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 3—AMENDED

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

Authority: 12 U.S.C. 93a, 161, 1818, 1831n note, 3907, 3909.

2. In appendix A, section 3, paragraph (a)(3)(v) is redesignated as paragraph (a)(3)(vi), the introductory text of new by designated paragraph (a)(3)(vi) is revised, and a new paragraph (a)(3)(v), including new footnote 11a, is added, to read as follows:

Appendix A—Risk—Based Capital Guidelines

* * * * *

Section 3. Risk Categories/Weights for On-Balance Sheet Assets and Off-Balance Sheet Items

* * * * *

(a) * * *

(3) * * *

(v) Loans secured by a first mortgage on multifamily residential properties consisting of five or more units, provided: [11a]

(A) The amortization of principal and interest occurs in not more than 30 years;

(B) The minimum maturity for repayment of principal is not less than 7 years;

(C) all principal and interest payments have been made on a timely basis in accordance with the terms of the loan for at least one year before the loan can qualify for a 50% risk weight, and the loan is not otherwise more than 90 days past due or on nonaccrual status;

(D) The loan is made in accordance with applicable lending limit requirements and prudent underwriting standards;

(E) The property securing the loan has had an average annual occupancy rate of at least 80% of the total units for at least one year; and

(F) The rate of interest:

(I) Does not change over the term of the loan, and the loan amount at origination does not exceed 80% of the appraised value of the property, and in the most recent fiscal year, the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120%; or

(II) Changes over the term of the loan, and the loan amount at origination does not exceed 75% of the appraised value of the property, and in the most recent fiscal year, the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115%.

(vi) Privately-issued mortgage-backed securities, *i.e.* those that do not carry the guarantee of a government or government-sponsored agency, if the privately-issued mortgage-backed securities are at the time of origination fully secured by mortgages that qualify for the 50% risk weight under section 3(a)(3) (iii), (iv) and (v) above, [12] provided that they meet the following criteria:

* * * * *

3. In appendix A, table 1, category 3, is amended by adding item 5 to read as follows:

Table 1—Summary of Risk Weights and Risk Categories

* * * * *

Category 3: 50 Percent

* * * * *

5. Assets secured by a first mortgage on multifamily residential properties.

* * * * *

[11a] The portion of multifamily residential property loans that is sold subject to a *pro rata* loss sharing arrangement may be treated by the selling bank as sold to the extent that the sales agreement provides for the purchaser of the loan to share in any loss incurred on the loan on a *pro rata* basis with the selling bank. The portion of multifamily residential property loans sold subject to any loss sharing arrangement other than *pro rata* sharing of the loss shall be accorded the same treatment as any other asset sold under an agreement to repurchase or sold with recourse under section 3(b)(1)(ii) (footnote 14).

[12] If all of the underlying mortgages in the pool do not qualify for the 50% risk weight, the bank should generally assign the entire value of the security to the 100% risk category of section 3(a)(4) of this appendix A; however, on a case-by-case basis, the OCC may allow the bank to assign only the portion of the security which represents an interest in, and the cash flows of, nonqualifying mortgages to the 100% risk category, with the remainder being assigned a risk weight of 50%. Before the OCC will consider a request to risk weight a mortgage backed security on a proportionate basis, the bank must have current information for the reporting date that details the composition and cash flows of the underlying pool of mortgages.

Dated: May 18, 1992.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 92-22305 Filed 9-16-92; 8:45 am]

BILLING CODE 4810-33-M

Office of Thrift Supervision

12 CFR Part 517

[No. 92-229]

RIN 1550-AA53

Minority, Women, and Disabled Business Outreach Program: Contracting for Goods and Services

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Proposed rule; request for comments.

SUMMARY: The Office of Thrift Supervision (OTS) intends to adopt a Minority and Women-Owned Contract Outreach Program (Outreach Program) pursuant to Section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The regulation would ensure to the maximum extent possible that business concerns owned and controlled by members of minority groups and women participate in the OTS contracting programs. It also designates the official responsible for implementing the program and its oversight.

In addition, the proposed regulation includes outreach activities for disabled business owners which are consistent with the intent of the Americans with Disabilities Act of 1990 and broader Federal guidelines pertaining to equal employment opportunity for disabled individuals.

DATES: Comments must be submitted on or before October 19, 1992.

ADDRESSES: Send comments to Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 92-229. These submissions may be hand delivered to 1700 G Street NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7753 or (202) 906-7755. Submissions must be received by 5 p.m. on the day they are due in order to be considered by the OTS. Late-filed, misaddressed or misidentified submissions will not be considered in this rulemaking. Comments will be available for inspection at 1776 G Street NW., Street Level.

FOR FURTHER INFORMATION CONTACT: Frances L. Sullivan, Director,

Procurement Management Division, (202) 906-6193, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The OTS is proposing to establish the Outreach Program, which would ensure the participation of certain designated groups in the OTS contracting program.

The OTS outreach Program applies to the contracting activities of the OTS required by section 1216(c) of FIRREA (12 U.S.C. 1833e (1990)). The FIRREA requires the OTS to prescribe regulations establishing and overseeing a minority outreach program ensuring, to the maximum extent possible, the participation of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the OTS with public or private sector contractors. The program also applies to businesses owned by individuals with disabilities consistent with the intent of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 101 Cong., 2nd Sess. (1990), 104 Stat. 327).

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the OTS certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Director of the OTS has determined that this proposal does not constitute a major rule. Therefore, a regulatory impact analysis is not required.

List of Subjects in 12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Small businesses, Women.

Accordingly, OTS hereby proposes to amend subchapter A, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

1. Part 517 is added to read as follows:

PART 517—THE MINORITY, WOMEN, AND DISABLED BUSINESS OUTREACH PROGRAM: CONTRACTING FOR GOODS AND SERVICES

Sec.
517.1 Purpose.
517.2 Definitions.
517.3 Policy.
517.4 Certification.
517.5 Contract award guidelines.

Authority: 12 U.S.C. 1833(e); 42 U.S.C. 12101 et seq.

§ 517.1 Purpose.

The purpose of the OTS Minority, Women, and Disabled Business Outreach Program (Outreach Program) is to ensure that firms owned and operated by minorities, women and disabled individuals are given the opportunity to participate to the maximum extent possible in all contracting activities of OTS.

§ 517.2 Definitions.

(a) *Minority- and/or women-owned (small and large) businesses and entities owned by minorities and women* means firms at least fifty-one (51) percent owned and controlled by one or more members of the minority group or by one or more women who are either citizens or permanent residents of the United States. In the case of publicly-owned companies, at least fifty-one (51) percent of each class of voting stock must be owned and controlled by one or more members of the minority group or by one or more women who are either citizens or permanent residents of the United States. In the case of a partnership, at least fifty-one (51) percent of the partnership interest must be owned and controlled by one or more members of the minority group or by one or more women who are either citizens or permanent residents of the United States. Additionally, the management and daily business operations must be controlled by one or more such individuals.

(b) *Minority* means any Black American, Native American, Hispanic American, Asian American, Pacific Islander, or Eskimo.

(c) *Small and large businesses and entities owned by individuals with disabilities* (the term *disability* as used in this program has the same meaning as defined in section 3 of the Americans With Disabilities Act of 1990, Pub. L. 101-336, 104 Stat. 327 (42 U.S.C. 12101 et seq.)), means firms at least fifty-one (51) percent owned and controlled by individuals with disabilities who are either citizens or permanent residents of the United States. In the case of publicly-owned companies, at least fifty-one (51) percent of each class of voting stock must be owned and controlled by individuals with disabilities who are either citizens or permanent residents of the United States. In the case of a partnership, at least fifty-one (51) percent of the partnership interest must be owned and controlled by individuals with disabilities who are either citizens or permanent residents of the United States. Additionally, the management and daily business operations must be controlled by one or more such individuals.

§ 517.3 Policy.

(a) *General.* Minority, women and disabled business concerns shall:

(1) Operate consistent with the principle of full and open competition for all the OTS contracts and the concept of contracting for the minimum agency needs at the lowest practical cost; and

(2) Not be construed to be a substitute means of procurement for the OTS's established procedural process for the procurement of goods or services.

(b) *Oversight and monitoring.* The Director of OTS shall appoint a Chairperson for the Outreach Program, who shall appoint an Outreach Program Advocate, who shall have primary responsibility for furthering the purposes of the Outreach Program.

(c) *Outreach.* (1) The Outreach Program Advocate will perform outreach activities and act as liaison between the OTS and the public on Outreach Program issues.

(2) Outreach activities include the identification and registration of minority, women-owned (small and large) businesses and entities owned by individuals with disabilities who can provide goods and services utilized by the OTS. This includes distributing information concerning the Outreach Program and providing appropriate registration materials for use by vendors and/or contractors. Identification will primarily be accomplished by:

(i) Obtaining various lists and directories maintained by other federal, state and local governmental agencies of Outreach Program businesses;

(ii) Participating in conventions, seminars and professional meetings oriented towards Outreach Programs;

(iii) Conducting seminars, meetings, workshops and various other functions; and

(iv) Monitoring to assure that OTS contracting staff understand and actively promote the Outreach Program.

§ 517.4 Certification.

In order to qualify as an Outreach Program participant, each business or contractor must either:

(a) Self-certify ownership status by filing with the OTS Outreach Program Advocate a completed and signed Solicitation Mailing List Application, Standard Form 129 (SF-129), as

prescribed by the Federal Acquisition Regulation, (48 CFR Part 53); or

(b) Submit a valid Outreach Program certification received from a federal agency, designated state or authorized local agency.

§ 517.5 Contract award guidelines.

Contracts for goods or services will be awarded in accordance with the established OTS procurement rules and policies. The OTS Outreach Program Advocate shall work to facilitate the maximum participation of minority, women-owned (small and large) businesses and entities owned by individuals with disabilities in the OTS procurement of goods or services.

Dated: June 2, 1992.

By: The Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 92-22343 Filed 9-16-92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. 89N-0507]

Obstetrical and Gynecological Devices; Classification of the Glans Cap

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify glans cap devices (previously named "short condoms" or "glans condoms") into class III. The Medical Device Amendments of 1976 (the amendments) to the Federal Food, Drug, and Cosmetic Act (the act) require FDA to classify all medical devices intended for human use into three categories: Class I (general controls); class II (special controls); and class III (premarket approval). The effect of classifying a preamendments device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) that includes information concerning the device's safety and effectiveness, after the publication under section 515(b) of the act of a final rule specifying the date by which a PMA or completed PDP must be filed with FDA.

DATES: Comments by November 16, 1992. FDA proposes that any final regulation based on this proposal become effective 30 days after its date of publication in the **Federal Register.**

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert R. Gatling, Jr., Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1220.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 3, 1979 (44 FR 19894), FDA published a proposed regulation to classify obstetrical and gynecological devices which explained the medical device classification procedures, and the activities of the Obstetrics-Gynecology Device Panel (the Panel). The proposed regulation included a proposal to classify the condom into class II (44 FR 19957). Subsequently, in the **Federal Register** of February 26, 1980 (45 FR 12710), FDA published a final rule classifying the condom (21 CFR 884.5300) into class II as a part of its final regulation to classify obstetrical and gynecological devices.

During an open meeting held on March 7, 1989, the Panel reviewed all available information concerning the classification of short condom-like devices that are known as "short condoms" or "glans condoms." The Panel noted that the classification regulation for a condom in 21 CFR 884.5300 identifies the device as "a sheath *which completely covers the penis* (emphasis added) with a closely fitting membrane." The regulation also states that the condom device is used "for contraceptive and for prophylactic purposes (preventing transmission of venereal disease)" and "to collect semen to aid in the diagnosis of infertility." Because "short condom" or "glans condom" devices do not cover the entire shaft of the penis and disclaim protecting the shaft or foreskin of the penis against infection, and because there is no safety or effectiveness data for their prophylactic use, the Panel recommended that FDA find that the "short condom" or "glans condom" is not included in the classification regulation promulgated for condom devices. FDA concurs with this recommendation.

II. Panel Recommendation

The Panel made the following recommendations with respect to the classification of the glans cap:

1. *Identification*: A glans cap is a sheath which covers only the glans and the area in the immediate proximity thereof, the corona and the frenulum, but not the entire shaft of the penis. It is indicated only for the prevention of pregnancy and not for the prevention of sexually transmitted diseases. The Panel strongly recommends that this device group not contain the term "condom" in its name because the term would suggest that these types of products will perform similarly to conventional condoms that cover the entire shaft of the penis. Therefore, the Panel recommends that this group of devices be called "glans cap," rather than "short condom" or "glans condom"—two of the primary names used previously to identify devices within this generic class.

2. *Recommended classification*: Class III. The Panel unanimously recommends assigning a high priority to premarket approval of the glans cap because of the absence of test and clinical data regarding the safety and effectiveness of the device and because device failure could result in release of semen into the vagina leading to unwanted pregnancies and transmission of disease, such as acquired immunodeficiency syndrome (AIDS) caused by the human immunodeficiency virus (HIV) from HIV-infected semen. For women for whom pregnancy is contraindicated due to medical conditions such as heart disease or diabetes mellitus, the risk of an unwanted pregnancy can be severe, even life threatening.

3. *Summary of reasons for recommendation*: The Panel recommends that the glans cap be classified into class III because no published studies or clinical data can be found demonstrating the safety and effectiveness of the device. References to this type of device in the literature describe it as an unsafe method of contraception (Refs. 1 and 2). Although the safety of some device characteristics, such as the biocompatibility of device materials contacting the body, could be controlled through tests and specifications, the Panel believes there is insufficient evidence that a performance standard could be established to provide reasonable assurance of the safety and effectiveness of the device. For example, no valid scientific evidence demonstrates how well or how long the

glans cap will stay on the glans during vigorous or protracted intercourse.

The Panel notes that failure of the glans cap due to breakage, leakage, or dislodgement leading to the release of semen could result in undesired pregnancies, and in the transmission of sexually transmitted diseases, such as AIDS. Thus, the Panel recommends further that the labeling of these devices include pregnancy rate information and adequate directions for use. The Panel believes that the device must be subject to premarket approval to ensure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the references cited in this notice and on the Panel members' personal knowledge of, and experience with, contraceptive methods of birth control, including barrier-type contraceptives. Additionally, the Panel found no data in the literature to support the safety and effectiveness of the device.

5. *Risks to health*: (a) Pregnancy: leakage, breakage, or dislodgement of the device during intercourse could result in the occurrence of undesired pregnancy; (b) disease transmission: if the device fails due to leakage, breakage, or dislodgement, contact with infected semen or vaginal secretions could result in the transmission of sexually transmitted diseases, including AIDS; (c) adverse tissue reaction: unless the biocompatibility of materials and substances comprising the device are tested, local tissue irritation and sensitization or systemic toxicity could occur when the glans cap contacts the glans penis or vaginal and cervical mucosa.

III. Proposed Classification

FDA agrees with the Panel's conclusions and recommendations regarding the unproven contraceptive effectiveness and the misuse of the glans cap to avoid sexually transmitted diseases. The agency has neither received nor found in the literature valid scientific evidence from laboratory tests, preclinical studies, or clinical investigations that demonstrates the biocompatibility of materials used in the glans cap, or that measures performance characteristics, such as slippage, bursting, and tearing, or that assesses the safety and effectiveness of the device in preventing pregnancy, resulting in a reported failure or pregnancy rate based upon usage. The agency believes that the present voluntary industry standard and the agency's methodology for testing conventional condoms for pinhole leaks are not suitable for testing the glans cap for leaks without significant modification and validation.

FDA notes that the labeling of barrier contraceptive devices, such as the contraceptive diaphragm (21 CFR 884.5350) and the cervical cap (21 CFR 884.5250), identify pregnancy rates expected with use of the products. The expected failure or pregnancy rates for use of the conventional full-sheath condom are widely published. Such information is not available for the glans cap. Hence, the agency agrees with the Panel that pregnancy rate information, derived from valid clinical study data, should be included in glans cap labeling. Otherwise, the labels would fail to disclose a material fact regarding the consequences which may result from using a glans cap.

The agency concurs with the Panel's recommendation that the labeling and tradenames of glans cap devices should not contain the word "condom" since the glans cap covers only the glans and the area in immediate proximity thereof, the corona and frenulum, while a condom is defined as a sheath which completely covers the penis. Also, the agency is concerned that the use of the name "condom" to describe the glans cap device may imply that the glans cap will be as effective as a condom in the prevention of sexually transmitted diseases including AIDS. Although the glans cap is neither suitable for nor intended for prevention of disease, and although marketed devices of this type have in the past disclaimed protecting the shaft and foreskin of the penis against infection, failure of the glans cap may result in the release of infected semen into the vagina or otherwise result in the transmission of disease.

FDA believes that insufficient information exists to determine that general controls, or special controls, such as postmarket-surveillance, the development of guidelines, the establishment of a performance standard, or other actions, will provide reasonable assurance of the safety and effectiveness of the glans cap. FDA believes that the glans cap presents a potential unreasonable risk of unwanted pregnancy or infection and should, therefore, be subject to premarket approval to provide reasonable assurance of its safety and effectiveness.

FDA concurs with the Panel's recommendation that premarket approval requirements for the glans cap be given a high priority due to the public health considerations involved. Devices classified into class III by a regulation under section 513(b) of the act (21 U.S.C. 360c(b)) remain subject only to the general controls provisions of the act until an additional regulation is promulgated under section 515(b) of the act (21 U.S.C. 360e(b)) establishing an effective date of the requirement for premarket approval. Because of the lack of safety and effectiveness data, the glans cap may be improperly used as contraceptive and failure of the device can result in significant health risks. Accordingly, in the near future the agency intends to publish, pursuant to section 515(b) of the act, a proposed rule to establish the effective date of the requirement for premarket approval for the glans cap. Such a rule under section 515(b) of the act will be published soon after the effective date of a final classification regulation based on this proposed rule.

After the establishment by additional regulation of such an effective date for premarket approval, devices classified by regulation into class III may remain in commercial distribution without approved premarket approval applications, in accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a final regulation under section 515(b) of the act, whichever occurs later (21 CFR 884.3).

IV. References

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

1. "Other methods, past, present and future * * * American, or Grecian tips," in "Sex With Health The Which? Guide to Contraceptives, Abortion and Sex-related Diseases," published by Consumers' Association (British), November 1974.

2. Peel, J., and M. Potts, "The Condom," *in* "Textbook of Contraceptive Practice," Cambridge University Press, 1969, p. 58.

3. Willson, J., and E. Carrington, *Obstetrics and Gynecology*, C.V. Mosby Co., chs. 22 and 28, 1987.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this proposed classification action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Impact

FDA has carefully analyzed the economic effects of this proposed classification rule and has determined that the final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with Executive Order 12291, FDA has carefully analyzed the impact of any final rule based on this proposal and has determined that the final rule would not constitute a major rule as defined by section 1(b) of the Executive Order.

VII. Submission of Comments

Interested persons may, on or before November 16, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 884 be amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

1. The authority citation for 21 CFR part 884 continues to read as follows:

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

2. New § 884.5320 is added to subpart F to read as follows:

§ 884.5320 Glans cap.

(a) *Identification.* A glans cap is a sheath which covers only the glans and the area in the immediate proximity thereof, the corona and frenulum, but not the entire shaft of the penis. It is indicated only for the prevention of pregnancy and not for the prevention of sexually transmitted diseases.

(b) *Classification.* Class III (premarket approval).

(c) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* No effective date has been established of the requirement for premarket approval. See § 884.3.

Editorial Note: This document was received in the Office of the Federal Register on September 11, 1992.

Dated: December 24, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-22396 Filed 9-16-92; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

RIN 1212-AA58

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In a recent proposal to amend its regulation on Payment of Premiums (29 CFR part 2610), the Pension Benefit Guaranty Corporation indicated that it anticipated making the amendment effective generally as of the beginning of 1993; to meet that schedule, the comment period was limited to 45 days. The PBGC has now decided to defer the changes by a year. Accordingly, the PBGC is extending the comment period on the proposed amendment.

DATES: Comments must be received on or before November 16, 1992.

ADDRESSES: Comments may be mailed to the office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006-1860, or delivered to Suite 7200 at that address between 9 a.m. and 5 p.m. on business days. Written comments (including those submitted both heretofore and hereafter) will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 7100 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006-1860; 202-778-8850 (202-778-1958 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The regulation on Payment of Premiums (29 CFR part 2610), issued by the Pension Benefit Guaranty Corporation ("PBGC") under sections 4006 and 4007 of the Employee Retirement Income Security Act of 1974 ("ERISA"), describes (in conjunction with the PBGC's premium payment forms and instructions) how to compute and pay premiums and interest and penalties thereon.

All plans covered by the PBGC insurance system pay a flat-rate per-participant premium assessment; in addition, the premium for a single-employer plan also includes a variable rate assessment based on the value of the plan's unfunded vested benefits.

Since 1988, the premium regulation has provided two methods for determining the amount of a plan's unfunded vested benefits—the "general rule", which closely tracks the statute, and the "alternative calculation method", which requires the plan administrator to calculate the amount of the plan's unfunded vested benefits from the plan's annual report for the preceding plan year.

On April 10, 1992, the PBGC published in the **Federal Register** (at 57 FR 12666) a proposed amendment to the premium regulation. Included in the proposal were a change in the definition of the term "participant"; a new simplified filing method ("SFM") to replace the alternative calculation method ("ACM"); acceleration of the early filing date applicable to large plans and deferral of the final filing date applicable to all plans; raising the number of participants a plan must have in order to be required to make the early premium payment; widening the scope of the early payment to cover the variable rate, as well as the flat rate, portion of the premium; and charging neither penalties nor interest on early payments that equaled at least a definitely determinable amount. The preamble to the proposed amendment discussed in detail the statutory and regulatory background of the proposals as well as the proposals themselves and requested public comments. The PBGC envisioned making the proposed changes effective generally for premium payment years beginning after 1992, and in order to meet that schedule the comment period on the proposed amendment was limited to 45 days.

The PBGC has now decided to defer the changes by a year, and to make the final amendment of the premium regulation effective generally for premium payment years beginning after 1993. The deferral will provide an opportunity to consider possible additional refinements, permit a more orderly introduction of the changes, and assure a smooth and effective integration of the amended regulation with a new computerized premium accounting system capable of processing premium filings under the new premium rules. This schedule change makes it possible to accommodate a longer

comment period. Accordingly, the PBGC hereby extends the comment period on the proposed amendment until November 16, 1992.

Issued at Washington, DC, this 11th day of September, 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-22539 Filed 9-16-92; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAQPS No. CA-11-9-5342; FRL-4507-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Bay Area Air Quality Management District; San Luis Obispo County Air Pollution Control District; Santa Barbara County Air Pollution Control District; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing approval of revisions to the California State Implementation Plan (SIP) adopted by the Bay Area Air Quality Management District (AQMD) on July 12, 1989, by the San Luis Obispo County Air Pollution Control District (APCD) on July 18, 1989, by the Santa Barbara County APCD on July 10, 1990, and by the San Diego County APCD on October 16, 1990. The California Air Resources Board (CARB) submitted the Bay Area and San Luis Obispo revisions to EPA on December 31, 1990, and submitted the San Diego and Santa Barbara revisions on April 5, 1991. The revisions concern the adoption of San Luis Obispo's Rule 424, Gasoline Dispensing Facilities, Santa Barbara's Rule 316, Storage and Transfer of Gasoline, San Diego's Rule 61.0, Definitions Pertaining to the Storage and Handling of Organic Liquids, and Bay Area's Rule 8-46, Marine Tank Vessel to Marine Tank Vessel Loading. The San Luis Obispo and Santa Barbara rules regulate Stage I and Stage II gasoline vapor recovery at gasoline dispensing facilities. The San Diego rule defines terms used in other rules regulating the storage and handling of organic liquids. The Bay Area rule is a new rule that regulates emissions during the transfer of organic liquids between marine vessels (lightering). EPA has evaluated each of these rules and is proposing to approve them under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the Clean Air Act, as amended in 1990 (CAA or the Act).

DATES: Comments must be received on or before October 19, 1992.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Southern California and Arizona Rulemaking Section (A-5-3), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's Technical Support Document for each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

San Luis Obispo County Air Pollution Control District, 2156 Sierra Way, Suite B, San Luis Obispo, CA 93401

Santa Barbara County Air Pollution Control District, 26 Castillan Drive, B-23, Goleta, CA 93117

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1095

FOR FURTHER INFORMATION CONTACT: William E. Davis, Jr., Northern California, Nevada and Hawaii Rulemaking Section (A-5-4), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1183.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act) that included the San Francisco Bay Area, Santa Barbara County and San Diego County (but not San Luis Obispo County). (43 FR 8964) 49 CFR 81.305. Because these areas were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238. On May 26, 1988, EPA notified the Governor of California that the three districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. §§ 7401-7671q. In amended section 183(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

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

The San Luis Obispo County APCD is part of the South Central Coast Air Basin and is classified as an attainment area for ozone. 56 FR 56694. It was not subject to the SIP-call or to fixing RACT rules by May 15, 1991. However, the District adopted Rule 424 to help maintain the ozone standard and California has submitted it to EPA for incorporation into the SIP.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on December 31, 1990 and April 5, 1991, including the rules being acted on in this notice. This notice addresses EPA's proposed action for four (4) rules: (1) Bay Area's new Rule 8-46, Marine Tank Vessel to Marine Tank Vessel Loading, (2) San Luis Obispo's revised Rule 424, Gasoline Dispensing Facilities, (3) Santa

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

[2] The San Francisco Bay Area, Santa Barbara County, and the San Diego Area retained their designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

Barbara's revised Rule 316, Storage and Transfer of Gasoline, and (4) San Diego's revised Rule 61.0, Definitions Pertaining to the Storage and Handling of Organic Compounds. The Bay Area and San Luis Obispo rules were submitted to EPA on December 31, 1990 and were found to be complete on February 28, 1991 pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, Appendix V.[3] The Santa Barbara and San Diego rules were submitted to EPA on April 5, 1991 and were found to be complete on May 21, 1991. All four rules are being proposed for approval into the SIP.

Each of these rules controls volatile organic compound (VOC) emissions from organic liquids. VOCs contribute to the production of ground level ozone and smog. Bay Area's Rule 8-46 is a new rule controlling VOC emissions during transfer of organic liquids between marine vessels (lightering). San Luis Obispo's Rule 424 controls VOC emissions from gasoline service station operations. Santa Barbara's Rule 316 controls VOC emissions from the storage and transfer of gasoline while San Diego's Rule 61.0 supplies common definitions for several other rules controlling VOC emissions from organic liquid handling and storage. The Santa Barbara and San Diego rules were originally adopted as part of each district's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for the four rules.

EPA Evaluation and Proposed Action

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

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Techniques Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to Santa Barbara Rule 316 are the following EPA documents: EPA-450/2-77-026, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals", EPA-450/2-77-035, "Control of Volatile Organic Emissions from Bulk Gasoline Plants" and EPA-450/2-78-051, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems". For the San Luis Obispo County Rule 424, the applicable CTG is EPA document EPA-450/2-77-035, "Control of Volatile Organic Emissions from Bulk Gasoline Plants", and the document "Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations". A CTG for lightering operations covered by the Bay Area Rule 8-46 has not been developed by EPA [4] nor has a CTG been developed for the definitions covered by San Diego Rule 61.0. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

Bay Area APCD Rule 8-46, Marine Tank Vessel to Marine Tank Vessel Loading

This is a new rule which controls VOCs from marine vessel lightering and complements Bay Area's Rule 8-44, Marine Vessel Loading Terminals. (Rule 8-44 will be the subject of a separate notice.) It is estimated that implementation of Rule 8-46 will account for VOC emission reductions amounting to nearly 1,000 tons per year. The rule contains the following provisions among others:

—Sets emission limits at 2 pounds per 1000 barrels transferred or requires at least 95% control of emissions.
—Requires emission control equipment to be designed to collect and process all emissions.
—Requires certification that the equipment is leak free and gas tight and requires that work stops when leaks are detected.
—Requires that loading will cease on days predicted by the District to be in excess of NAAQS for ozone.
—Provides for compliance schedules, loading event notification, monitoring, and recordkeeping.
—References the test methods to be used for determining compliance.

San Luis Obispo County APCD Rule 424, Gasoline Dispensing Facilities

This rule revises and replaces those portions of the existing SIP Rule 407 which address delivery of gasoline to service stations. The rule provides for the control of VOC emissions from the transfer of gasoline to storage tanks at service stations (Stage I vapor control) and adds requirements for vapor control for the transfer of gasoline to motor vehicles (Stage II control). The rule includes the following significant changes from the current SIP:

—Adds leakage restrictions and methods for detection.
—Adds Stage II vapor control requirements for service stations.
—Requires California Air Resources Board certification of Stage II control systems.
—Adds recordkeeping provisions for exempt stations.
—Provides a compliance schedule for new and existing stations.

Santa Barbara County APCD, Rule 316, Storage and Transfer of Gasoline

This revision of the existing SIP rule 316 eliminates an exemption for bulk plants effective January 1, 1992. Certain deficiencies identified by EPA have also been corrected. The rule includes the following significant changes from the current SIP:

—Previously exempted tanks with a daily throughput of 20,000 gallons or less are now subject to the rule.
—Certain exemptions in the current SIP rule for the "Northern Zone" have been deleted.
—The capacity of tanks that require Phase I and Phase II equipment and certification has been reduced from 1500 to 250 gallons.
—The limits for VOC emissions from bulk terminals has been changed from 90% recovery to 0.08 pounds per 1000 gallons transferred.

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991).

[4] Section 183(f) of the CAA provides the Administrator with authority to regulate certain types of VOC emissions from marine vessels. Once EPA establishes such emissions applicable to specific transfers of materials from marine vessels, the state or political subdivision cannot adopt or enforce a standard that is inconsistent with, and less stringent than, the federal standard. However, since no federal standard currently exists and because the regulation being proposed for approval today strengthens the existing SIP, the District may adopt and enforce this regulation. If EPA adopts a federal standard applicable for the same sources, the District may only enforce this regulation to the extent that it is more stringent than the federal standard.

—"Leak free" requirements for bulk terminals and plants have been added.
—An EPA method for determining the vapor tightness of delivery vessels has been added.
—Test methods for determining compliance have been added.
—Compliance schedules have been added.

San Diego County APCD, Rule 61.0, Definitions Pertaining to the Storage and Handling of Organic Compounds

This rule revises the definitions for Rules 61.1 through 61.9, which are rules controlling VOC emissions from gasoline and other organic liquid storage and transfer. Several revisions have been made to correct deficiencies identified by EPA. The more important changes to the rule are:

—Definitions for floating and fixed roof tanks have been added.
—The definition of "fugitive vapor leak" has been made more stringent.
—A definition of "gas tight" has been added.

EPA has evaluated the four submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Furthermore, the addition of the Bay Area Rule 8–46 and the more stringent standards in the revised Santa Barbara Rule 316 should lead to greater VOC emission reductions. Therefore, Bay Area's submitted Rule 8–45, San Luis Obispo's submitted Rule 424, Santa Barbara's submitted Rule 316, and San Diego's submitted Rule 61.0 are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

Regulatory Process

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

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 9, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–22517 Filed 9–16–92; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–14–12–5428; FRL–4507–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Bay Area Air Quality Management District; San Diego County Air Pollution Control District; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) adopted by the Bay Area Air Quality Management District (BAAQMD), the San Diego County Air Pollution Control District (SDCAPCD), and the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) on September 6, 1989, December 4, 1990, and April 11, 1991, respectively. The California Air Resources Board submitted the revisions from SJVUAPCD, BAAQMD and SDCAPCD to EPA on May 30, 1991, December 31, 1990 and April 5, 1991, respectively. The revisions concern BAAQMD's Rule 8–28, Pressure Relief Valves at Petroleum Refineries and Chemical Plants; SDCAPCD's Rule 67.12, Polyester Resin Operations; and SJVUAPCS's Rule 465.3, Components Serving Light Crude Oil or Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. EPA has evaluated these rules and is proposing a limited approval under sections 110(k)(3) and 301 (a) of the Clean Air Act, as amended in 1990 (CAA or the Act) because these rules strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110(k)(3) of the CAA because these rules do not fully meet the Part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before October 19, 1992.

ADDRESSES: Comments may be mailed to: Esther Hill, Northern California, Nevada and Hawaii, Rulemaking Section (A–5–4), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814
Bay Area Air Quality Management District, 939 Ellis St., San Francisco, CA 94109
San Diego County Air Pollution Control District, 9150 Chesapeake Dr., San Diego, CA 92123
San Joaquin Valley Unified Air Pollution Control District, 1745 West Shaw, Suite 104, Fresno, CA 93711

FOR FURTHER INFORMATION CONTACT: Doris Lo, Rulemaking Section I (A-5-4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1202.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA) that included BAAQMD, SDCAPCD, and the following seven districts, which, along with the San Joaquin Valley portion of Kern County, have combined to form SJVUAPCD:[1] Fresno County Air Pollution Control District (APCD), Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. 43 FR 8964; 40 CFR 81.305. Because these districts were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under Section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] 40 CFR 52.238. None of these districts attained the ozone standard by the approved attainment date. On may 26, 1988, EPA notified the Governor of California that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 (the amendments) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designates as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended Section 172(b) as interpreted in pre-amendment guidance.[3] EPA SIP-Call also used that guidance to indicate the necessary corrections for specific nonattainment areas. The BAAQMD, SDCAPCD and those districts that combined to form SJVUAPCD were pre-amendment Section 107 nonattainment areas that were subject to the RACT fix-up requirement and the may 15, 1991 deadline.[4]

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP, including the rules being acted on in this notice. This notice addresses EPA's proposed action for BAAQMD's Rule 8-28, Pressure Relief Valves at Petroleum Refineries and Chemical Plants; SDCAPCD's Rule 67.12, Polyester Resin Operations; and SJVUAPCD's Rule 465.3, Components Serving Light Crude Oil or Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. BAAQMD's Rule 8-28, SDCAPCD's Rule 67.12 and SJVUAPCD's Rule 465.3 were found to be complete on February 28, 1991, April 21, 1991 and July 10, 1991, respectively, pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, Appendix V.[5] These three rules are being proposed for limited approval and limited disapproval.

SJVUAPCD's Rule 465.3 controls VOC emissions from leaking equipment at light crude oil and gas production facilities and natural gas processing facilities. BAAQMD's Rule 8-28 controls VOC emissions from leaking pressure relief valves (PRVs) at petroleum refineries and chemical plants. SDCAPCD's Rule 67.12 controls VOC emissions from polyester resin operations including operations to fabricate fiberglass products such as spas, tubs, pools, and boat hulls. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of each district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these three rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for stationary sources of VOC emissions. This requirement was carried forth from the 1977 CAA.

For the purposes of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents that, based on the underlying requirements of the Act, specified the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to BAAQMD's Rule 8-28 is entitled, "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment," EPA document # EPA-450/3-83-006. For SJVUAPCD's Rule 465.3, there is a CTG applicable to the requirements for natural gas processing facilities, but not

[1] SJVUAPCD was formed on March 20, 1991 and has authority over the San Joaquin Valley Air Basin which includes the seven districts listed and the San Joaquin Valley portion of Kern County. The Kern County Air Pollution Control District still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County. Thus, the SJVUAPCD's rule proposed in today's notice only control emissions from sources in the SJVUAPCD's jurisdiction.

[2] This extension was not requested for all the above counties. Thus, for the counties that did not receive extension, the attainment date remained December 31, 1982. 40 CFR 52.238.

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

[4] BAAQMD, SDCAPCD, and SJVUAPCD retained their nonattainment designation and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the amendments.. BAAQMD was classified as serious. See 56 FR 56694 (November 6, 1991).

[5] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991).

for oil and gas production facilities; this document is entitled, "Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants," EPA document # EPA-450/3-83-007. There is no CTG applicable to SDCAPCD's Rule 67.12. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 3. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

BAAQMD's submitted Rule 8-28 is a revision of a SIP approved rule. The submitted rule includes the following significant changes:

—Deletes an exemption for PRVs in liquid service and replaces it with an exemption for PRVs in heavy liquid service.
—Adds a leak standard for vapor leaks of 10,000 rpm.
—Adds a requirement to conduct inspections according to the procedures in EPA Method 21.
—Adds recordkeeping requirements.

SDCAPCD's submitted Rule 67.12 is a new rule that has not been previously approved into the SIP. This rule controls emissions from polyester resin operations by requiring at least one of a set of control options that include the use of resin material with no more than 35% by weight monomer content, the use of low-VOC-emission resins, or the use of a closed-mold system.

SJVUAPCD's submitted Rule 465.3 is a new rule that has not been previously approved into the SIP for any of the districts that merged to form SJVUAPCD. The rules control VOC emissions from leaking equipment at natural gas processing facilities and light crude oil and gas production facilities. The control requirements for natural gas processing facilities follow the CTG guidelines mentioned above. The control requirements for production facilities are nearly the same as for natural gas processing, except that inspections start out on an annual frequency and revert to quarterly inspections only if a 2% leak frequency is exceeded.

EPA has evaluated each of the three submitted rules for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules. Furthermore, the new rules should achieve further emission reductions through the control of previously unregulated sources.

Although the approval of these rules will strengthen the SIP, each rule still contains deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirements of part D of the CAA. The deficiencies in BAAQMD's Rule 8-28 include the lack of control requirements for liquid leaks, unapprovable exemptions to the rule, missing test methods, and incomplete recordkeeping requirements. The deficiencies in SJVAPCD's Rule 465.3 include unapprovable exemptions to the rule, a missing test method, an allowance for variances to the rule, and incomplete recordkeeping requirements. The deficiencies in SPCAPCD's Rule 67.12 include a missing test method for determining compliance with monomer content limits in the rule. A more detailed discussion of each rule deficiency can be found in the Technical Support Document for each rule prepared by EPA, Region 9, which is available from the EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Due to the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval due to the fact that the rules do not meet the section 182(a)(2)(A) requirement of part D because of the noted deficiencies. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of BAAQMD's Rule 8-28, SDCAPCD's Rule 67.12, and SJVUAPCD's Rule 465.3 under section 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Upon publishing a final notice of a limited approval and limited disapproval, that action will approve the rules into the SIP so that the rules are federally enforceable, and at the same time, it will require that the districts correct the deficiencies in the rules within eighteen months in order to avoid the promulgation of sanctions and a FIP.

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

Regulatory Process

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

Limited approvals under sections 110 and 301 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the fedeal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.*

E.P.A.,427 U.S. 246, 256–66 (S. ct. 1976); 42 u.s.c. 7410(A)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Authority:42 U.S.C. 7401–7671q.

Dated: September 9, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–22518 Filed 9–16–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket 92–191; FCC 92–370]

Upgrading the Mobile-Satellite Service Allocation at 19.7–20.2 GHz and 29.5–30.0 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposed to upgrade the secondary allocation for Mobile-Satellite Service (MSS) at 19.7–20.2 GHz and 29.5–30.0 GHz (20/30 GHz) to a primary allocation. This action will also conform the U.S. Table of Frequency Allocations in these bands with the results of the World Administrative Radio Conference, Malaga-Torremolinos, 1992 (WARC–92). The objective of this proposed action is to stimulate development of the 20/30 GHz bands by enabling satellite operators to offer, from a single satellite, a variety of communications services from one frequency band.

DATES: Comments are due by November 2, 1992 and reply comments are due by December 2, 1992.

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

FOR FURTHER INFORMATION CONTACT: Carl Huie, Office of Engineering and Technology, Frequency Allocations Branch, (202) 653–8112.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Proposed Rule Making in ET Docket 92–191, FCC 92–370, adopted August 14, 1992, and released September 4, 1992.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch, Public Reference Room (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422.

Synopsis of Notice of Proposed Rule Making

In response to a petition for rule making filed by Norris Satellite Communications, Inc. on July 16, 1990, and to amendments to the international Table of Frequency Allocations adopted at WARC–92, the Commission proposed to upgrade the secondary MSS allocation at 20/30 GHz to primary status shared with the Fixed-Satellite Service. The Commission believes that this reallocation will serve satellite communications needs and maximize efficient use of this spectrum. It also believes that this action will encourage non-government participation in NASA's Advanced Communications Technology Satellite program to determine the viability of various "generic" satellite services. The Commission also requested comment on any technical standards that it should consider.

List of Subjects in 47 CFR Part 2

Frequency allocations, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92–22470 Filed 9–16–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 2, 21, 22, and 94

[ET Docket No. 92–9; FCC 92–357]

Redevelopment of Spectrum To Encourage Innovation in the Use of New Telecommunications Technologies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Reallocation and rechannelization plans are proposed for fixed microwave licensees for bands above 3 GHz. These plans are intended to accommodate the relocation of existing 2 GHz licensees as well as new microwave systems. These proposals respond to petitions for rulemaking filed by the Utilities Telecommunications Council (UTC) and Alcatel Network Systems, Inc. (Alcatel).

DATES: Comments are due by December 4, 1992. Reply comments are due by January 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 653–8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making,* adopted August 5, 1992, and released September 4, 1992. In the *Notice of Proposed Rule Making (Notice)* in this proceeding (57 FR 5993; February 19, 1992), the Commission proposed allocating 220 MHz of the 1.85–2.20 GHz (2 GHz) band for services employing emerging telecommunications technologies. In this Further Notice of Proposed Rule Making (Further Notice) the Commission proposed reallocating five bands above 3 GHz so that both private and common carrier fixed microwave users could have access to them on a co-primary basis. The full text of Commission decisions are available for inspection and copying during regular business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's duplication contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Further Notice of Proposed Rule Making

1. The Notice proposed to allocate the 1850–1990, 2110–2150, and 2160–2200 MHz bands for emerging technologies. In the Notice, the Commission recognized that the private and common

carrier licensees operating in the 2 GHz band provide important and essential services, and therefore emphasized that any relocation of existing licensees required by the proposed reallocation should not disrupt these services. The Commission also stated that it appears to be technically feasible to relocate 2 GHz licensees to alternative media or to other fixed microwave bands. The Commission therefore proposed to make the 3.7–4.2, 5.925–6.425, 6.525–6.875, 10.7–11.7, 11.7–12.2, 12.7–13.25, and 17.7–19.7 GHz bands available to existing 2 GHz licensees and to apply the technical rules and coordination procedures for each of these bands to the relocated operations. To provide for this reaccommodation of 2 GHz licensees, a "blanket" waiver of the eligibility requirements was proposed in these bands.

2. *UTC Petition.* In its petition, UTC—the national representative on communications matters for electric, gas, water, and steam utilities—contended that the Commission must adopt specific technical rules to accommodate in other bands the 2 GHz private and common carrier fixed stations potentially affected by the proposals contained in the Notice and urged the Commission to adopt appropriate channeling plans and technical standards in these bands. UTC proposed that three common carrier bands and the 1.71–1.85 GHz government band be made available for private microwave use. UTC also proposed deferring action on the proposals made in the Notice pending consideration of its petition.

3. *Alcatel Petition.* In its petition, Alcatel—a manufacturer and supplier of telecommunications equipment—stated that the Commission should not require fixed microwave users to vacate the 2 GHz band until it adopts specific rules to allow the 2 GHz services to operate in other bands. In particular, Alcatel expressed concern about 2 GHz low and medium capacity fixed systems being relocated to primarily high capacity bands above 3 GHz. Accordingly, Alcatel proposed that six bands be reallocated to permit shared use by private and common carrier fixed microwave services, and also proposed a detailed channelization plan for the reallocated bands and major amendments to several technical rules.

4. *Proposals.* The Commission found merit in many of the proposals made by UTC and Alcatel and proposed to adopt their reallocation and rechannelization proposals, with certain modifications. Specifically, it proposed to reallocate and rechannelize the 3.7–4.2 GHz (4 GHz) and 5.925–6.425 GHz (6 GHz) bands allocated for part 21 (common carrier Domestic Public Fixed Radio Services) and part 25 (common carrier satellite communications) uses, the 6.525–6.875 GHz (6 GHz) band allocated for part 94 (private fixed microwave) use, the 10.565–10.615/10.630–10.680 GHz (10 GHz) band allocated for private and common carrier point-to-multipoint use, and the 10.7–11.7 GHz (11 GHz) band allocated for part 21 use, to permit co-primary private and common carrier fixed microwave use. It also proposed to allow the approximately 20 existing point-to-multipoint users of the 10 GHz band to remain on a grandfathered basis.

5. The Commission did not adopt Alcatel's proposal to reallocate the 3.6–3.7 GHz government/non-government band to permit fixed microwave use. The Commission stated that it does not believe this band can accommodate additional non-government users at this time. However, it said that it would approach the National Telecommunications and Administration (NTIA) and open formal discussions to determine whether some form of shared access to the 3.6–3.7 GHz band by fixed microwave users is feasible. The Commission also said that it would continue negotiations with NTIA regarding non-government access to the 1.71–1.85 GHz government band.

6. The Commission also did not adopt Alcatel's and UTC's proposal that 80 MHz of spectrum in the 4 GHz band allocated to the Fixed-Satellite Service (FSS) on a primary basis be downgraded to secondary. The Commission concluded that the requirements of the FSS outweigh the needs of fixed terrestrial users for an exclusive primary allocation of 80 MHz in this band. Given the large amount of spectrum proposed to be made available to terrestrial fixed users in bands above 3 GHz, the Commission said it was not convinced that such an exclusive allocation is necessary. Moreover, the Commission concluded that the adverse impact of such a reallocation on satellite services would not be acceptable.

7. Regarding technical issues, the Commission stated that it believes that an industry committee can serve a highly useful function in addressing the technical proposals contained in the Further Notice, but that it was not convinced that there is a need for the Commission to participate in such a committee. Accordingly, it encouraged fixed microwave users to form such a committee and stated that it will consider any comments they may have on the proposals contained in the Further Notice within the comment period.

8. With respect to coordination procedures in the bands proposed for reallocation, the Commission stated that it would be least disruptive to existing users to maintain current procedures in each band, as proposed by UTC. Thus, in the 4, 6, 10, and 11 GHz common carrier bands, it proposed that part 21 coordination procedures be used, and, in the 6 GHz private band, it proposed that part 94 procedures be used. In all of these bands, the Commission solicited comments on whether frequency coordinators should establish time limits for the reservation of growth channels, such as a six month reservation period.

9. The Commission also proposed new digital standards in parts 21 and 94, while proposing to maintain existing voice channel loading requirements and analog standards for the large number of licensees that still use analog equipment. It further proposed to permit the expansion of existing microwave systems under current channelization plans without waiver, stating that its goal is to permit new users to access the five bands without adversely affecting existing licensees. Further, the Commission solicited comment on proposals for automatic transmit power control, minimum path lengths and channel loading, frequency diversity transmissions, and power, emission, and bandwidth limitations.

10. Finally, the Commission said that it was unnecessary to defer action on the proposals made in the Notice in order to consider both UTC's and Alcatel's proposals, stating that deferring action could delay the implementation of important new services. Accordingly, it contemplated proceeding with final action on its emerging technology proposals and those contained in the Further Notice in an expeditious manner, whether jointly or separately.

List of Subjects

47 CFR Part 2

Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

47 CFR Part 21

Domestic Public Fixed Radio Services.

47 CFR Part 22

Public Mobile Service.

47 CFR Part 94

Private Operational-Fixed Microwave Service.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-22473 Filed 9-16-92; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 57, No. 181
Thursday, September 17, 1992

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

Forms Under Review by Office of Management and Budget

September 11, 1992.

The Department of Agricultural has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Revision

- Animal and Plant Health Inspection Service

Gypsy Moth Identification Worksheet
PPQ Forms 305
Daily & Biweekly
State or local governments; Federal agencies or employees; 214,464 responses; 68,616 hours
Milt Holmes, (301) 436-8247.

- Agricultural Stabilization and Conservation Service

7 CFR 704 and 7 CFR 1410, Conservation Reserve Program CRP-1, CRP-1 Appendix, CRP-1A Continuation, CRP-1C, CRP-1D, CRP-1E, CRP-2, CRP15, ASCS-893, CCC-111, 113, 113A, 114
On occasion
Individuals or households; State or local governments; Farms; 225,000 responses; 25,517 hours
Charles Sims, (202) 729-7334.

Extension

- Food and Nutrition Service

WIC Program Regulations—Reporting and Recordkeeping Burden Recordkeeping; Monthly; Semi-annually; Annually Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 7,736,884 responses; 992,064 hours
Michael T. Buckley, (703) 305-2730.

Larry Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 92-22419 Filed 9-16-92; 8:45 am]
BILLING CODE 3410-01-M

Cooperative State Research Service

National Competitive Research Initiative Grants Program (Competitive Research Grants Program); Solicitation for Applications for Fiscal Year 1993

Applications are invited for competitive grant awards in agricultural, forestry and related environmental sciences under the National Competitive Research Initiative Grants Program (NCRIGP) administered by the Office of Grants and Program Systems, Cooperative State Research Service (CSRS), for fiscal year 1993.

The authority for this program is contained in section 2(b) of the Act of August 4, 1965, as amended by section 1615 of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act) (7 U.S.C. 450i(b)). Under this program, subject to the availability of funds, the Secretary may award competitive research grants, for periods not to exceed five years, for the support of research projects to further the programs of the Department of Agriculture (USDA). Proposals may be submitted by any State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation, or individual. Proposals from scientists at non-United States organizations will not be considered for support.

Section 726 of Public Law No. 102-341, an Act Making Appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 1993, and for other purposes, prohibits CSRS from using the funds available for the NCRIGP for fiscal year 1993 to pay indirect costs exceeding 14 per centum of the total Federal funds provided under each award on competitively awarded research grants.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the NCRIGP, 7 CFR part 3200, which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects;

(b) The USDA Uniform Federal Assistance Regulations, 7 CFR part 3015; and

(c) The USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by section 1602 of the FACT Act, requires that research supported by the NCRIGP address, among other things, one or more of the following purposes of agricultural research and extension:

(1) Continue to satisfy human food and fiber needs;

(2) Enhance the long-term viability and competitiveness of the food production and agricultural system of the United States within the global economy;

(3) Expand economic opportunities in rural America and enhance the quality of life for farmers, rural citizens and society as a whole;

(4) Improve the productivity of the American agricultural system and develop new agricultural crops and new uses for agricultural commodities;

(5) Develop information and systems to enhance the environment and the natural resource base upon which a sustainable agricultural economy depends; or

(6) Enhance human health by fostering the availability and affordability of a safe, wholesome and nutritious food supply that meets the needs and preferences of the consumer and by assisting farmers and other rural residents in the detection and prevention of health and safety concerns.

Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended by section 1603 of the FACT Act, defines "sustainable agriculture" as an integrated system of plant and animal production practices having a site-specific application that will, over the long term:

(1) Satisfy human food and fiber needs;

(2) Enhance environmental quality and the natural resource base upon which the agricultural economy depends;

(3) Make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

(4) Sustain the economic viability of farm operations; and

(5) Enhance the quality of life for farmers and society as a whole.

The Secretary of Agriculture has identified several specific areas to support American agriculture in the 1990s including: Alternative fuels, new products and processes, mechanisms for expanding markets abroad, providing the public with a safe and wholesome food supply, and protecting the land and water for future generations, while ensuring farmers the best return on their efforts. Furthermore, the Secretary has identified global change, information technology systems, rural development, biotechnology, and strengthening of the Nation's agricultural research capabilities as key parts of the Department's agenda.

Specific Research Divisions to be Supported in Fiscal Year 1993

CSRS is soliciting proposals, subject to the availability of funds, for support of high priority research of importance to agriculture, forestry, and related environmental sciences, in the following Research Divisions:

Natural Resources and Environment ($17.039 M)
Nutrition, Food Quality, and Health ($6.153 M)
Animal Systems ($23.666 M)
Plant Systems ($37.866 M)
Markets, Trade, and Policy ($3.787 M)
Processing for Adding Value or Developing New Products ($3.787 M)

Pursuant to the provisions of section 2(b)(10) of the Act of August 4, 1965, as amended by section 1615 of the FACT Act (1965 Act, as amended) no less than 10 percent ($9.230 M) of the available funds listed above will be made available for Agricultural Research Enhancement Awards (excluding New Investigator Awards), and no more than 2 percent ($1.846 M) of the available funds listed above will be made available for equipment grants. Further, no less than 30 percent ($27.690 M) of the funds listed above shall be made available for grants for research to be conducted by multidisciplinary teams, and no less than 20 percent ($18.460 M) of the funds listed above shall be made available for grants for mission-linked research. (See below).

The opportunities for research in the above areas have been underscored as a means of providing the scientific and technological advances urgently needed for meeting major challenges now facing agriculture in the United States. Many agricultural and scientific communities, among them the Board on Agriculture of the National Research Council, the State Experiment Station Committee on Organization and Policy, the Joint Council on Food and Agricultural Sciences, the National Agricultural Research and Extension Users Advisory Board, user communities, USDA agencies, and professional and scientific groups have called for an increased investment in competitively awarded research as a means of providing new knowledge for improved national agricultural competitiveness, sustainability, and economic performance; for credible environmental stewardship; for improved human health; and for the revitalization of rural communities.

Research is needed which will form a broad base of knowledge for addressing cost-effective prevention and solution of problems associated with agricultural production, particularly for generating production systems that are sustainable both environmentally and economically; for developing means to protect natural resources and wildlife: for optimizing national and international economic factors; for optimizing livestock and crop quality and productivity; for protecting human health and food safety; for finding new uses of agricultural products, including use as fuel; and for adding value to all stages of agricultural products. In order to focus limited resources in selected areas of fundamental and mission-linked research that have the potential to expand the knowledge base needed, research in the following six specific research divisions will be supported:

Natural Resources and the Environment

Increased knowledge is necessary to develop innovative techniques for prudent management of our nation's natural resources and for addressing potential environmental problems such as excess UV-B radiation and global change. Accordingly, in the area of Natural Resources and the Environment, research programs will include: Water Quality, Plant Responses to the Environment, Forest/Rangeland/Crop Ecosystems, and Improved Utilization of Wood and Wood Fiber. Research opportunities in forest biology will be provided in the above four program areas, as well as in all programs in the Plant Systems research area.

Nutrition, Food Quality, and Health

In response to the increased awareness of the dependency of optimal human health on optimum nutrition and food quality, research opportunities on nutritional requirements for optimal health will be continued. Research proposals will be supported in food safety, specifically focused on microbial agents responsible for food-borne illness.

Animal Systems

Research across a broad range of animal science areas is needed to enhance animal production efficiency, to improve animal products, and to better protect the health and well-being of animals of agricultural importance including aquaculture species. Accordingly, research areas will include: Reproductive Biology of Animals, Cellular Growth and Developmental Biology of Animals, Animal Molecular Genetics and Gene Mapping, and Mechanisms of Animal Disease.

Plant Systems

The Plant Genome program will continue to provide opportunities in mission-oriented research targeted for the identification, characterization, alteration, and manipulation of genes controlling traits of agricultural importance. This program area is part of the larger USDA Plant Genome Research Program. This is the second year of the expanded Photosynthesis/Respiration Program which now also provides research opportunities in plant respiration and metabolism in chloroplasts and mitochondria. It is expected that studies in Plant Systems will contribute to more efficient and enhanced production of feed stocks for use as biofuels. Other NCRIGP programs in the FY 92 Plant Systems (Nitrogen Fixation and Metabolism; Plant Genetic

Mechanisms and Molecular Biology; Plant Growth and Development; Plant Pest Interactions; and Alcohol Fuels) will continue in FY 1993.

Markets, Trade, and Policy

In the increasingly competitive global market environment, export of commodities and value-added products needs to be increased in ways that can revitalize rural economies. Accordingly, the area of Markets, Trade, and Policy will support research in two areas:

(1) Market Assessments, Competitiveness, and Technology Assessments; and

(2) Rural Development.

Processing Antecedent to Adding Value or Developing New Products

In response to a growing awareness of the need to enhance the competitive value and quality of U.S. agricultural and forestry products, research is needed to develop new uses for agricultural and forestry materials and to increase the value of food and non-food products. Accordingly, research will be supported in the Processing for Value-Added Products program. Research dealing with processing of wood material for value-added forest products also will be supported in this Division.

While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to describe areas where new information is vitally needed, the guidelines are not meant to establish boundaries or to discourage the creativity of potential applicants. The USDA encourages submission of innovative projects that are "high-risk", as well as innovative proposals with potential for more immediate application.

For research addressing biological issues, agriculturally important organism(s) should be used to accomplish the research objectives. The use of other organisms as experimental model systems MUST be justified relative to the goals of the appropriate research program areas and to the long-term objectives of USDA.

Types of Proposals

Under the NCRIGP, CSRS may make project grants, including renewals to existing NCRIGP-funded projects, to support research, including research conferences, and to improve research capabilities in selected areas related to the food and agricultural sciences. 7 CFR 3200.1(a) states that each year CSRS will announce through publication of a Notice the high priority research areas and categories to improve research capabilities for which proposals will be solicited and the extent to which funds are available.

The NCRIGP solicits proposals that are single or multidisciplinary, fundamental or mission-linked. The following definitions apply:

- *Fundamental Research:* Research that tests scientific hypotheses and provides basic foundation knowledge that supports applied research and from which major conceptual breakthroughs are expected to occur.
- *Mission-linked Research:* Research on specifically identified agricultural problems which, through a continuum of efforts, provides information and technology that may be transferred to users and may relate to a product or process.
- *Multidisciplinary Research:* Research in which scientists from two or more disciplines are collaborating closely. These collaborations, where appropriate, may integrate the biological, physical, chemical and/or social sciences.

Note to Multidisciplinary Research Teams

The NCRIGP recognizes the value of research performed as a team effort and recommends the following be taken into consideration when assembling a research team and constructing a proposal:

In order to be competitive, the number of objectives and the level of personnel involved in the proposal should be appropriate to the NCRIGP program area and to the research proposed. A clear management strategy should be provided which identifies the contribution of each member of the team. Participation should be limited to those investigators integral to the proposed research and should not include investigators or objectives peripheral to the hypothesis being tested. It is unlikely that requests for more than three years of funding will be supported.

The project types for which proposals are solicited include:

I. Conventional projects.

(a) *Standard Research Grants:* Research will be supported that is fundamental or mission-linked conducted by individual investigators, co-investigators within the same discipline, or multidisciplinary teams. Any State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation or individual may apply. The research proposed must be solicited specifically in the research program areas described herein.

(b) *Conferences:* Scientific meetings that bring together scientists to identify research needs, update information, or advance an area of research are recognized as integral parts of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this solicitation will be considered for partial or, if modest, total support. These proposals should be submitted to the appropriate research program areas described in this solicitation. Applicants considering submission under this category are strongly advised to consult the appropriate NCRIGP staff before preparation and submission of the proposal. Any State agricultural experiment station, college or university, other research institution or organization, Federal agency, private organization, corporation, or individual is an eligible applicant in this area.

II. Agricultural research enhancement awards. In order to contribute to the enhancement of research capabilities in the research program areas described herein, applications are solicited for competitive grants to be awarded in the following categories:

(a) *Postdoctoral Fellowships:* In accordance with section 2(b)(3)(D) of the 1965 Act, as amended, individuals who have recently received or will soon receive their doctoral degree are encouraged to submit proposals. These proposals can be submitted directly by the individual or through an institution. The following requirements apply: (1) The doctoral degree must be received after January 1, 1990, and no later than June 15, 1993; (2) the individual must be a citizen of the United States; (3) the proposal must contain documentation that (a) arrangements have been made with an established investigator with regard to all necessary facilities and space for conduct of the research and (b) that the host institution has been informed of these arrangements and concurs with them; and (4) the research proposed must be solicited in and directly submitted to one of the program areas described in this document. The proposal should initiate the individual's independent program, rather than supplement or augment research programs in the laboratory of the established investigator. Postdoctoral awards are limited to two year's duration and are not renewable. Funds should be requested primarily for salary support, although limited expenditures for supplies, travel, and publication are allowable costs. A separate peer review panel will not be assembled for the purpose of reviewing these proposals. Proposals should be submitted to the

appropriate research program area described in this solicitation by the designated deadline for that particular program area. Applicants are urged to contact program staff concerning questions related to eligibility, budget, and similar matters.

(b) *New Investigator Awards:* Pursuant to section 2(b)(3)(E) of the 1965 Act, as amended, investigators or co-investigators who have completed graduate or post-doctoral training, are beginning their independent research careers, and do not have an extensive research publication record are encouraged to submit proposals. All individuals who have not received competitively-awarded Federal research funds beyond the level of pre- or postdoctoral research awards, and who have less than five years of post-graduate research experience, are eligible for this award. The proposal must contain documentation which lists all prior Federal research support. The research proposed shall be appropriate to one of the program areas described in this document, and the proposal must be submitted directly to that program area. A separate peer review panel will not be assembled for the purpose of reviewing these proposals. Proposals should be submitted to the appropriate research program area described in this solicitation by the designated deadline for that particular program area. No specific amount of funds is mandated to be set aside for these projects.

(c) *Strengthening Awards:* Pursuant to sections 2(b)(3) (D) and (F) of the 1965 Act, as amended, proposals are solicited that request funds for Research Career Enhancement Awards, Equipment Grants, Seed Grants, or Strengthening Standard Research Project Awards. Research Career Enhancement Awards, Seed Grants, and Strengthening Standard Research Project Awards will be available to ensure that faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants under section 2(b) of the 1965 Act, as amended (Competitive Research Grants Program), receive a portion of the grants. See program area 80.0 for eligibility requirements.

The project subject for any Strengthening Award shall be appropriate to one of the research program areas described in this document.

More specific description of the Strengthening Awards Program is found under Program Area 80.0.

Specific Research Divisions

The following specific Research Divisions and the program areas therein and guidelines are provided as a base from which proposals for both Conventional Projects and Agricultural Research Enhancement Awards shall be developed.

Natural Resources and the Environment

Knowledge is needed in the area of natural resources and the environment to address contemporary issues of importance, not only for agriculture, but for society as a whole. Biological systems are influenced markedly by the environment. Further, the impact of possible environmental changes on sustainability and economic viability of agriculture and forestry, and the need to enhance the stewardship of natural resources and to minimize negative environmental consequences require expanded knowledge in diverse scientific disciplines. To garner such knowledge, research will be supported in the following topic and program areas:

21.0 Water Quality. Non-point runoff of water contaminants and pollutants, including pesticides and other organics, inorganic nutrients, animal wastes, excess salts, and metals is a major landscape problem. The goal of this program area is to support innovative research that tests hypotheses regarding basic underlying mechanisms that affect water quality. It is anticipated that results from this research will be readily transferable to the development of methods for enhancement of water quality within and exiting from specific agricultural and forest ecosystems. Studies are needed in the disciplines of soil chemistry and physics; uptake, transport, degradation, and fate of water-borne contaminants of agricultural origin; and ecology of landscape elements affecting water quality, including interactions of wetland, riparian, or buffer ecosystems with agricultural and forest ecosystems. Proposals may be developed from the following specific research areas and guidelines:

Soils/Microorganisms. This area will support research on soil and microbial processes that affect accumulation, persistence, degradation, disappearance, and transport of water contaminants and pollutants, including pesticides and other organics, inorganic nutrients (including nitrogen and phosphorus), excess salts, and metals. Proposals should emphasize studies that will enhance basic knowledge of the biological and physico-chemical mechanisms affecting these phenomena. The problem areas include, but are not limited to:

(a) Physical properties and processes of soils (including litter or surface sediments) under both aerobic and anaerobic conditions, including surface chemistry of soil components, adsorption, diffusion and mass flow of contaminants and their accessibility to microorganisms and plant roots;

(b) Basic biochemical, genetic, and molecular mechanisms of microbial uptake, transformation, sequestration, or detoxification of metals, nutrients, pesticides, and other organics; and

(c) Ecology of microbes involved in the above processes.

Plant/Water Contaminant Interaction. This area will support research on:

(a) Basic biochemical, genetic, and molecular mechanisms of whole plant uptake, transport, transformation, sequestration, and detoxification of water contaminants;

(b) Cellular, morphological, and developmental adaptations of plants as related to water contaminants (i.e., anatomy, physiology, biochemistry, root morphology and rhizosphere interactions); and

(c) Basic studies involving tolerant species that accumulate or modify contaminants.

(See also the Plant Responses to the Environment Program, 22.1).

Wetland and Riparian Systems. This area will support research on biogeochemical, physiological, and/or ecological processes and mechanisms in wetland, riparian, or buffer ecosystems related to disposal, treatment, storage, and/or reduction of contaminated non-point source run-off from agricultural or forest systems. Proposals are encouraged which study mechanisms related to reduction, interception and processing, and interactions of source and receiving sites, rather than solely with impact at receiving sites. Nutrient budget studies and estimates of contaminant retention and treatment capacity should be included and should be presented in the context of hypotheses regarding mechanisms affecting such parameters. Proposals that will enhance basic knowledge of wetland and riparian systems are encouraged, as are statistically-based studies that emphasize spatial variability. Development of models should include strong experimental and field validation objectives. Although proposals are encouraged that deal with questions at the landscape level, as well as those that deal with interactions of components of ecosystems, the questions should be unique, hypothesis-driven and discrete from other on-going studies in these landscapes and the

objectives should be at a scale appropriate to this program.

Additional guidelines for proposal development are: That the three research areas presented above are not mutually exclusive and that questions that span two or more research areas and/or two or more scientific disciplines may require a multicollaborator, multidisciplinary approach.

Another competitive grant program, complementary, in part, to this part of the NCRIGP program, is the Special Research Grants Water Quality Program, also administered by CSRS. Research problem areas that may be included in the Special Research Grants program are: Assessment, Sampling and Testing; Fate and Transport; Management and Remediation Practices or Systems; Regional Application and Transferability of Research Results; and Social, Economic and Policy Considerations. For further information about either or both of the programs—NCRIGP Water Quality and/or the Special Research Grants Water Quality—investigators are encouraged to call or write to the two programs at the numbers and addresses listed below under "How to Obtain Application Materials." A given proposal should be submitted to either the NCRIGP or the Special Research Grants Water Quality Program, depending upon the specific research problem areas supported in the two programs; investigators are encouraged to compare descriptions of the two programs before preparing proposals. Submission of duplicate proposals, or proposals with substantial overlap, is discouraged.

Global Change

A strong scientific basis is needed for understanding the impact of potential global change. The objective of this program area, which is a part of the U.S. Global Change Research Program, is to support research which provides an understanding of plant responses to the environment. Such knowledge can provide the basis for developing strategies for adapting to possible changes accompanying projected global fluctuations and for decreasing the impact of environmental stress on agricultural and forest productivity and sustainability.

22.1 Plant Responses to the Environment. The goal of this program is to understand the fundamental mechanisms of the plant's response to environmental factors, both natural and anthropogenically perturbed. Environmental factors may include: water, temperature, light (including UV-B), nutrient, and atmospheric chemical composition (including carbon dioxide, ozone, sulfur dioxide, and other greenhouse gases). Mechanisms may be studied at the ecophysiological, whole plant, cellular, or molecular levels. It is recommended, however, that studies at the cellular and molecular levels be considered in relation to the response at the level of the whole plant. Proposals are encouraged that are based on testable hypotheses and that go beyond descriptive levels of experimentation. Hypotheses that consider single or multiple factors are appropriate. Examples of research to be supported include but are not limited to:

(a) Expression and regulation of genes and gene products that are relevant in plant response to environmental factors;

(b) Identification of biochemical, cellular, morphological, and phenological changes that take place in plants in response to environmental signals; and

(c) The interactions of multiple factors and how they affect plant physiological processes.

Ecosystem studies specifically directed toward understanding the physiological response to the environmental factors listed above are also appropriate for this program; other ecosystem studies should be submitted to the Forest/Rangeland/Crop Ecosystem Program (23.0). Program areas that support studies directed toward understanding aspects of plant biology that do not emphasize an environmental component are described in Plant Systems (51.0–54.0). For plant-water interactions, see also the Water Quality Program (21.0).

23.0 Forest/Rangeland/Crop Ecosystems. The goal of this program area is to further the understanding of underlying biological, ecological and socioeconomic processes that can contribute to sustained productivity and to the well-being and sustainability of ecosystems. Structure and function of ecosystems reflect the many complex interactions and interdependencies among plant species, other organisms, and the physical factors operating within these systems. Human influence contributes to complex perturbations of these systems; yet, a lack of understanding of the intricacies of ecosystems is a barrier to obtaining sustainable agricultural and forest production. Therefore, investigations on the manner in which major landscapes function at ecophysiological, population, community, and biogeochemical levels will provide knowledge essential for improving long-term agricultural and forestry sustainability.

Within this context, studies that examine the developmental, structural, or functional attributes controlling component ecosystem processes, as well as whole ecosystem responses, will be considered. Proposals that explore the implications of alternative management systems on ecosystem processes also are encouraged. Simulation modelling may be useful for integration of research results. Studies are encouraged in, but not limited to, the following areas:

(a) Influence of abiotic and biotic factors on carbon, nutrient, water, and energy flow in ecosystems and on the mechanisms that control such fluxes;

(b) Soil physical and chemical properties and processes that affect water and nutrient availability; and

(c) Responses of ecosystems to disturbance and to environmental, management, and socioeconomic factors.

Such research may include studies of succession and mycorrhizae.

Because of limited funding, applicants are encouraged to address research problems appropriate to the size of this program. Studies that focus only on the mechanisms of plant physiological response to abiotic or biotic factors should be submitted to the Plant Responses to the Environment Program (22.1) or the Plant Pest Interactions topic area (51.0), respectively.

24.0 Improved Utilization of Wood and Wood Fiber. This program area encourages research on critical barriers to improved wood utilization, providing the scientific base from which new research and development can proceed. The program area will place emphasis on the following.

Wood chemistry and biochemistry represent important areas where new fundamental knowledge has potential for expanding efficient wood utilization. Research is needed that advances understanding of the principles governing the biological, physical, or chemical reactions in wood and wood-based materials. Examples of research topics include, but are not limited to: Conversion to products; deterioration mechanisms; recycling of wood fiber; new wood treatment chemistry; lignocellulosic polymer modification; surface chemistry; and adhesion and properties of adhesives.

Physical/mechanical properties of wood and basic wood processing technology constitute an area of investigation in which an improved base of scientific knowledge can ensure future development of new materials, products, and processes. Research is encouraged that advances an understanding of the structure, physical properties, and basic processing characteristics of wood and wood-based materials and leads to a more efficient

conversion of wood-based materials into value-added products. Examples of such research include, but are not limited to: Anatomy and ultrastructure; wood formation; viscoelasticity; heat and mass transfer phenomena; lignocellulosic modification; particle/fiber consolidation; surface and defect evaluation methods; non-destructive property evaluation; and material science.

Structural wood engineering relates to the structural performance of wood and wood-based materials as individual components and in systems. Significant improvements in the use of wood will depend on the development of an expanded scientific base of knowledge. The goal of research in this area is to stimulate innovative approaches in the structural use of wood. Examples of relevant research include, but are not limited to: Reliability-based design; performance modeling and behavior of wood/non-wood composites; new approaches in fasteners and connectors; moisture and environmental effects; and basic failure mechanisms.

Forest engineering research that emphasizes the impact of engineering practices upon forest operations and the resource will be considered in this program area. Examples of such research include, but are not limited to: Impact of harvesting equipment on the forest environment; studies of engineering-system-related stand regeneration; relationships of forest engineering to trees, stands, and soils; ergonomics of forest system components; and systems for controlling and monitoring equipment. Research on the development of equipment, instrumentation, and control systems should contain a significant portion of work involving effects of equipment and instrumentation on wood quality or wood products.

Nutrition, Food Quality, and Health

The health of the U.S. citizen significantly depends on the quality and quantity of the country's food supply and the nutrients consumed by individuals. Research will be supported which will contribute to the improvement of human nutritional status by increasing our understanding of requirements of nutrients and factors affecting optimal human nutrition. Data generated from these studies will form the scientific basis for dietary recommendations, as well as for new developments by the food industry in response to the needs engendered by those recommendations. Safety of food products is of paramount importance to the producer, processor, distributor, and consumer. In response to this need, research in food safety, particularly focusing on the pathogenesis, and prevention and control of food-borne disease-causing microorganisms is being conducted.

31.0 Human Nutrient Requirements for Optimal Health. Our need to understand the interplay between optimal nutrition and optimal health serves as an impetus for research which will improve our understanding of nutrient requirements in the normal healthy human population. The primary objective of this program is to support research that will help to fill gaps in our knowledge of human nutrient requirements and factors influencing them.

Examples of research that will be emphasized include:

(a) Bioavailability of nutrients;

(b) The interrelationship of nutrients;

(c) Nutrient requirements of healthy individuals across all age groups;

(d) Mechanisms underlying the relationship between diet and health maintenance, such as the effect of nutrients on the immune system;

(e) The cellular and molecular mechanisms underlying nutrient requirements, including the modulation of gene expression by nutrients; and

(f) Food consumer behavior, including identifying and developing methods to overcome obstacles to adopting healthful food habits, to convey knowledge to target audiences, and to ascertain factors that affect food choices.

A better understanding of human nutrient requirements and food choice behavior contributes to the USDA's emphasis on nutrition education.

Support will not be provided for research concerned with nutrient requirements and disease states, demonstration of action projects, or for surveys of the nutritional status of population groups. In addition, the use of animals as model systems must be justified.

Proposals dealing with processing techniques in food technology should be clearly oriented toward determining effects on human nutrient bioavailability or metabolism.

Proposals that concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements.

32.0 Food Safety. The primary objective of this program is to increase our understanding of the disease-causing microorganisms that contaminate food, with the goal of decreasing food-borne illnesses. Proposals are solicited for research on the mechanisms of microbial pathogenesis in humans and control of food-borne microoganisms. Proposals may address either pre- or post-harvest (slaughter) origin of the microbial agent. Such proposals should clearly address areas of microbial food safety and not plant or animal health issues. Model systems must clearly address microbial food safety concerns and be justified along program guidelines.

Animal Systems

Research across a broad range of animal systems areas is needed urgently for the future enhancement of animal production efficiency as well as to address such areas as the modification of animal products. The critical need for a better understanding of the biology of animal production performance necessitates this broad approach. To accomplish this, research will be supported under the following categories:

(a) Animal reproductive biology;

(b) Cellular growth and developmental biology of animals;

(c) Animal molecular genetics and gene mapping; and

(d) Mechanisms of animal disease.

Emphasis should be given to innovative approaches to research questions related to animals primarily raised for food or fiber, including aquaculture species, or that otherwise contribute significantly to the agricultural enterprise of the country. The use of experimental model systems should be justified relative to the objectives of the specific research program area.

41.0 Reproductive Biology of Animals. Suboptimal reproductive performance in animals of agricultural importance is a major factor limiting more efficient production of animal food products. New knowledge in this area is required to solve the problem of increase costs of animal production and to decrease the impact of consequent high costs of animal food products to the consumer. Therefore, the primary objective of this program area is to increase our knowledge of reproductive biology in animals of agricultural importance with the goal of increasing reproductive efficiency.

This program will consider for support innovative research on:

(a) Mechanisms affecting embryo survival, endocrinological control of embryo development, mechanisms of embryo-maternal interactions, embryo implantation and development of optimal embryo culture methods;

(b) Factors controlling ovarian function including follicular

development, ovulation, and corpus luteum formation and function;

(c) Factors controlling male reproductive function;

(d) Gamete physiology, including oogenesis and spermatogenesis, gamete maturation, mechanisms regulating gamete survival *in vivo* or *in vitro*;

(e) Parturition, postpartum interval to conception, and neonatal survival.

Because alterations in animal behavior and animal well-being may impair fecundity, this program also encourages research on the mechanisms controlling animal responses to physical and biological stresses that impinge upon reproductive efficiency. Research should contribute to an understanding of the causes, consequences, and avoidance of stress, rather than merely describing the physiological effects of stress on reproductive efficiency.

Model systems should be justified in terms of the program guidelines. Multidisciplinary research is encouraged.

42.0 Cellular Growth and Developmental Biology of Animals. Suboptimal growth and development are limiting factors in animal productivity, and basic information regarding developmental processes in animals of agricultural importance, including aquaculture species, is largely lacking. The primary objective of the program is to increase our understanding of the biological mechanisms underlying animal growth, development, and lactation. Increased knowledge in these areas would be useful in increasing protein and decreasing fat in food products of animal origin, improving production, and improving control and manipulation of muscling, growth, metabolism, tissue partitioning, and mammary function.

The following categories of research should be emphasized:

(a) Cell proliferation and differentiation (e.g., mechanisms controlling the cell cycle; genetic regulation of cell differentiation);

(b) Genetic mechanisms underlying growth and development;

(c) Metabolic regulators such as growth factors;

(d) Synthesis and degradation of protein and lipid at the cellular or tissue level;

(e) Metabolic and nutritional aspects of growth and development including rumen microfloral development;

(f) Developmental biology of the immune system; and

(g) Cellular and molecular aspects of the effect of environmental stress on growth and development.

Model systems should be justified in terms of the program guidelines. Multidisciplinary research is encouraged.

Proposals dealing essentially with aspects of reproduction should be submitted to the Reproductive Biology of Animals Program (41.0). Proposals addressing research on disease agents (biotic or abiotic) should be submitted to the Mechanisms of Animal Disease Program (44.0).

43.0 Animal Molecular Genetics and Gene Mapping. A lack of basic information about the genes and gene products of traditional food and fiber animals and aquaculture species currently exists. The primary objective of this program is to increase our understanding of the structure, organization, function, regulation, and expression of genes in agriculturally important animals. Increased knowledge in this area would aid in maintaining the genetic diversity of animals, improving animal productivity and efficiency, genetic localization of economically important production traits, marker assisted selection, and use of transgenic methodology.

The following areas of research should be emphasized:

(a) Gene mapping and the identification, isolation, characterization of genes, gene products, and their regulatory mechanisms;

(b) Identification and mapping of DNA segregation markers including quantitative trait loci (QTL) and variable number tandem repeats (VNTR);

(c) Interactions between nuclear and organellar genes and the molecular basis of genetic replication; and

(d) Development an application of methods to modify the animal gnome, e.g., embryonic stem cells and transgenics.

Model systems should be justified in terms of the program guidelines. Multidisciplinary research is encouraged.

44.0 Mechanisms of Animal Disease. A major limiting factor in agriculture is the lack of basic information about both infectious and noninfectious causes of disease in traditional food and fiber animals and aquaculture species. In order to sustain animal health and well-being and to prevent animal disease, the primary objective of this program is to increase our understanding of pathogenesis and disease mechanisms. Host-agent interactions and defense mechanisms of the host animal are also of interest. Increased knowledge in this area would result in decreased contamination of food products of animal origin, decreased use of antimicrobial agents and more effective immunizations and diagnostic methods to provide assistance with preventive herd health management schemes with the outcome of improved efficiency and sustainability of the animal production unit and its environmental setting.

The following categories of research represent areas of emphasis of the program:

(a) Mechanisms that alter the normal physiologic state at the molecular, cellular or organ level to produce disease resulting from both biotic and abiotic causes;

(b) genetic and cellular mechanisms of disease resistance, e.g., molecular immunology and immunogenetics;

(c) Pathogenesis;

(d) Both host and microbial factors influencing colonization of mucosal surfaces;

(e) Host-environment interactions that compromise the host defense systems or cause predisposition to disease;

(f) Epidemiologic studies on animal diseases that provide insight into etiologic factors and/or control; and

(g) Basic research that would support the development of diagnostic tests and immunizations for emerging or reemerging disease problems such as tuberculosis.

Studies on economic models which address the costs of animal disease and the cost/benefit ratios of animal disease prevention and therapy are also invited.

Alterations in animal behavior and animal well-being may impair animal health; this program also encourages research on the mechanisms controlling animal responses to physical and biological stresses and the development of objective indicators of animal health and well-being. Proposals which address this relationship in an attempt to develop definitive indictors of the well-being of animals are encouraged.

Model systems should be justified in terms of the program guidelines. Multidisciplinary research is encouraged. Proposals involving reagent development *per se* will not be considered for support.

Plant Systems

Additional knowledge in a broad range of plant sciences is critical for improvement of crop and forest quality; productivity, including that of feedstock for use as biofuels; sustainability; and for addressing the environmental impact of agricultural practices. Innovative research on plant systems will be supported in the following areas:

(a) Plant pest interactions;

(b) Genomes, genetics,and diversity;

(c) Plant growth and development;

(d) Energy and metabolism;

(e) Alcohol fuels; and

(f) Ecosystems.

51.0 Plant/Pest Interactions. Damage resulting from plant pests is a major factor in reducing crop and forest quality and productivity. In addition to direct damage to food products, certain plant pathogens can introduce dangerous mycotoxins into the food chain of humans and farm animals. In some situations, plant pests can be controlled by chemical pesticides, but chemical application may result in negative environmental consequences. Understanding plant pest interactions has significantly improved our ability to develop successful and environmentally-safe control strategies that lead to sustainable agricultural or forest systems. However, despite considerable successful research on plant/pest interactions, a considerable void exists in our understanding of the basis of plant susceptibility and mechanisms of resistance, as well as details of the basic biology of both stress-causing organisms and biotic agents that suppress pests.

The goal of this topic area is to support research on biotic stresses encountered by plants during interactions with other plants, including weeds; with pathogens such as fungi, viruses, bacteria, and nematodes; and with arthropods such as insects and mites. The research supported in this topic area will focus on the identification of novel pest control strategies that are effective, compatible with social and environmental concerns, and enhance the sustainability of managed and natural ecosystems. Within this context, research which emphasizes the following is encouraged:

(a) How plant-pest interactions are established;

(b) Mechanisms of plant response to biotic stresses;

(c) Mechanisms of pest response to host defenses; and

(d) Genetics of these interactions.

Fundamental studies which incorporate integrated pest management concepts into the research objectives are appropriate. Applications using molecular genetics as a tool to clarify plant/pest relations also are appropriate to this program area. Proposals focused on mapping of plant resistance genes or traits should be directed to the Plant Genome program area, 52.1.

Additionally, the program recognizes that fundamental research in the area of biological control will provide critical information leading to sustainable agricultural and forest production systems and for the development of alternatives to pesticides. Therefore, research which emphasizes how damage from pests can be reduced, including basic studies on biological control organisms and the ecological factors that influence biocontrol systems, is encouraged.

Host plants, pests, or components of natural control may be studies separately or as in interactive unit. However, all proposals should indicate how the anticipated information will further our understanding of plant/pest interactions and the cause, consequence, or mechanism of stress avoidance in crop plants an forest species.

Research at the molecular, cellular, organismal, or population level will be considered for the program areas described below.

51.1 Pathology. Emphasis will be placed on crop and forest diseases arising from interactions with biological agents such as fungi, bacteria, viruses, viroids, and mycophasma-like organisms. Studies may focus on interactions of the host and pathogen, as well as environmental factors that influence these interactions. These studies may include aspects of the biochemical, genetic, or cellular determinants of either pathogenicity or plant response. Studies may include investigations on the biochemical or toxicological consequences of disease-associated changes in plants. The ecological factors regulating the efficacy and survival of biological control agents may be studies at either the organismal or population level and may include both foliar and soil-borne ecosystems.

51.2 Entomology (includes Mites). In addition to the aforementioned subject areas related directed to insect-plant relations, studies of the basic biology of insects in the following areas are encourages:

(a) Behavioral physiology;

(b) Chemical ecology;

(c) Endocrinology;

(d) Population dynamics;

(e) Genetics;

(f) Behavioral ecology;

(g) Pathology;

(h) Predator/parasite-insect relationships; and

(i) Toxicology including basic pesticide resistance studies.

Proposed studies in these areas must include a justification for how anticipated results will be relevant to as reduction in plant stress. Proposal on *Apis* and other non-*Apis* pollinators are appropriate to this section.

51.3 Nematology. Emphasis will be placed on understanding the basic biology of plant parasitic and entomophagous nematodes and their interactions with host organisms. Applicants may propose to study the nematode separately from the host if there is significant justification.

51.4 Weed Science. Emphasis will be placed on crop and forest stresses arising from interactions with other plants, particularly weedy species. This program area will emphasize studies on how stressful interactions are established between plants, how plants react to stresses generated by such interactions, how such interactions are influenced by environmental and other factors inherent to the interacting organisms, and how the interactions reduce plant productivity and usefulness.

To provide adequate scientific evaluation of applications, proposals submitted under these program areas will be reviewed by the peer review panel whose collective expertise is most appropriate to the scientific content of each proposal.

52.0 Genomes, Genetics and Diversity. Significant impact on agricultural productivity can be achieved by understanding the molecular and cellular processes of plants and their inheritance and by translating such understanding into desirable plant performance. In the topic area of Genomes, Genetics and Diversity, research to promote the genetic improvement of crop plants and forest species will be encouraged in two program areas. The Plant Genome program area will support mission-oriented studies to produce low density maps, localized high density maps, and development of methods with high potential applicability to crop improvement. The Genetic Mechanisms and Molecular Biology program area will focus on obtaining basic information about plant genes and genetic processes. Specific information about the two program areas follows:

52.1 Plant Genome. The grant program area is part of the USDA Plant Genome Research Program. The goals of the Plant Genome program are to foster and coordinate research to identify, characterize, alter, and rapidly and precisely manipulate genes which control traits of agricultural importance.

Potential applicants to the NCRIGP Plant Genome Program area are advised that this is a mission-oriented, targeted program area. As such, the program is seeking proposals that are not only high scientific quality but also are of high potential applicability to improvement of crop and forest species. The use of non-cultivated plants as experimental model systems must be justified with regard to applicability to agriculture and

forestry. Priority will be given to proposals that plan timely dissemination of information, mapping data, and materials to a clearly identified community of users as well as to the scientific community as a whole. Well-coordinated multidisciplinary proposals designed to bring complementary talents to bear on mapping needs are encouraged; however proposals from single investigators are also appropriate The specific areas of emphasis listed below offer exceptional opportunities for advancing agriculture and forestry.

(a) Construction of genetic and/or physical maps. The objective of this section of the program is to construct maps for crop and forest species that are directly useful to breeders of crop improvement and to other biologists for fundamental plant science research. While there are no prescribed priorities for specific commodities or for types of maps, the applicant should justify the nature of the map to be constructed (e.g., genetic of physical, high density or low density) and the use of the particular species chosen. An assessment of the present state of the species' genome map, available genetic materials, the rationale for chose of the mapping population, and the future applications of the map for plant breeding or other research should be described in the proposal. It is not anticipated that any complete plant nuclear genome sequencing project will be supported under this program.

Construction of low resolution maps (i.e., those with a goal of containing gaps no larger than 25 centimorgans) will suffice for many plant breeding and research applications. High resolution maps (i.e., with gaps no larger than 5 centimorgans) likely will be limited in the number that will be funded, depending on the relationship of physical and genetic distances in the particular species. Strong justification will be needed in terms of a high density map's immediate and future scientific impact. For construction of genome maps with molecular markers at low or high density, a time frame of three years will usually be appropriate, unless unusual aspects of the particular species' genome produce difficulties that justify a longer-term effort.

Proposal for mapping should clearly describe communication or involvement with scientists (such as plant breeders, geneticists, physiologists, or biochemists) who will use the mapping tools that are to be created. Interaction of laboratories engaged in mapping with the users of the technology is essential to ensure early and efficient application of the tools developed.

(b) Detailed mapping and sequencing of specific regions of the genome. The identification and isolation of genes involved in specific genetic traits of economic significance are important components of this program. The goal is to provide support so that investigators may use the available tools, such as existing physical and genetic maps, cytogenetic stocks, alien addition lines, near-isogenic lines, mutants, transposons, and molecular markers to locate, identify, and isolate specific genes that are important to agriculture and forestry. Economically important traits are complex and likely will require experimental approaches drawn from many disciplines.

While no priorities for specific commodities have been established, applicants should identify genes that have potential agricultural or forestry value. In order to justify the project duration, investigators should describe the genetic tools presently available and the biological properties of the particular species of interest with respect to their impact on the length of time required to identify, locate, isolate, and transfer genes of interest. (c) Development of new mapping, cloning and sequencing technologies. Research to produce new methods and materials that can be applied to genome mapping, genome manipulation, gene isolation, or gene transfer is encouraged. The biology of the plant and its genome exhibits some fundamental differences from other eukaryotic systems and may require unique technical strategies. These differences include, but are not limited to, the polyploid nature of many plant genomes, the existence of the chloroplast genome and a large mitochondrial genome, the presence of the cell wall, the meristematic control of plant growth, and additional complex biosynthetic pathways. At the same time, plant systems offer unique advantages because of the ability to produce inbreds and interspecific sexual and somatic hybrids, the relative simplicity of introducing genes into many plant species, the possibility of regenerating plants from single cells, and the ease of cultivating large segregating populations. Research leading to the development of mapping, gene cloning, gene introduction, and sequencing technologies that are designed to overcome technical obstacles due to the complexity of plant systems, or research that is designed to take advantage of unique features of the plant systems will be supported. Proposals that present innovative approaches to technology development are encouraged.

All investigators funded by the USDA Plant Genome Research Program are expected to report genome sequencing and mapping information that results from NCRIGP-supported research to the centralized database at the Plant Genome Data and Information Center, USDA National Agricultural Library, Plant genome maps, DNA sequences, and other information for individual crop and forest species should be made available to the scientific community.

52.2 Plant Genetic Mechanisms and Molecular Biology. The goal of this program area is to encourage new approaches for the development of genetically superior varieties of crop and forest species. One of the major limiting factors for the application of biotechnology to agriculture is the lack of basic information about genes. Studies addressing the basic molecular, cellular, genetic and cytogenetic processes that contribute new information required for the development of novel approaches to crop and forest improvement will be given high priority. This program area will emphasize, but is not limited to, research in the following categories:

(a) Characterization of agriculturally important genes and gene products;

(b) Relationships between gene structure and function;

(c) Regulatory mechanisms of expression of nuclear and organellar genes, including all stages from transcription to post-translational modification;

(d) Interactions between nuclear and organellar genomes;

(e) Mechanisms of recombination, transposition, replication and repair;

(f) Molecular, biochemical, and cellular processes controlling regeneration of whole plants from single cells; and

(g) Alteration and use of germplasm resources.

Proposals focusing on the development of gene transfer methodologies should be directed to the Plant Genome program area (52.1).

53.0 Plant Growth and Development. Optimal growth and development are essential for optimal productivity of agriculturally important crop plants and forest species. A basic understanding of developmental processes in these plants is largely lacking, but new experimental approaches are being developed through advances in molecular and cellular biology. The goal of this program area is to further the understanding of the fundamental mechanisms that underlie the regulation of the plant life cycle, including seed germination, differentiation, organogenesis,

flowering, fertilization, embryogenesis, fruit development, seed development, senescence, and dormancy. This program area will emphasize, but is not limited to, studies on:

(a) Developmental regulation of gene expression;

(b) Mechanisms of cell division, expansion, and differentiation;

(c) Development and organization of meristems;

(d) Photomorphogenesis;

(e) Cell biology including cytoskeleton, membrane biology, organelle development, and cell wall structure and properties (for photosynthetic membranes and chloroplast development, see also the Photosynthesis and Respiration Program (54.1));

(f) Biochemistry of primary and secondary metabolism related to plant growth and development (proposals dealing with metabolism unique to chloroplasts or mitochondria should be directed to the Photosynthesis and Respiration Program (54.1); investigators studying nitrogen metabolism should consider whether submission to the Nitrogen Fixation and Metabolism Program (54.2) is more appropriate);

(g) Hormonal regulation of growth and development, including biosynthesis, metabolism, perception, and mode of action of hormones; and

(h) Analysis and control of growth patterns.

Proposals emphasizing the use of emerging experimental techniques for the investigation of these processes are encouraged.

54.0 Energy and Metabolism.

54.1 Photosynthesis and Respiration. Central to crop and timber production are the plant processes by which solar energy is captured and transformed into the forms of energy found in food and fiber. Many of the complexities of these unique processes are still poorly understood, and thus, cannot be subjected to molecular, genetic and managerial manipulations designed to solve agricultural problems such as sustainability, yield, efficiency, and resource utilization.

The objectives of this program area are to encourage research that will elucidate underlying mechanisms of energy capture, transduction, and utilization in crop and forest plants.

Categories of innovative research sought in this area will include, but not be limited to, studies of the following processes:

(a) Photosynthetic energy conversion, including early events of photon capture and charge separation;

(b) Electron transport and energy transduction, including studies of biosynthesis, organization, and function of components of electron transport in photosynthesis and respiration (see also 52.2 and 53.0);

(c) Carbon dioxide transport and concentration;

(d) Biochemistry of carbon fixation, carbon assimilation and respiration;

(e) Control of photosynthate partitioning, translocation, and utilization;

(f) Mechanisms controlling photosynthetic and respiratory processes in leaves, plants, and canopies (see also 22.1 and 23.0);

(g) Interactions (see also 52.2 and 53.0) of various cellular compartments that are involved in photosynthesis or respiration; and

(h) Metabolism unique to chloroplasts and mitochondria. Investigators proposing studies that focus primarily on mechanisms regulating expression of genes involved in photosynthesis and respiration should consider whether submission to the Plant Genetic Mechanisms and Molecular Biology program is more appropriate.

Those investigators focusing on development of photosynthetic and respiratory structures should consider whether submission to the Plant Growth and Development Program (53.0) is more appropriate.

It is expected that experimental approaches to the study of the processes outlined above will be drawn from many disciplines, including biochemistry, biophysics, chemistry, microbiology, genetics, physiology, and cellular, development and molecular biology. Multidisciplinary approaches are encouraged.

54.2 Nitrogen Fixation/Metabolism. The high levels of nitrogen required by crops must be supplied to soils in the form of compounds usable to plants, such as ammonia and nitrate which are then assimilated by plants. These compounds are supplied, for the most part, either by application of fertilizers or by the action of microorganisms that "fix" atmospheric nitrogen. Fertilizer application can be costly in terms of energy costs and effects on the quality of surface and ground water. Only certain groups of crop and forest plants are capable of forming the bacterial-plant symbiosis capable of the more cost-effective, environmentally-sound biological nitrogen fixation. Development of alternative crop production methods for supplying nitrogen is desired. As a basis for developing such alternatives, a broad understanding is sought of the fate of nitrates and ammonia in the soil, as well as how nitrogen is fixed biologically. Furthermore, enhancement of crop yield, quality, nutritive value, and development of novel plant products will depend upon elucidation of mechanisms by which plants take up, transport, and metabolize nitrogen compounds.

Innovative research is solicited which uses disciplinary approaches of biochemistry, molecular biology, microbiology, genetics, physiology, cellular and developmental biology, and ecology. Multidisciplinary approaches are encouraged. Problem areas include, but are not limited to:

(a) Nitrification and denitrification;

(b) Ecology and competitive interactions of nitrogen-fixing organisms;

(c) Factors controlling symbiont specificity;

(d) Mechanisms regulating infection and nodulation of the root by symbiotic nitrogen-fixing organisms;

(e) Mechanisms of nitrogen-fixation in free-living, associative, and symbiotic organisms;

(f) Mechanisms influencing uptake and transport of nitrogen in the plant; and

(g) Plant metabolism of nitrogenous compounds, related to problems (a–f) listed above.

55.0 Alcohol Fuels Research. Proposals will be considered for research relating to the physiological, microbiological, biochemical, and genetic processes controlling the biological conversion of agriculturally important biomass material to alcohol fuels and industrial hydrocarbons. The scope of this program area includes studies on factors that limit efficiency of biological production of alcohol fuels and the means for overcoming these limitations.

Forest/Rangeland/Crop Ecosystems. The goal of this program area is to further the understanding of underlying biological, ecological, and cultural processes that can contribute to sustained productivity and to the well-being and sustainability of ecosystems. Interested applicants are directed to the complete program area description under the Natural Resources and the Environment Research Division (23.0).

Markets, Trade, and Policy

Increased export of agricultural, fish, and forest products, as well as value-added goods, is needed particularly in an increasingly competitive global market environment. Further, increased volumes of exports are expected to be produced by sustainable production practices and to contribute to revitalization of rural economies through

employment and income growth. Research is needed to provide knowledge of efficient, environmentally compatible, cost-reducing technologies to enhance producer and processor competitiveness in the marketplace. Knowledge about the implications of such new technologies and export market growth prospects is needed in order to assess employment and income opportunities and to determine supplemental infrastructure and organizational needs.

Two research program areas are offered to begin to fulfill these research needs. They are: (1) Market Assessments, Competitiveness, and Technology Assessments; and (2) Rural Development. The former includes the development of new methodologies and data sets and their application to assessments of specific markets. The purpose is to ascertain preferences, demand, utilization, and forecasts for various agricultural, fish, and forest products and commodities; determine the ability of the United States to compete for these markets; and assess the impacts of new product and sustainable production technologies on U.S. competitiveness, the environment, and rural economies. The Rural Development program has three subareas:

(a) Development of new theoretical and conceptual techniques and other methodologies that apply to rural revitalization issues;

(b) Determination of forces impacting rural areas; and

(c) Evaluation of methods for revitalizing rural areas.

In both program areas, multidisciplinary studies are encouraged.

61.0 Market Assessments, Competitiveness, and Technology Assessments. This Program Area will support research in three broad categories: (1) *Market Assessments.* The purpose of market assessment studies is to identify, describe, and quantify the size of potential international markets for agricultural, fish, and forest commodities and value-added products that may be supplied by the United States. Information is needed on the demographic, cultural, social, religious, economic, and other factors that influence consumer preferences. These factors may include sensory properties, preservation method, form, packaging, labeling, and other characteristics. Empirical estimates are needed on the sensitivity of quantities purchased to changes in own price, income, and the prices of substitute foods, along with forecasts of future use. Similar economic information is needed for semiprocessed food and non-food items of agricultural origin that are exported by the U.S. further processing into finished products for local consumption or export.

Research proposals are requested that will assess international markets for agricultural, fish, and forest products. Proposals may include, but are not limited to: Manufactured dairy products; beef, pork, broiler, and turkey products; fish products; fresh and processed fruits and vegetables; oilseeds and oilseed products; feed and cereal grain value-added products; natural fibers, including cotton and wool; and forest products, including lumber, composite materials, veneer, furniture, chips, and pulp. International markets may include, but are not limited to, those countries located in North and South America, Africa, Asia, and Eastern Europe. Applications proposing studies on commodities produced using alternative or sustainable practices are encouraged.

Additionally, research proposals are encouraged that identify and evaluate strategies to overcome private and/or institutional impediments to entry or expansion into international markets by the U.S. Of special interest are proposals that address industrial organizational arrangements or linkages that limit entry or require compliance with specified practices; government or trade organization product preparation and formulation standards and/or quality labeling requirements; and government licenses, permits, and fee structures for importers.

(2) *Competitiveness.* The purpose of competitiveness studies is to ascertain the ability of the United States to compete in specific global markets for agricultural, fish, and forest products and determine public and private strategies that can be employed to enhance U.S. competitiveness. "Global" is defined as any marketplace, including the U.S. Research is needed to provide empirical analyses and assessments of U.S. competitiveness in global markets relative to its principal competitors for raw and processed agricultural, fish, and forest products. The research should estimate the sensitivity of U.S. export activity to changes in costs of marketing, fiscal policies, trade policies, monetary exchange rates, market regulations, and other factors that affect competitiveness. This research should determine the conditions under which agricultural, fish, and forest product value-adding industries can locate in the U.S. and compete effectively for the domestic and export markets.

Proposals also are invited that identify and assess structural problems and provide alternative solutions to enable the U.S. to achieve its export market potential for agricultural, fish, and forest products. Examples of these problem areas are deficiencies in the educational and skill levels of the labor force; availability of capital and credit; transportation infrastructure; and adequacy of technology information and transfer services.

(3) *Technology Assessment.* Technology assessment studies are encouraged that provide new methods and the application of these methods to determine the benefits and costs of adopting new products and/or production methods for agricultural and forest materials produced using sustainable and alternative agricultural and forestry practices. Proposals should be designed to either assess the potential impacts of new technologies or products or their actual impacts on productivity, prices, domestic and export market sales, profitability, employment, capital requirements, management and labor skill-level needs, environmental impacts, adoption rates, industrial organization, and other factors relevant to the use of sustainable or other agricultural and forestry practices.

62.0 Rural Development. Rural areas dependent on agriculture, forestry, and other natural resource extractive industries have been subjected to various forces that reduce their economic vitality. Other sectors of the rural economy and society are also experiencing difficulties. Symptoms of reduced economic vitality include outmigration, loss and degradation of essential services, and multiple job holding.

The action and interaction of these forces are poorly understood, thus inhibiting the development of effective public policies that may revitalize depressed rural areas. Both theoretical and empirical research is needed to describe and measure the forces that reduce economic vitality and guide the policies that can restore vitality. New critical thinking also is needed to provide new theories, concepts, and methodological techniques for developing rural revitalization policies.

Proposals are being requested in three areas:

(1) New theoretical and methodological studies to focus on improving the social and economic well-being of rural families and communities at the national, regional, and community levels. These may be abstract studies based entirely on theory, or they may be implementations or trials of new analytical methods or data-generating procedures;

(2) Empirical studies to identify the forces that influence population change, employment, wage levels, and other indicators of social and economic viability. These studies are encouraged to assess the influence of particular agricultural, fiscal, monetary, trade, labor, industrial, and environmental policies and programs. Other elements for study may include the influence of industry restructuring, growth in labor productivity, and factors contributing to migration by various segments of the population; and

(3) Empirical research proposals to address the issue of how to diversify the economies of rural areas, particularly those highly dependent on agriculture, forestry, and other natural resource extractive industries.

These proposals may involve case studies, sectorial analyses, or regional comparisons that evaluate the likelihood of success for specific programs or policies which might be employed. Examples of these programs and policies include the restructuring of labor and capital markets, changes in support services, and investigations of sustainable agricultural systems as they affect employment diversification and entrepreneurial opportunity.

Processing For Adding Value or Developing New Products

Research in the are of processing for adding value or developing new products is needed to enhance the competitive value and quality of U.S. agricultural and forestry products. European countries sell about 75% of their agricultural output as value-added consumer products, while only one-third of U.S. agricultural exports are high value-added products. Instead, the U.S. sells over 50% of its agricultural and forestry output as bulk commodities such as corn, wheat and logs. In the U.S., the food processing and distribution system accounts for about 75% of the retail price of food and fiber products. Less than 30% of U.S. food exports are considered high value-added products.

Research will be supported in the area of Processing for Value-Added Products, both food and non-food. Research which leads to increased understanding of structure, physical properties, and basic processing characteristics of wood and wood-based materials in relation to their conversion into value-added products will also be supported in this Division. Proposals concerned with processing of wood products should be directed to, and will be evaluated by, the Improved Utilization of Wood and Wood Fiber Program (24.0), a description of which appears under the Natural Resources and the Environment Division.

71.0 Processing For Value-Added Products. Developing new uses for agricultural materials by enhancing process efficiencies and developing the knowledge base to support quantifiable and innovative processing/preservation methods for conversion of agriculture materials into new value-added industrial, non-food (non-wood), and food products is a top priority for U.S. agriculture. Research should emphasize processes that are environmentally acceptable, energy-efficient and economically feasible. Proposals should identify potential applications of the research or address an identified market need.

Proposals are encouraged in two general areas:

(1) To increase the understanding of the physical, chemical and biological properties of agricultural materials and food products that are important for quantifying, predicting, protecting, and controlling the quality of food and non-food (non-wood) products; and

(2) To develop innovative processes for better utilization and more efficient conversion of agricultural materials and co-products to high value-added food and non-food (non-wood) products.

Examples of research to be supported in the food area include but are not limited to:

(1) Methods for rapid monitoring of quality during processing and distribution;

(2) New uses for food components in further processed foods;

(3) Innovative methods of extending shelf life and maintaining quality; and

(4) Innovative processing as a substitute for food additives in food preservation.

Proposals dealing with issues of microbiological safety of foods should be directed to the Food Safety Program (32.0).

Examples of research to be supported in the non-food (non-wood) area include, but are not limited to, development of:

(1) New products such as superior lubricating and coating products from oilseeds; specialty fibers such as those used for garment and bedding insulation, yarn, and facial tissue; and polymers such as higher nylons and interpenetrating polymer networks, strippable coatings, and flexible coatings; and

(2) Improved methods for processing agriculturally-derived by-products such as leather and pharmaceutical products.

Proposals dealing with biological conversion of agricultural materials to alcohol fuels should be directed to the Alcohol Fuels Research Program (55.0).

III. Agricultural research enhancement awards program. This program is designed to help institutions develop competitive research programs and to attract new scientists into careers in high priority areas of national need in agriculture, food, and environmental sciences. In addition to providing support for postdoctoral fellowships and for research awards for new investigators as described earlier, this program will include Strengthening Awards.

Strengthening Awards consist of Research Career Enhancement Awards, Equipment Grants, and Seed Grants. The program particularly encourages applications to the Research Career Enhancement Awards Program. All proposals submitted under this part of the solicitation of applications, in addition to fulfilling the requirements in this part, also shall be appropriate to one of the research program areas described under the Specific Research Divisions part of this solicitation.

80.0 Strengthening Awards. Strengthening Awards are available to ensure that faculty of small- and mid-sized institutions who have not previously been successful in obtaining competitive research grants under section 2(b) of the 1965 Act, as amended, receive a portion of the grants. For the purpose of this announcement, small- and mid-sized institutions are defined as those with total enrollment of 15,000 or less. In addition, in order to ensure that such grants shall have the maximum strengthening effect, strengthening awards will be limited to faculty at small- and mid-sized institutions that previously have had limited institutional success in obtaining grants under any Federal competitive research grants program. To confirm eligibility, contact the Strengthening Awards Program at the telephone number listed in this document. Further, institutions in States that have had an average funding level from the USDA NCRIGP no higher than the 33rd percentile, based on a three year rolling average of funding by the USDA NCRIGP and the Competitive Research Grants Office, which was subsumed by the NCRIGP, are particularly encouraged to apply for Strengthening Awards. The following States (USDA-EPSCoR States) fall into this category:

Alaska	Hawaii
Arkansas	Idaho
Connecticut	Maine
Delaware	Mississippi

Montana	South Carolina
New Hampshire	South Dakota
New Mexico	Vermont
North Dakota	West Virginia
Rhode Island	Wyoming

However, all applicants for strengthening awards must meet the criteria described herein for the type of award for which the applicant applies. An individual applicant may submit only one proposal to the Strengthening Awards Program (80.1, 80.2, 80.3) this fiscal year. A separate peer review panel, aside from the peer review panels assembled for review of Standard Research Grant applications, will be assembled for the evaluation of Research Career Enhancement Awards, Equipment, and Seed Grants. Strengthening Standard Research Project Award applications will be reviewed by the peer review panel in the appropriate research program area along with Standard Research Grant applications.

In addition to being appropriate to one of the research program areas described under the Research Divisions described in this solicitation, proposals for Strengthening Awards also should fit within one of the following specified program areas:

80.1 Research Career Enhancement Awards. Grants within this program area are authorized by section 2(b)(3)(F) of the 1965 Act, as amended. The purpose of these awards is to provide an opportunity for faculty to enhance their research capabilities by funding sabbatical leaves. Funds will be designated for faculty at small- and mid-sized institutions who have not received a competitive grant under section 2(b) of the 1965 Act as amended (Competitive Research Grants Program) within the past five years. These awards will be limited to faculty at small-and mid-sized institutions that previously have had limited institutional success in obtaining grants under any Federal competitive research grants program. This sabbatical leave shall be conducted in a Federal research laboratory or a research laboratory at an institution which confers doctoral degrees in the topic area.

Documentation that arrangements have been made with an established investigator with regard to all facilities and space necessary for conduct of the research must be provided in the proposal. Awards will be limited to one year's salary and funds for supplies. These awards are not renewable. Proposals should be submitted by the deadline date indicated in this solicitation.

80.2 Equipment Grants. Grants within this program area are authorized by Section 2(b)(3)(D) of the 1965 Act, as amended. Funds will be designated for equipment grants to strengthen the research capacity of institutions. Institutions that previously have had limited success in obtaining grants under any Federal competitive research grants program may apply. Each request shall be limited to one major piece of equipment within the cost range of $10,000–$100,000. The amount requested shall not exceed 50 percent of this cost. Documentation that the remaining 50 percent will be matched with non-Federal funds should be provided by the applicant. Arrangements for sharing equipment among faculty are encouraged; however, it must be evident that the principal investigator is a principal user of the requested equipment. This program is not intended to replace requests for equipment in individual research projects. Rather, it is intended to help fund items of equipment that will upgrade the research infrastructure. Proposals should be submitted by the deadline date indicated in this solicitation.

80.3 Seed Grants. Grants within this program area are authorized by section 2(b)(3)(F) of the 1965 Act, as amended. The purpose of these awards is to provide funds to enable investigators at small and mid-sized institutions to collect preliminary data in preparation for applying for a standard research project grant. Faculty who have not been successful in obtaining a competitive grant under section 2(b) of the 1965 Act, as amended (Competitive Research Grants Program) within the past five years are eligible. These awards will be limited to faculty at small and mid-sized institutions that have had limited institutional success in obtaining grants under any Federal competitive research grants program. These awards will be limited to a total of $50,000 (including indirect costs) for two years and are not renewable. Proposals should be submitted by the deadline date indicated in this solicitation.

Strengthening Standard Research Project Awards. Grants within this program area are authorized by section 2(b)(3)(F) of the 1965 Act, as amended. Investigators at small and mid-sized institutions may wish to apply for a Standard Research Project Grant. Faculty who have not been successful in obtaining a competitive grant under section 2(b) of the 1965 Act, as amended (Competitive Research Grants Program) within the past five years are eligible. These awards will be limited to faculty at small and mid-sized institutions that have had limited institutional success in obtaining grants under any Federal competitive research grants program. Proposals should be submitted to the appropriate research program area described in this solicitation by the designated deadline for that particular program area. A separate peer review panel will not be assembled for the purpose of reviewing these proposals.

How To Obtain Application Materials

Please note that potential applicants who are on the Competitive Research Grants mailing list, who sent applications in fiscal year 1992, or who recently requested placement on the list for fiscal year 1993, will automatically receive copies of this solicitation and the Application Kit. All others may request copies from: Proposal Services Branch, Awards Management Division, Cooperative State Research Service, U.S. Department of Agriculture, room 303, Aerospace Center, Washington, DC 20250–22200; telephone: (202) 401–5048. Applicants also may request the program description and application materials for the Special Research Grants Water Quality Program at the same address and telephone number.

Specific Guidelines for Proposal Preparation and Submission

Section I. Overview

The following are specific guidelines presented to provide direction in proposal preparation and submission. Pursuant to 7 CFR 3200.4(c), the following guidelines for proposal format and content supplement those guidelines set out by that section. If the section and the supplemental guidelines herein conflict, the supplemental guidelines take precedence, in accordance with 7 CFR 3200.4(c).

Format and Contents for Applications

Pursuant to 7 CFR 3200.4(c), the following guidelines for proposal format and content supplement those guidelines set out by that section. If the section and the supplemental guidelines herein conflict, the supplemental guidelines take precedence, in accordance with 7 CFR 3200.4(c). For purposes of in-depth evaluation as well as for consistency, organization, and clarity, it is important that proposals contain certain information and that they be of similar format. Therefore, all applications submitted should follow the guidelines listed below and be assembled in the indicated order.

1. Conventional Projects.

(a) *Standard Research Grants.*

Application Cover Page (Form CSRS–661). Each copy of the proposal must contain an Application Cover Page,

which should be assembled as the first page of the application. At least one copy of this form must contain pen-and-ink signatures as outlined below. A copy of this form is located in the Application Kit and may be duplicated as necessary. In completing the Cover Page, please note the following:

• Title of Proposal (Block 6). Choose an appropriate project title and place it in this block. The other guidelines for this component are listed in 7 CFR 3200.4(c)(1).

• Program Area and Number (Block 8). From among the announced research program areas, choose the program area that is most appropriate to the effort being proposed and insert the name and number in this block. It is important that only one program area be selected. In instances where the appropriateness of the chosen program area may be in question, the final program area assignment will be made by the NCRIGP scientific staff. The principal investigator will be informed of any changes in assigned program areas.

• Principal Investigator(s)/Project Director(s)—Block 15. List the name(s) of the proposing principal investigator(s) in this block. If there is more than one investigator, all must be listed and all must sign the Application Cover Page. Co-principal Investigators should be limited to those required for genuine scientific collaboration; minor collaborators or consultants should not be designated as co-principal investigators. Only the principal investigator listed in Block 15.a. will receive direct correspondence from the NCRIGP.

• Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA, to whom the application, or a substantially similar application, has been or will be sent. In addition, if the application is submitted to another organization after it has been submitted to the NCRIGP, you must inform the NCRIGP program officer immediately. Failure to accurately and completely identify other possible sponsors will delay the processing of the application and may result in its being returned without review. The identification of other sponsors must include the name(s) of the program(s) within the sponsoring organization to which you have applied or will apply.

• Signatures. Sign and date the Application Cover Page in the places indicated at the bottom of the page. The other guidelines for this component are listed in 7 CFR 3200.4(c)(1). Applications that do not contain the signature of the authorized organizational representative cannot be considered for support. Proposals submitted by individuals who lack organizational affiliation need only be signed by the proposing principal investigator.

Table of Contents. To facilitate the location of information, each proposal must contain a table of contents, which should be assembled as page 2.

Project Summary. The proposal must contain a project summary. The other guidelines for the project summary are listed in 7 CFR 3200.4(c)(2).

Project Description. All proposals should be submitted on standard 8½" x 11" paper with typing on one side of the page only. In addition, margins must be at least 1", type size must be 12 characters per inch or larger, and there must be no page reductions. Applicants are encouraged to include original illustrations (photographs, color prints, etc.) in all copies of the proposal. Reviewers are not required to read beyond the 15-page limit. Other guidelines for the project description are listed in 7 CFR 3200.4(c)(3).

The project description must contain the following components:

• Introduction. The guidelines for this component are listed in 7 CFR 3200.4(c)(3)(i).

• Progress Report. The guidelines for this component are listed in 7 CFR 3200.4(c)(3)(ii). In addition, the progress report must be limited to three pages (within the 15-page limit).

• Rationale and Significance. The guidelines for this component are set out in 7 CFR 3200.4(c)(3)(iii).

• Experimental Plan. The guidelines for this component are set out in 7 CFR 3200.4(c)(3)(iv).

Facilities and Equipment. The guidelines for facilities and equipment are set out in 7 CFR 3200.4(c)(4).

Collaborative Arrangements. The guidelines for this area are set out in 7 CFR 3200.4(c)(5).

References to Project Description. The guidelines for this area are set out in 7 CFR 3200.4(c)(6).

Vitae and Publication List(s). The guidelines for this area are set out in 7 CFR 3200.4(c)(7).

Conflict of Interest List. To assist program staff in excluding from proposal review those individuals who have conflicts of interest with the project personnel, a list of such persons should be appended for each investigator for whom a curriculum vitae is provided. Please list only the individuals in the following categories *:

• Collaborators on research projects within the past five years.

• Co-authors on publications published within the past five years.

• Thesis or postdoctoral advisors within the past five years.

• Graduate students or postdoctoral associates within the past five years.

It is not necessary to list separately individuals in each category; rather, a single alphabetical list is preferred.

Budget (Form CSRS–55. In addition to the following, the guidelines for this area are set out in 7 CFR 3200.4(c)(8).

Salaries of faculty members and other personnel who will be working on the project may be requested in proportion to the effort they will devote to the project. However, grant funds may not be requested to augment the salary or rate of salary for project personnel or to reimburse them for consulting or other activities that constitute a part of their normal assignment. In addition, the recovery of indirect costs under grant awards made to institutional recipients may not exceed the lesser of the institution's applicable negotiated indirect cost rate or the equivalent of 14% of the total Federal funds provided under each award.

Budget Justification. All salaries and wages, nonexpendable equipment, foreign travel, and "All Other Direct Costs" for which support is requested must be individually listed (with costs) and justified on a separate sheet of paper and placed immediately behind Form CSRS–55.

Current and Pending Support (Form CSRS–663). The guidelines for this area are set out in 7 CFR 3200.4(c)(10).

Addenda to Project Description. The guidelines for this subject are set out in 7 CFR 3200.4(c)(11).

Assurance Statements (Form CSRS–662). In addition to the following, the guidelines for this subject are set out in 7 CFR 3200.4(c)(9).

With regard to compliance with the regulations set out in 7 CFR 3200.4(c)(9) for research involving special considerations, proposing scientists who lack organizational affiliation or whose organization finds it impractical to maintain the required Institutional Review Board or Institutional Animal Care and Use Committee may wish to negotiate with a local university or other research organization to have this service performed for them.

Certifications Regarding Debarment and Suspension, Drug-Free Work Place, and Lobbying. In addition to the

* NCRIGP does not regard other investigators working in the applicant(s)' specific research area as being in conflict of interest with the applicant(s) unless those investigators fit within one of the above categories.

following, the guidelines for this subject are set out in 7 CFR 3200.4(c)(12). By signing the Application Cover Page, applicants are providing the certifications required by Departmental regulations. Submission of the individual forms found in the Application Kit is no longer required. For additional information, refer to the certification at the bottom of Form CSRS-661, Application Cover Page.

Compliance with the National Environmental Policy Act. As outlined in 7 CFR Part 3407 (CSRS's implementing regulations of the National Environmental Policy Act of 1969 (NEPA)), environmental data or documentation for the proposed project is to be provided to CSRS in order to assist CSRS in carrying out its responsibilities under NEPA. The applicant should review the following categorical exclusions and determine whether the proposed project may fall within one of the exclusions. If the applicant determines that the proposed project may fall within the categorical exclusions, the applicant must identify the specific exclusion.

(1) Department of Agriculture Categorical Exclusions (7 CFR 1b.3).

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the functions of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine date collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement ad investigative activities;

(vi) Activities related to trade representation and market development activities abroad; and

(vii) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation.

(2) CSRS Categorical exclusions. Based on previous experience, the following categories of CSRS actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

In order for CSRS to make a determination regarding NEPA, pertinent information regarding the environmental aspects of the proposed project is necessary; therefore, a separate statement, indicating the applicant's determination of whether or not the project falls within a categorical exclusion, and the reasons and supporting documentation therefor, must be included in the proposal. If the applicant determines that the proposed project may fall within a categorical exclusion, the specific exclusion must be identified. The information submitted in association with NEPA compliance should be identified in the Table of Contents as "NEPA Considerations" and the narrative statement and supporting documentation should be placed at the back of the proposal.

Even though a particular proposed project may or may not fall within a categorical exclusion, CSRS may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for a proposed project should substantial controversy on environmental grounds exist or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

(b) *Research Conference Applications.* Proposals requesting support for research conferences should be submitted under the appropriate research program area described herein by the designated deadline for that particular program area. Applicants considering submission under this category are strongly advised to consult the appropriate NCRIGP staff before preparation and submission of the proposal. In addition to the following, the guidelines set forth in 7 CFR 3200.4(c), not in conflict with the following guidelines, apply to this category:

- An Application Cover Page (Form CSRS-661), appropriately completed and signed;
- The project summary page stating the objectives of the research conference, symposium, or workshop, as well as the proposed location and probable inclusive date(s) of the conference;
- A justification for the meeting;
- Names and organizational affiliations of the chairperson and other members of the organizing committee;
- A proposed program (or agenda) for the conference, including a listing of scheduled participants and their institutional affiliations;
- The method of announcement or invitation that will be used;
- A curriculum vitae for the submitting project director(s) and a brief listing of relevant publications (each vitae and publications listing, combined, should not exceed three (3) pages); and
- An estimated total budget (Form CSRS-55) for the conference, together with an itemized breakdown of all support requested from the NCRIGP. The budget for the conference may include an appropriate amount for transportation and subsistence costs for participants and for other conference-related costs.
- A Current and Pending Support statement (Form CSRS-663) as described in 7 CFR 3200.4(c)(11).

Section II. Agricultural Research Enhancement Awards Applications

(a) Postdoctoral Fellowships

Proposals requesting support for postdoctoral fellowships should be submitted under the appropriate research program area described herein by the designated deadline for that particular program area. Such proposals can be submitted directly by the individual or through an institution. In either case, applications should contain the specified information and be assembled in the order indicated in 7 CFR 3200.4(c) and the supplemental guidelines under "Format and Content" for Standard Research Grants herein. Indicate on the Project Summary Page that this is a Postdoctoral Fellowship Application.

Applciations also should include:

- A letter of support from the scientific host stating his or her willingness to serve in this capacity and to allow the use of all facilities and space necessary for conduct of the research. The letter also must provide assurance that the project is not simply an extension of the host's ongoing research.

• Documentation that the host investigator's institution has been informed of these arrangements and concurs with them. Postdoctoral applicants from Federal laboratories must notify the appropriate regional office.

• A budget primarily limited to salary support for the postdoctoral fellow which is within the current salary range of postdoctorals at the host institution although limited support also may be requested for supplies, travel and publication costs.

The Application Cover Page (Form CSRS–661) of proposals submitted by individuals who lack organizational affiliation need only be signed by the proposing principal investigator. Proposals submitted through an institution must be signed by the proposing principal investigator and endorsed by the authorized organizational representative.

(b) New Investigator Awards

Research proposal applications from new investigators should be submitted under the appropriate research program area described herein by the designated deadline for that particular program area. Applications should contain the specified information and be assembled in the order indicated in 7 CFR 3200.4(c) and the supplemental guidelines under "Format and Content" for Standard Research Grants herein. Indicate on the Project Summary Page that this is a New Investigator application.

(c) Strengthening Awards

See Program Description contained under Section 80.0, Strengthening Awards, for eligibility requirements.

(1) Research Career Enhancement Awards. Applications from faculty wishing to enhance their research capabilities through sabbatical leaves are encouraged and should be submitted under the research Career Enhancement Program. Proposals should originate through the applicant's home institution and be submitted by the Research Career Enhancement Awards deadline date found in the program announcement. In addition to following the guidelines set forth in 7 CFR 3200.4(c), the following guidelines also apply:

• An Application Cover Page (CSRS–661) completed as described in the supplemental guidelines under "Format and Contents" for Standard Research Grants herein. Indicate Program Area 80.1 in Block 8.

• Project Summary Page indicating overall project goals and supporting objectives. Indicate on the Project Summary Page that this is a Research Career Enhancement Award application.

• Sabbatical description (limited to five (5) single- or double-space pages):

(1) A general description of the research interests and goals of the applicant in order to provide perspective for the proposal.

(2) A statement of how the proposed activities will serve to enhance the scientific research capabilities of the applicant.

(3) A statement of future research goals once the sabbatical is completed and how the sabbatical will enable the applicant to pursue these goals.

• Curriculum vitae and a list of publications. Guidelines for this component are contained in 7 CFR 3200.4(c)(7).

• A letter from the scientific host willingness to serve in this capacity, and a description of the host's contribution to the proposed activities both scientifically and with regard to use of facilities and equipment.

• A statement signed by the Department Head or equivalent official at the host institution indicating a commitment to provide research space and facilities for the period of the applicant's presence.

• Budget (Form CSRS–55), Budget Justification, and Current and Pending Support (CSRS–663) as outlined in the supplemental guidelines under "Format and Contents" for Standard Research Grants herein. (Note that the budget should be limited to one year's salary and funds for supplies.)

(2) Equipment Grants. Applicants requesting assistance in purchasing equipment should be submitted to the Equipment Grant Program. Proposals must be submitted by the Equipment Grants deadline date found in this program announcement. In addition to following the guidelines set forth in 7 CFR 3200.4(c), the following guidelines also apply. Proposals for Equipment Grants should include the following:

• An Application Cover Page (CSRS–661) completed as described in the supplemental guidelines under "Format and Contents" for Standard Research Applications herein. Indicate Program Area 80.2 in Block 8.

• Project Summary Page indicating equipment sought and the overall project goals for its use. Indicate on the project summary page that this is an Equipment Grant application.

• A general description of the research interests and goals of the applicant, how the equipment will fit into or enhance the research program, and how the equipment will allow the applicant to become competitive for future funding or move into new research areas. (Limit five (5) pages).

• A brief description of other similar or complementary equipment available to investigator at the institution and why the requested equipment is necessary.

• Curriculum vitae and a list of publications (including titles) for the applicant and other major users of the equipment. Follow detailed instructions for these items provided under "Format and Contents" for Standard Research Projects herein.

• Budget (Form CSRS–55 and Budget Justification). Justification should: describe the instrument requested, including the manufacturer and model number if known; provide a detailed budget breakdown of the equipment and accessories required; indicate the amount of funding requested from USDA; and provide a statement that the necessary non-federal matching funds will be made available from an institutional or other source. (Note that no more than 50 percent of the equipment cost will be provided by the USDA.

• Current and Pending Support (Form CSRS–663), as outlined in the supplemental guidelines under "Format and Contents" for Standard Research Grants herein. If the applicant has significant funding from other sources, a justification must be given for how this equipment will strengthen the applicant's research program or institution.

No installation, maintenance, warranty, or insurance expenses may be paid from these awards. Computer equipment is eligible only if it is to be used specifically for scientific purposes and is carefully justified. Purchase of a computer primarily for use as a word processor or for other administrative purposes is not permitted.

(3) Seed Grants. Applications from faculty wishing to collect preliminary data should be submitted to the Seed Grant Program. Proposals should be submitted by the Seed Grants deadline date found in the program announcement. Such proposals should be completed as described in 7 CFR 3200.4(c) and the supplemental guidelines under "Format and Contents" for Standard Research Grants herein, with the following modifications:

• Program Area 80.3 should be indicated in Block 8 of the Application Cover Page (CSRS–661), and the Project Summary Page should indicate that this is a Seed Grant application.

• Project Description must be limited to five (5) single- or double-spaced pages. The description should include all the components of a standard research

project grant. It also should indicate long-term research goals and should include a statement on how this seed grant will allow the applicant to become competitive for future funding.

• Note that the budget should be limited to a total of $50,000 (including indirect costs) for two years.

(4) Strengthening Standard Research Projects. Faculty who are eligible for the Strengthening Award Program may wish to apply for a Standard Research Project Award. Such applications should be completed as described in 7 CFR 3200.4(c) as supplemented by "Format and Contents" for Standard Research Grants herein and should be directed to the appropriate research program area described herein and submitted by the designated deadline for that particular program area.

• Indicate on the Project Summary Page that this proposal qualifies as a Strengthening Standard Research Project application.

What to Submit

An original and 14 copies of the application and pertinent addenda to the project description are requested. Due to the heavy volume of proposals that are received each year and the difficulty in identifying proposals submitted in several packages, all copies of each proposal must be mailed in a single package. In addition, please see that each copy of the proposal is stapled securely in the upper left-hand corner. DO NOT BIND any of the copies of the proposal, as it will only delay processing.

Every effort should be made to ensure that the proposal contains all pertinent information when originally submitted.

Where to Submit

The research grant application must be postmarked by the relevant date indicated in the program announcement and submitted to the following address:

National Competitive Research Initiative Grants Program, c/o Proposal Services Branch, Awards Management Division, Cooperative State Research Service, Room 303 Aerospace Center, U.S. Department of Agriculture, Washington, DC 20250–2200, telephone: (202) 401–5048.

If you plan to hand deliver your proposal or use special mail services such as overnight express, the following street address must be included and a different zip code used: 901 D Street, SW., Washington, DC 20024.

Do not submit the proposal to individual program officers and do not submit it through your Senator or Congressional Representative, as these actions could delay the receipt of the application.

When to Submit

To be considered for funding during FY 1993, proposals must be postmarked by the following dates:

Postmarked dates	Program codes	Program areas	Contacts (202)
Dec. 7, 1992	23.0	Forest/Rangeland/Crop Ecosystems	401–5114
	51.1	Pathology	401–4310
	51.4	Weed Science	401–4310
Dec. 14, 1992	52.1	Plant Genome	401–4871
Dec. 21, 1992	31.0	Human Nutrient Requirements for Optimal Health	205–0250
	52.2	Plant Genetic Mechanisms and Molecular Biology	401–5042
Jan. 11, 1993	43.0	Animal Molecular Genetics and Gene Mapping	401–4399
	54.1	Photosynthesis and Respiration	401–6030
Jan. 19, 1993	41.0	Reproductive Biology of Animals	401–6234
	51.2	Entomology	401–5114
	51.3	Nematology	401–5114
Jan. 25, 1993	22.1	Plant Responses to the Environment	401–4871
	55.0	Alcohol Fuels	401–4310
Feb. 1, 1993	21.0	Water Quality	401–4082
	24.0	Improved Utilization of Wood and Wood Fiber	401–1952
Feb. 8, 1993	61.0	Market Assessments, Competitiveness, and Technology Assessment	401–4772
	62.0	Rural Development	401–4425
Feb. 16, 1993	53.0	Plant Growth and Development	401–5042
Feb. 22, 1993	42.0	Cellular Growth and Development Biology of Animals	205–0250
	44.0	Mechanisms of Animal Disease	401–4399
Mar. 1, 1993	71.0	Processing for Value-Added Products	401–1952
Mar. 15, 1993	54.2	Nitrogen Fixation/Metabolism	401–6030
	32.0	Food Safety	401–4399
Mar. 22, 1993	80.1	Research Career Enhancements Awards	401–6234
	80.2	Equipment Grants	401–6234
	80.3	Seed Grants	401–6234

Programmatic questions regarding the Special Research Grants Water Quality Program should be directed to (202) 401–4504.

Section III. Proposal Review and Evaluation Peer Evaluation

In addition to the following, Peer Evaluation will be conducted in accordance with 7 CFR 3200.11 and 3200.14.

Evaluation Factors

So that the respective peer panel may accomplish the most complete review possible, the panel will take into account the evaluation factors that follow, pursuant to 7 CFR 3200.5(a).

Standard Research Grants, Postdoctoral Fellowships and New Investigator Awards. The following evaluation factors will be used in reviewing applications for Standard Research Grants, Postdoctoral Fellowships, New Investigator Awards:

• *Scientific merit of the proposal,* consisting of:

• Conceptual adequacy of the hypothesis;

• Objectives and approach;

• Preliminary data;

• Impact of anticipated results;

• Probability of success of project;

• Qualifications of proposed project personnel and adequacy of facilities;

• Relevance of project to long-range improvements in and sustainability of U.S. agriculture or to one or more of the research purposes set out in Section 1402 of the 1977 Act, as amended.

However, because section 2(b)(10) of the 1965 Act, as amended, requires not less than 30% of the funds appropriated to carry out section 2(b) to be available for research conducted by

multidisciplinary teams and requires not less than 20% of the funds appropriated to carry out section 2(b) to be available for mission-linked research, CSRS reserves the right to reevaluate standard research grant proposals to attain these amounts.

Research Conference Applications. In evaluating proposals for the support of research conferences, the following factors will be considered:

- *Relevance of the proposed conference to agriculture in the U.S. and the appropriateness of the conference in fostering scientific exchange;*
- *Qualifications of organizing committee and appropriateness of invited speakers to the topic areas being covered;*
- *Uniqueness and timeliness of conference;*
- *Appropriateness of budget request.*

Strengthening Awards. The following evaluation factors will be used in reviewing applications for Research Career Enhancement Awards, Equipment Grants, and Seed Grants:

- The merit of the proposed activities or research equipment as a means of enhancing the research capabilities and competitiveness of the applicant and/or institution;
- The applicant's previous research experience and background;
- The appropriateness of the proposed activities or research equipment for the goals proposed;
- Relevance of project to long-range improvements in and sustainability of U.S. agriculture or to one or more of the research purposes set out in section 1402 of the 1977 Act, as amended;
- Whether or not the applicant institution is located within a USDA-EPSCoR State.

The evaluation factors used for Standard Research Projects also will apply for Strengthening Standard Research Project Grants with the addition of the following factor:

- Whether or not the applicant institution is located within a USDA-EPSCoR State.

Proposal Disposition

In addition to the following, the guidelines set out in 7 CFR 3200.5(b) apply to this subject.

The NCRIGP reserves the right to negotiate with the principal investigator or project director and/or with the submitting organization or institution regarding project revisions (e.g., reductions in the scope of work), funding level, or period or method of support prior to recommending any project for funding.

A proposal may be withdrawn at any time before a final funding decision is made regarding the proposal; however, withdrawn proposals normally will not be returned. One copy of each proposal that is not selected for funding (including those that are withdrawn) will be retained by the NCRIGP for a period of one year. The remaining copies will be destroyed.

Section IV. Grant Awards

General

This topic is covered by the guidelines set out in 7 CFR 3200.6.

Obligations

In addition to the following, the guidelines for this subject are set out in 7 CFR 3200.6(e). For any grant awarded, the maximum financial obligation of CSRS shall be the amount of funds *authorized* for the award. This amount will be stated on the award instrument and on the approved budget. However, in the event an erroneous amount is stated on the grant award instrument, the approved budget, or any supporting document, CSRS reserves the unilateral right to make the correction and to make an appropriate adjustment in the amount of the award to align with the authorized amount.

Section V. Post-Award Administration Conditions That Apply

The guidelines set forth in 7 CFR 3200.7 apply to this subject area.

Release of Information

The guidelines for this subject are contained in 7 CFR 3200.13.

Supplementary Information

The Competitive Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the Final rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0524-0022.

The award of any grant under the NCRIGP during FY 1993 is subject to the availability of funds.

Done at Washington, DC, this 11th day of September, 1992.

William D. Carlson,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 92-22455 Filed 9-16-92; 8:45 am]

BILLING CODE 3410-22-M

Forest Service

Exemption From Appeal, Shoreline Salvage Sale, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage, and insect baiting and trapping to recover and rehabilitate natural resources from recent insect epidemics on the Shoreline project area, Cascade Ranger District, Boise National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

EFFECTIVE DATES: Effective on September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Patterson, Timber Management Assistant, Cascade Ranger District, Boise National Forest, P.O. Box 696, Cascade, ID, 83611, Telephone: 208-382-4271.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir beetle, mountain pine beetle and Douglas-fir Tussock moth populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Cascade Ranger District personnel have developed a proposal to harvest dead and dying timber, and bait and trap insects. The Forest Service has completed the Shoreline Timber Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other recovery activities.

The analysis area for the Shoreline Timber Salvage EA is located 25 miles east of Cascade, Idaho and is adjacent to Warm Lake, a high recreational use area. Numerous cabins are located around the lake on National Forest Land, and campgrounds, swimming areas and picnic areas are nearby.

Many trees have died in and around recreation facilities in the Warm Lake area because of the bark beetle epidemic. These dead trees pose a safety hazard to people and property in the area, and have reduced aesthetic values. In response to this hazard and loss of aesthetic values. In response to

this hazard and loss of aesthetic value, a proposal was developed to remove hazardous trees in an environmentally acceptable way that is consistent with the management direction in the Boise National Forest Plan.

The purpose and need for this project is to maintain recreational facilities, including summer home areas: (1) Reduce the hazard of dead trees falling on people or property, (2) reduce the risk of wildfire damaging buildings in the area, (3) enhance the visual quality of this recreation setting, (4) slow the spread of bark beetles into other nearby trees, and (5) salvage timber before it loses its value.

This project will harvest approximately 112 Mbf of timber on fourteen acres around Warm Lake. Seven locations around Warm Lake, which are near recreation sites or summer home areas, have been identified for hazard tree removal.

Included in this harvest will be 92 Mbf of beetle killed Douglas-fir trees, 10 Mbf of green hazard trees, and 10 Mbf of green Douglas-fir trees which are included to trap and remove bark beetles. All timber will be skidded by tractor or winched to a tractor and then skidded to existing roads. No road construction or reconstruction is planned. All trees will be individually marked.

Management direction for the area is described in Management Area 57 of the Boise National Forest Plan, and is based upon Prescription K. This direction emphasizes maintenance or improvement of anadromous fish habitat, management of wildlife habitat, and protection of scenic qualities. Existing developed facilities around Warm Lake should be maintained or improved. Wildfire suppression strategies should protect the area's high value summer homes and reduce natural fuel hazards.

The Warm Lake area lies within the South Fork Salmon River (SFSR) drainage. The Forest Plan, page IV-76 provides general direction for the SFSR area: land disturbing activities are limited to a few acceptable categories until interim goals for fish habitat improvement have been achieved. Maintenance of existing facilities, including roads, campground, and trailheads is one land disturbing activity that is acceptable. This project is part of the maintenance of the Warm Lake recreational facilities.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is justification to expedite this project.

The decision for the Shoreline project will be implemented after publication of this notice in the Federal Register. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that the salvage harvest could not be implemented until the 1993 summer season. Winter logging is not practical because of the deep snow and high recreational use (snowmobiling and skiing). This delay would result in hazard trees left during the winter recreation season, a significant loss in the value of the dead trees, additional trees attacked and killed by bark beetles, and could potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project, and would pose unnecessary safety risks to recreationists.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Shoreline Salvage and Recovery Project, Cascade Ranger District, Boise National Forest from appeal. The environmental assessment discloses the effects of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: September 10, 1992.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 92-22469 Filed 9-16-92; 8:45 am]

BILLING CODE 3410-11-M

Sierra National Forest; Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Kings River Ranger District, Sierra National Forest, Pacific Southwest Region.

SUMMARY: The Forest Service is exempting from appeal the decision resulting from the Turtle Helicopter Salvage Sale analysis. This environmental analysis is being prepared in response to the severe timber mortality in the BearWallow, Bull, Cabin, Nutmeg, Muley, Ross, and Turtle compartments (portions of the Dinkey Creek Drainage) on the Kings River Ranger District, Sierra National Forest. The unusual mortality is being caused by drought and related insect infestation. The Turtle Helicopter analysis area lies south of the Big Fir Road (10S13) and the McKinley Grove Road (11S40), west of Bear Creek and the eastern half loop of the Ross Crossing Road (10S24), north of BearWallow Creek, and east of Oak Flat Creek and the western half loop of the Ross Crossing Road (10S24).

There are currently much higher than normal levels of tree mortality occurring throughout the Sierra National Forest as a result of six consecutive years of below normal precipitation. The Kings River Ranger District is proposing a helicopter harvest of 6.0 million board feet (MMBF) on approximately 10,000 acres, of which approximately 200 acres would be directly affected. The proposed project involves no new road construction or road reconstruction.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark and engraver beetles. Trees killed by insect attack deteriorate rapidly. This is particularly true of fir and pine trees in the lower elevations of the analysis area.

Prompt removal of the dead and dying timber minimizes value and volume loss and provides for long-term protection of all resources from wildfire. Any unnecessary delays of the proposed salvage sales could delay harvesting until the 1993 logging season which could decrease the timber value by as much as $250,000. In addition, excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult. The analysis area lies within an area that is highly valued for its wildlife habitat and is at the same time extremely vulnerable to fire. The accumulation of dead fuels will compound this problem, therefore the chances of losing key wildlife habitat is increased.

The decision for the proposed project is scheduled to be issued in late September 1992. If the project is delayed because of an appeal (delays can be up to 100 days, with an additional 15-20 days for discretionary review by the Chief of the Forest Service), it is likely that the project could not be implemented at all due to the relatively high costs associated with helicopter logging and the lowered value of the dead and dying trees if they are allowed to deteriorate for another season. The significant deterioration of dead and dying timber would result in a loss of timber value which would cause a substantial monetary loss. Any delay in removing dead and dying trees will increase the chances of not being able to suppress a wildfire, due to excessive fuel buildups. The result could be a substantial loss of key wildlife habitat.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision relating to the harvest and restoration of lands affected by drought induced timber mortality within the Turtle Helicopter Salvage project area, on the Kings River Ranger District,

Sierra National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement, and will address issues raised by the public.

EFFECTIVE DATE: This decision is effective September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2684, or to James L. Boynton, Forest Supervisor, Sierra National Forest, 1600 Tollhouse Road, Clovis, CA 93611, (209) 487-5155.

ADDITIONAL INFORMATION: The environmental analysis for this proposal will be documented in the Turtle Helicopter Salvage Timber Sale environmental document. A public scoping notice was mailed out to 130 individuals and groups listed on the Sierra National Forest's public involvement list to provide information on the project and to generate public issues and concerns. In addition, a field trip was conducted for all interested parties to discuss the project proposals and review them on the ground. The project files and related maps are available for public review at the Kings River Ranger District, 34849 Maxon Road, Sanger, CA 93657.

The catastrophic damage presently occurring within the BearWallow, Bull, Cabin, Nutmeg, Muley, Ross, and Turtle compartments involves approximately 10,000 acres. Within this area, approximately 200 acres would be directly affected by harvest operations, with an associated volume of 6.0 MMBF. This area is presently being analyzed for salvage harvest under one timber sale. The value to the government of the salvage volume is estimated at $500,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Fresno County will share 25 percent of the selling value for any timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for watershed protection, erosion prevention, and fuels reduction.

This proposal is not expected to adversely affect any furbearer habitat or any of the known pairs of California spotted owls which are within the planning area. Biological evaluations along with biological assessments will be prepared for vertebrate, invertebrate, and plant species and the suggested mitigation measures will be followed in the implementation of the proposed project. No Wild and Scenic Rivers, wetlands, wilderness areas, roadless areas, or threatened or endangered species are within the proposed project area.

Dated: September 10, 1992.

Dale N. Bosworth,

Reviewing Officer, Deputy Regional Forester.

[FR Doc. 92-22468 Filed 9-16-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Manufacturers' Shipments to Federal Government Agencies.

Form Number(s): MC-9675.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 7,700 hours.

Number of Respondents: 7,700.

Avg Hours Per Response: 1 hour.

Needs and Uses: The Bureau of the Census will conduct this survey as part of the 1992 Census of Manufactures in order to collect information from a sample of manufacturers in selected industries on their shipments to Federal Government agencies. Both prime and subcontract value of shipments data are collected in order to measure the widespread effect of these shipments. This survey is the only source of information on the value of Manufacturers' Shipments to Federal Government Agencies by Standard Industrial Classification (SIC) and on employees engaged in work related to Government expenditures for manufactured products. This information is important in determining the effect of purchases by the Federal Government on the economy.

Affected Public: Businesses or other for-profit organizations.

Frequency: Once every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 11, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-22414 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-07-F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Questionnaire Pretesting Research.

Form Number(s): Will vary by survey.

Agency Approval Number: 0607-0725.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 3,000 hours.

Number of Respondents: 3,000.

Avg Hours Per Response: 1 hour.

Needs and Uses: Last year, the Census Bureau obtained a generic clearance on an experimental basis, which relaxed some of the time constraints and enabled the Census Bureau to begin conducting extended cognitive and questionnaire design research as part of testing for its censuses and surveys. The clearance covered data collections in the demographic, economic, and decennial areas of the Census Bureau, and specifically applied to research that is focused on questionnaire design and procedures aimed at reducing measurement errors in surveys. The Census Bureau is seeking a renewal of the generic clearance for pretesting, over the next three years. Types of research will include field testing, respondent debriefings, split samples, cognitive interviews, and focus groups.

Affected Public: Individuals or households, farms, businesses or other for-profit organizations, and small businesses or organizations.

Frequency: On occassion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271,

Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 11, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-22415 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-07-F

Bureau of the Census

[Docket No. 920895-2236]

Decision on Whether to Incorporate Information From the Post-Enumeration Survey (PES) into the Base for Intercensal Population Estimates

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of deferral of final decision and request for comments.

SUMMARY: This is a notice informing the public of deferral of the final decision of the Director of the Census Bureau on the issue of whether to incorporate information from the Post-Enumeration Survey (PES) into the base for Intercensal Population Estimates produced by the Bureau of the Census and to request further comments on this important issue. This deferral is based on comments received from the public and further deliberations regarding option implementation within the Census Bureau.

DATES: Comments may be sent on or before November 13, 1992. Any comments received after November 13 will not be considered.

ADDRESSES: Comments may be sent to: Dr. Barbara Everitt Bryant, Director, Bureau of the Census, Washington, DC 20233-0100.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Bounpane, Assistant Director, Bureau of the Census, Telephone (301) 763-5613.

SUPPLEMENTARY INFORMATION: On August 10, 1992, a notice was published in the **Federal Register** (57 FR 35562-35564), informing the public about the alternatives available to the Director of the Census Bureau for potential improvement in the base for intercensal estimates of population by incorporating adjustment factors for the undercount developed from the Post Enumeration Survey (PES). The notice also sought comments on the five (5) alternative options addressing this important issue. In addition, a public hearing was held on August 31, 1992 at the Census Bureau to provide the public the opportunity to present views on this matter and to give the Census Bureau the opportunity to hear comments of interested parties. The Senate Committee on Governmental Affairs also held a hearing on this issue on August 12, 1992, at which Census Bureau Director Dr. Bryant testified and received comments from various members of the Committee as well as other Members of Congress.

It had been the intention to make a decision on this matter in early September. The Census Bureau received public comments from approximately 800 individuals and organizations. The Bureau also heard testimony from 17 people during the August 31 hearing. As a result of the large number and the nature of the comments received in response to the notice and at the public hearing, as well as comments of various Members of Congress, the Director of the Census Bureau decided to postpone the decision on whether to incorporate information from the Post-Enumeration Survey (PES) into the base for intercensal population estimates.

After reviewing the written comments received pursuant to the August 10 **Federal Register** notice (57 FR 35562-35564) and written and oral comments received during the August 31 hearing at the Census Bureau, it is clear that more time is needed to review and evaluate the options presented in the August 10 **Federal Register** notice. Study conducted and comments received subsequent to the notice suggest that the Director should consider this matter further and consider modifications to the options. [For example, a serious concern noted during the original comments period regarding Option #4 is that Option #4 does not reflect the full measured undercount at the national level. As a result, the Census Bureau is pursing further research on whether an adjustment can use the results of Option #4 in a manner that takes the full measured undercount into consideration.] Additional research will be made public, on request, as soon as it becomes available.

Comments are still being sought on the five (5) options published in the August 10 Federal Register notice.

Options

The original five (5) options published in the August 10 **Federal Register** notice follow.

Option #1

Incorporate the results of the PES into the base for intercensal estimates at all levels of geography.

Based on Census Bureau findings, this option would result in intercensal estimates that are generally more accurate at the national and state levels, but generally less accurate at sub-state levels than counts without the PES results. This option would produce a set of additive estimates.

Option #2

Incorporate the PES results into the intercensal base at the national and state levels. At the sub-state level, use a simple synthetic estimate based on the percentage of state-level estimated undercount. (Example: if a state has an estimated undercount of 1% as measured by the PES, then the base for every sub-state area is increased by 1% regardless of the actual PES estimate of undercount for each area.)

Based on Census Bureau findings, this option results in intercensal estimates that are generally more accurate at the state and national levels, while accuracy at sub-state levels may be improved or diminished depending upon the relationship between the measured undercount at the state and sub-state levels. The Census Bureau does not have a detailed evaluation of the technical merits of population counts for this option at the sub-state levels. However, for the proportional distribution of sub-state areas within a state, under this option, a city's population as a percentage of the total state population would be the same using either the census counts or the synthetic counts. This option would produce a set of additive estimates.

Option #3

Incorporate the results of the PES into the intercensal base for national and state level estimates, but not for sub-state levels (counties, cities, etc.).

Based on Census Bureau findings, this option would result in intercensal estimates that are generally more accurate at the national and state levels, and retain the relative accuracy of the 1990 census counts at sub-state levels. As a result of the inclusion of the PES results at the state level and exclusion at sub-state levels, this option would produce a series of estimates that are not additive from sub-state to state.

Option #4

The base for intercensal estimates for all levels of geography would be a simple average of the 1990 census count

and an estimate incorporating the results of the PES.

Under this option, the Census Bureau would attempt to achieve some improvements in the accuracy of intercensal estimates by including PES results averaged with the 1990 census counts. While this option would produce intercensal estimates less accurate than options #1, 2, and 3 at the national level and for some states, it would produce sub-state level estimates that are potentially more accurate. Within the Census Bureau, there has been prior use of composite data developed by averaging two different estimates. Because the Census Bureau has not completed a thorough investigation into the technical merits of averaging in this case, this option is based on limited technical findings. This option would produce a set of additive estimates.

Option #5

Do not incorporate the PES results into the intercensal estimates for any jurisdiction.

This option would not address the potential to improve generally the state and national level estimates based on the PES. It would retain the relative accuracy of the 1990 decennial census counts, which the Census Bureau determines cannot be improved upon, at the sub-state level. This option would produce a set of additive estimates.

Request for Comments

The Census Bureau invites the public to submit written comments for receipt by November 13, 1992. Written comments will be made part of the public record, and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover building, 14th & Constitution Avenue, NW., Washington, DC 20230.

Dated: September 15, 1992.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 92-22640 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Iran Air; Authorizations under Denial Order

ACTION: Notice.

On August 21, 1992, the Acting Under Secretary for Export Administration, United States Department of Commerce, issued a Final Order in an administrative enforcement proceeding against Iran Air, Mehrabad Airport Tehran, Iran. 57 FR 39178, August 28, 1992. The Order finds that Iran Air committed a violation of the Export Administration Regulations (EAR) and imposes as sanctions a civil penalty of $100,000 and a denial of Iran Air's U.S. export privileges for a period of 24 months, with 21 months suspended if the civil penalty is paid within 30 days.

Under the terms of the denial order and of EAR § 787.12(a) (15 CFR 787.12(a)), authorization can be given by the Office of Export Licensing, Bureau of Export Administration for actions otherwise prohibited by the denial order. Accordingly, on August 27, 1992, the undersigned Director of the Office of Export Licensing, Bureau of Export Administration, United States Department of Commerce, issued a general authorization under the Denial Order of August 21, 1992. 57 FR 40171, September 2, 1992.

Following consultation with the Office of Export Enforcement, I hereby issue the following second general authorization with respect to the denial order against Iran Air under the terms of the denial order and of EAR § 787.12(a) (15 CFR 787.12(a)), for actions otherwise prohibited by the denial order:

(1) The denial order will not apply to Iran Air's handling of U.S.-origin freight or baggage at any airport located in Iran, provided however, that title to the freight or baggage does not pass to Iran Air and that the intermediate consignee(s) and ultimate end user(s) are all parties other than Iran Air;

(2) The denial order will not apply to any road feeder services or other freight handling operations designed to transport U.S.-origin freight or baggage on to their ultimate destination within Iran, provided however, that title to the freight or baggage does not pass to Iran Air and that the intermediate consignee(s) and ultimate end user(s) are all parties other than Iran Air.

Dated: September 9, 1992.

Iain S. Baird,

Director, Office of Export Licensing, Bureau of Export Administration, Department of Commerce.

[FR Doc. 92-22526 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

U.S. and Foreign Commercial Services, Export Promotion Services; Export Promotion Resources Product User Fees

ACTION: Notice.

SUMMARY: Notice is hereby given that The U.S. and Foreign Commercial Service (US&FCS), U.S. Department of Commerce, is increasing user fee rates for the Agent Distributor Service (ADS) to $250 per report.

EFFECTIVE DATE: October 1, 1992.

SUPPLEMENTARY INFORMATION: The Agent/Distributor Service provides a report of interested and qualified agents and distributors to represent U.S. firms in overseas markets. A typical ADS report includes the name and address of the foreign firm(s); name and title of contact person; telephone/fax numbers; level of interest; preferred language for correspondence; each prospect's opinion on the market for the product; comments on the agent's capability and current activities and other pertinent marketing information. A user fee increase from $125 to $250 per report will take effect as of October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Maurice Kogon, Office of Export Promotion Resources, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Telephone (202) 377-8246.

Although the Department of Commerce is not legally required to issue this notice under 15 U.S.C. 1525, this notice is being issued as a matter of general policy.

ITA has the authority to collect user fees for commercial information under the Department of Commerce general user fee authority 15 U.S.C. 1525 and 22 U.S.C. 2455(f). These fees reflect only the actual costs involved in collecting and distributing the commercial information.

Dated: September 9, 1992.

Susan C. Schwab,

Assistant Secretary and Director General, U.S. and Foreign Commercial Service.

[FR Doc. 92-22465 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-FP-M

[A-351-809]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Judith Wey or Edward Easton, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230;

telephone: (202) 377-8320 or (202) 377-1777, respectively.

Final Determination

We determine that circular welded non-alloy steel pipe (standard pipe) from Brazil is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination and postponement of the final determination (57 FR 17883 (April 28, 1992)), the following events have occurred:

We received a request for a public hearing from Persico Pizzamiglio S.A. (Persico) on April 22, 1992, and from the petitioners on May 5, 1992. Persico submitted its response to the Department's Cost of Production and Constructed Value questionnaire (section D) on May 1, 1992. Persico submitted supplemental information for its section D response, revisions and corrections to its other responses, and revised computer tapes in May and June 1992.

We conducted verification of Persico's sales and cost questionnaire responses from June 28 through July 1, 1992, at the company's headquarters in Sao Paulo, Brazil.

Petitioners and Persico filed case briefs on August 3 and rebuttal briefs on August 10, 1992. On August 10 and 11, 1992, Persico and petitioners, respectively, withdrew their requests for a public hearing.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of standard pipe from Brazil to the United States were made at less than fair value (LTFV), we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Although Persico responded to the Department's questionnaires, at verification, we found significant inconsistencies and deficiencies in the information reported by Persico. Most significantly, we were unable to verify the total volume and value of Persico's sales to the United States during the POI. Therefore, in accordance with section 776(c) of the Act, our results are based on best information available (BIA).

United States Price

In the petition, petitioners provided U.S. prices based on the average customs value of imported standard pipe during the second quarter of 1991. While we have accepted the methodology used by petitioners for calculating USP, because of Brazil's hyperinflationary economy, we have based USP on the average customs value of imported standard pipe during the third quarter of 1991, to provide for more contemporaneous price comparisons with FMV contained in the petition.

Foreign Market Value

We based FMV on information provided in the petition. Petitioners based FMV on July 1991 actual price quotations from Persico obtained through a consultant. The prices were FOB Persico's mill; therefore, petitioners made no adjustments to these prices.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the POI. In place of the official certified rates, we used the daily official exchange rates for Brazil published by the Central Bank of Brazil.

Verification

As provided in section 776(b) of the Act, we attempted to verify information provided by respondents by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Best Information Available

We have determined that the questionnaire responses of the respondent provide an inadequate basis for estimating dumping margins. The Department determined that, for the information we examined at verification, the omissions from and inaccuracies in the responses were so material as to make the responses inherently unreliable, compelling the Department to use BIA.

At verification, we found that Persico had not provided a complete reporting of its U.S. and home market sales. For example, one verification document indicates that as many as one-third of Persico's U.S. sales may not have been reported. Moreover, we were unable to ascertain the actual quantity sold in either market. Consequently, we cannot conduct an accurate cost of production analysis or a LTFV analysis using either price-to-price comparisons or constructed value. In addition, because we encountered difficulties throughout the verification while trying to verify the completeness of Persico's response, most of the sales-specific information

remains unverified. The numerous inconsistencies found are outlined in detail in the public version of our verification report (dated July 28, 1992) and the public version of our decision memorandum from Richard W. Moreland to Francis J. Sailer (dated September 2, 1992) which are on file in room B-099 of the Main Commerce Building.

In determining what rate to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower rates for those respondents who cooperated in an investigation and rates based on more adverse assumptions for those respondents who did not cooperate in an investigation. *See*, Final Antidumping Duty Determination: Aspheric Ophthalmoscopy Lenses From Japan, 57 FR 6703 (February 27, 1992). In this investigation, Persico attempted to provide the information that the Department requested; however, as noted above, the inaccuracies and discrepancies in Persico's information were so pervasive as to make the responses inherently unreliable. Consistent with Department practice, after adjusting petitioners' information to provide for contemporaneous price comparisons (as discussed in the USP section of this notice), we have assigned Persico a margin based on an average of the margins contained in the petition, as a cooperative respondent.

Interested Party Comments

Although numerous comments were submitted by both petitioners and the respondent, they are not being addressed here because of our decision to reject Persico's response and base this determination on BIA. Only the comment concerning the use of total BIA is addressed below.

Comment 1

Petitioners assert that the Department should use total BIA because the cumulative effect of the inaccuracies and omissions in the cost of production and price information submitted by Persico renders that information useless for calculating an estimated LTFV margin. In addition, petitioners maintain that the Department should use the highest margin in the petition for its determination of Persico's LTFV margin.

Persico contends that it has never refused to produce information to the Department, nor has it significantly impeded the Department's antidumping investigation. Accordingly, Persico argues that the Department has no basis to use total BIA.

DOC Position

We agree with petitioners, in part. As explained in the BIA section of this notice, the incomplete and inaccurate data submitted by Persico deprive the Department of a reasonable basis on which to conduct the cost of production and LTFV price analyses. This lack of compete and reliable information compels the Department to rely totally on BIA to estimate Persico's margin.

On the other hand, Persico has complied with the Department's request for information and clarification. Accordingly, as more fully discussed in the BIA section of this notice, the highest margin in the petition is inappropriate for Persico's estimated margin.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe that are entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date of publication of our preliminary determination in the **Federal Register**.

The product under investigation is also subject to a countervailing duty (CVD) investigation. The Department has determined that no benefits which constitute subsidies within the meaning of the CVD law are being provided to manufacturers, producers, or exporters of the subject merchandise in Brazil, and, therefore no adjustment to the estimated dumping margin is required.

The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
Persico Pizzamiglio S.A.	103.38
All others	103.38

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 753(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22560 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-809]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Mark Wells or Andrew McGilvray, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3003 or (202) 377-0108, respectively.

Final Determination

We determine that circular welded non-alloy steel pipe (standard pipe) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination and postponement of final determination (57 FR 17885 (April 28, 1992)), the following events have occurred:

Verification of respondents' responses to the Department's questionnaires regarding sales information took place in Korea, Japan, and the United States during May and June of 1992. Verification of respondents' responses to the Department's questionnaires regarding cost of production (COP)

information took place in Korea during June and July of 1992.

We received requests for a public hearing from Hyundai Steel Pipe Co., Ltd. (Hyundai), Korea Steel Pipe Co., Ltd. (KSP), and Pusan Steel Pipe Co., Ltd. (Pusan), on May 1, 1992, and from petitioners on May 5, 1992. Masan Steel Tube Works Co., Ltd. (Masan), filed a case brief on July 24, 1992, while Hyundai, KSP, Pusan, and petitioners filed case briefs on August 7, 1992. Hyundai, KSP, Pusan, and petitioners filed rebuttal briefs on Augsust 12, 1992. A public hearing was held on August 14, 1992.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, or circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified-stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10,00. 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such of Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made comparisons on the basis of: (1) Commercial or industry grade/classification; (2) nominal pipe size; (3) wall thickness; (4) surface finish or coating; and (5) end finish. We made adjustment for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

We made sales comparisons on the basis of theoretical weight, the weight basis on which respondents reported that U.S. sales were made.

Fair Value Comparisons

To determine whether sales of standard pipe from Korea to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination, with the following exceptions:

A. Hyundai

1. We adjusted USP of Hyundai's claimed duty drawback.
2. We excluded Hyundai's U.S. sales of returned goods from our calculations.
3. We recalculated credit on Hyundai's exporter's sales price (ESP) sales to take into account discounts given or certain U.S. sales.
4. We deducted discounts.

B. KSP

1. We adjusted USP for KSP's claimed duty drawback on ESP sales.

C. Pusan

1. We adjusted USP for Pusan's claimed duty drawback.
2. We recalculated credit expenses on purchase price sales from the date of shipment from Korea to the date of payment by the customer. Where dates of shipment from Korea were not reported, we used as best information available (BIA) the highest credit period calculated for a sale with its Korean shipment date reported.
3. We recalculated credit expenses on ESP sales where the date of payment was not reported. Where dates of payment were not reported, we calculated credit from the date of shipment to the date of payment, using the date of this determination as BIA for the date of payment.

D. Masan

1. We recalculated credit on Masan's U.S. sales to reflect information found at verification regarding Masan's U.S. interest rate.
2. We did not adjust USP for the following charges first reported by Masan after verification:

a. Foreign brokerage charges,

b. Bank charges for transactions between related parties.

Foreign Market Value

We calculated FMV using the methodology described in the preliminary determination, with the following exceptions:

A. Hyundai

1. We disallowed Hyundai's claimed adjustment for inventory carrying costs. See, Comment 7.

B. KSP

1. We disallowed KSP's claimed adjustment for inventory carrying costs. See, Comment 7.

C. Pusan

1. We disallowed Pusan's claimed adjustment for inventory carrying costs. See, Comment 7.

D. Masan

1. We recalculated Masan's third country credit to accurately reflect the period from the date of shipment to an unrelated party to the date of payment, and to take into account information found at verification regarding Masan's third country interest rate.
2. We did not adjust FMV for the following charges first reported by Masan after verification:

a. Foreign brokerage charges,

b. Bank charges for transactions between related parties.

Cost of Production

Based on petitioners' allegations, and in accordance with section 773(b) of the Act, we investigated whether Hyundai, KSP, and Pusan had home market sales that were made at less than their respective COP.

If over 90 percent of a respondent's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales for that model and calculated FMV based on constructed value (CV). In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time. In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of a respondent's cost of materials, fabrication, general expenses, and packing. The submitted COP data was relied upon, except in the following instances where the costs were not appropriately quantified or valued;

A. General

We revised G&A expense to exclude income from operations unrelated to the production of the subject merchandise.

B. Company Specific

1. Hyundai

a. We adjusted depreciation expense to reflect the amount of depreciation reported on the financial statements.

2. KSP

a. We adjusted labor expense to include year-end adjustments which were not included in the questionnaire response.

b. We revised the reported interest expense to exclude long-term interest income from corporate bonds (*see,* Comment 39). We also added amortization of stock issuance cost and bond issuance cost which were reported in the financial statements but excluded from the questionnaire response.

c. We adjusted the submitted factor for conversion between weight bases to reflect differences noted at verification.

3. Pusan

a. For identical products with reported different costs, we revised the submission to reflect a weighted-average cost.

b. We increased fabrication costs to account for costs reported in the financial statements, but not reflected in the questionnaire response.

c. We adjusted the submitted factor for conversion between weight bases to reflect differences noted at verification.

In accordance with section 773(e)(1)(b)(i) of the Act, we included in CV the greater of a company's reported general expenses, adjusted as detailed above, or the statutory minimum of 10 percent of cost of manufacture (COM). For profit, we used the statutory minimum of eight percent of the total of COM and general expenses because, for each of the respondents, actual profit on home market sales was less than eight percent. See section 773(e)(b)(ii) of the Act.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a) based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondents by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1

Petitioners contend that the Department should state whether the four respondents in this investigation account for 60 percent or more of exports to the United States from Korea, or whether the Department has used a standard other than the 60 percent standard of the regulations.

Hyundai, KSP, and Pusan state that the Department stated in its preliminary determination that the four respondents in this investigation accounted for 60 percent of exports to the United States. These respondents further state that even if the "60 percent rule" had not been met precisely, 19 CFR 353.42(b) gives the Department the discretion to cover less than 60 percent.

Department Position

The Department has not applied a different standard from that articulated in 19 CFR 353.42(b)(1). The four respondents in this investigation account for slightly more than 60 percent of exports to the United States.

Comment 2

Petitioners state that any lack of time to examine issues at verification was the fault of Hyundai, KSP, and Pusan and should weigh against them, precipitating the use of BIA.

Hyundai, KSP, and Pusan state that any lack of time to examine issues at verification was a result of the Department's decision to limit verifications to three days because of budgetary constraints. These respondents contend that, in any case, the time allotted was sufficient for the Department to verify the accuracy and veracity of the submitted data. These respondents cite *Boment Industries* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990), where the court stated that "of course, verification is like an audit, the purpose of which is to test information provided by a party for accuracy and completeness. Normally, an audit entails selective examination rather than testing of an entire universe." These respondents conclude that the items examined during the Department's verifications in this case confirmed the accuracy and completeness of their submissions.

Department Position

We agree with respondents. Through selective examination and sampling of elements of the respondents' responses at verification, the information used for this determination was successfully verified by the Department. Items that could not be verified have been accounted for in the final margin calculations.

Comment 3

Petitioners state that the Department should continue to calculate prices and charges for Hyundai, KSP, and Pusan on a theoretical weight basis. Petitioners contend that the "actual" thickness of steel coils, as recorded in these respondents' records, is simply the nominal thickness on the supplier's invoice, that the resulting inaccuracy in the actual thickness means that these respondents cannot calculate an accurate actual weight of their merchandise, and that use of respondents' "contrived actual weights" results in understatement of costs. Petitioners further contend that gauge build-up occurring in the production process should result in an increase in the unit costs for these respondents. Finally, petitioners state that the statute, regulations, and Department precedent require that an adjustment be made to foreign market value to reflect the different weight bases on which these respondents sell the subject merchandise in the United States and in their home market.

Hyundai, KSP, and Pusan state that the Department's margin analysis will be correct, regardless of the weight basis used, as long as the prices and costs are reported on the same basis in the U.S. and home markets. These respondents further state that their

factors used to convert prices and costs between weight bases are based on a universal industry formula, that the Department verified that the conversion factors were calculated correctly, and that, for two of the three companies, actual weights are calculated in their books by use of the same formula. These respondents contend that their "contrived" actual weights are the actual weights on the books, with minor differences, generally caused by rounding. Finally, these respondents contend that petitioners' argument that an adjustment to prices must be made to reflect the different weight bases on which these respondents sell the subject merchandise is a moot point, and that home market prices and expenses have already been adjusted to a theoretical weight basis, for comparison to U.S. merchandise sold on that weight basis.

Department Position

We agree with petitioners that prices and charges should be calculated on the basis of theoretical weight, and with respondents, that the necessary adjustments have been made.

The actual thickness of steel coils may be greater or less than the nominal thickness, within the allowable tolerances. Production processes have an effect on the thickness of the pipe. Thus, we also recognize that the use of the nominal thickness of the coil to calculate the weight of the pipe may under- or over-state the actual weight of the pipe. As such, this calculation may have an effect on cost calculations. Even so, we cannot agree with petitioners that the information on the record supports their contention that these calculations necessarily understate the actual weight of the pipe, and thus the cost. Furthermore, the methods applied by the respondents to calculate the "actual weight" of the pipe are the same methods they apply in their internal bookkeeping systems. Absent convincing evidence that the calculation methodology biases the dumping calculation, we may not disregard the respondents' approach and resort to the best information otherwise available.

Comment 4

Petitioners state that differences in coating costs between markets for Hyundai, KSP, and Pusan must be accounted for in these respondents' differences in merchandise (difmer) adjustments, and that their packing costs must be recalculated to exclude the cost of coating.

Hyundai, KSP, and Pusan state that while coating is properly classified as a packing expense, the treatment of coating costs as either packing or as part of the difmer has absolutely no effect on the dumping margin.

Department Position

We agree with respondents that coating is properly classified as a packing cost. The coating in question is performed by packing departments to protect the pipe during shipment to export markets. Such coating is not performed for domestic shipments. Therefore, coating is properly classified as a packing expense.

Comment 5

Petitioners state that the Department should not grant duty drawback adjustments to KSP and Pusan on sales for which the "individual application system" was used, and that the Department should not grant duty drawback adjustments for any of Hyundai's sales. They maintain that for these sales, these respondents should have been able to match the exact drawback amount received to each individual sale, since the individual application system requires that individual import and export documents be matched. They further argue that it is unacceptable for the respondents to provide average drawback information where the exact information is available. Moreover, petitioners maintain that these respondents have not proven that they actually received drawback on each of the sales for which they have claimed an adjustment, and claim that the record shows that these respondents used some domestic material in their exports of pipe.

Regarding KSP, petitioners state that it has admitted that while only a portion of some shipments was eligible for drawback, KSP allocated all drawback paid over all tonnage shipped. Regarding Hyundai, petitioners also state that the average drawback figures provided are inaccurate because Hyundai used an inaccurate lag time in its calculations. Petitioners add that on a per ton basis, because the Korean government collects duties on the basis of actual weight and rebates duties on the basis of theoretical weight, Hyundai's drawback is greater than the duty paid. Petitioners conclude that the statute precludes claims for drawback for sales on which no drawback payment was received and that, since these companies have claimed drawback on all sales, regardless of the fact that some sales received no drawback, the Department should deny their entire claimed drawback adjustments.

Hyundai, KSP, and Pusan state that (1) their methodologies for calculating duty drawback are reasonable, (2) the Department agreed, subject to verification, that the methodologies were reasonable, and (3) their duty drawback claims were successfully verified. These respondents state that while petitioners have not presented any statutory provision, case law, or administrative precedent demonstrating that respondents are required to calculate duty drawback on a sale-by-sale basis, there is precedent specifically permitting the use of averages. They further state that to calculate duty drawback on a sale-by-sale basis would have required extraordinary cost and effort. Hyundai, KSP, and Pusan also claim that the Department verified (1) that they do not maintain records in the ordinary course of business which link export permits to specific customer invoices and (2) that the information on which the Department based its May 1, 1991, assessment that these respondents' methodologies was reasonable and accurate.

Hyundai states that petitioners are in error when claiming that Hyundai used a lag time in its calculations of duty drawback, and that it only used a lag to reflect the period during which the pipe was held in inventory for ESP sales. Finally, Hyundai states that petitioners' claims of excessive drawback are unsupported, that any excessive rebates by the Korean government would have to be addressed in a countervailing duty petition, and that petitioners' claim that the Korean duty drawback system permits the claiming of drawback by matching any type of pipe made with any type of hot-rolled coil to any other type of hot-rolled coil is simply incorrect.

Department Position

We agree with respondents. Based on information in the responses to the Department's questionnaire and on findings at verification, these respondents' methodologies for calculating duty drawback are reasonable. The Department does prefer for a company to document duty drawback on a sale- or shipment-specific basis. See, e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand, 56 FR 58355 (1991)). We do accept methodologies, however, which employ averages when the calculation of more specific figures is impossible or unduly burdensome to the respondents, and when the methodology proves to be reasonable. See, e.g., Final Results of Administrative Review: Color Picture Tubes from Korea, 56 FR 19084 (1991).

At verification, we confirmed that duties were in fact paid and rebated. Accordingly, respondents were able to establish the necessary link between duties imposed and rebated. See *Far East Machinery Co., Ltd.* v. *United States*, 699 F. Supp. 309 (CIT 1988) (Far East Machinery). There is no dispute that the first prong of the Department's two prong test has been met. The second prong of the test requires that respondents "demonstrate that there were sufficient imports of raw materials to account for the duty drawback received on the exports of the manufactured product." *Id.* This second prong encompasses the principle of drawback substitution. The Department, like governments applying duty drawback programs, does not attempt to determine whether raw materials used in producing the exported merchandise actually came from imported sources, but rather assesses whether there were sufficient imports of relevant raw materials to account for the duty drawback received on the exports of the manufactured product. See Far East Machinery. The respondents in this investigation have met the requirements of the second prong. Other claims by petitioners do not speak to the test traditionally applied by the Department, but rather seek to hold respondents to additional standards for duty drawback claims. Finally, petitioners have failed to convincingly support their claims that Hyundai received excessive drawback.

Comment 6

Petitioners claim that Hyundai, KSP, and Pusan should not be granted adjustments for home market credit expenses because they did not furnish the Department with sale-specific or customer-specific credit information, although they were able to do so. Petitioners maintain that for Hyundai, in particular, its methodology was proven inaccurate by certain documents collected at verification.

These respondents state that, as admitted by petitioners, the Department will accept a reasonable equivalent to customer-specific data if the respondent is unable to provide the requested information. They further state that they could not provide customer-specific payment data from their normal accounting records, and that their methodologies, as verified by the Department, were a reasonable equivalent. Hyundai contends that petitioners misrepresent the documents cited as proof of the inaccuracy of Hyundai's methodology. Hyundai states that the documents in question show the date of receipt of promissory notes, not date of receipt of payment, thus further proving its claim that its records do not track customer-specific or sale-specific dates of payment.

Department Position

We agree with respondents. The methodologies applied by these respondents are reasonable, given that their accounting records do not track customer-specific or sale-specific dates of payment. Furthermore, Hyundai is correct in stating that its verification documents documents do not demonstrate an ability to track such payment dates. On those bases, we have granted the adjustments claimed by Hyundai, KSP, and Pusan for home market credit expenses.

Comment 7

Petitioners state that the Department should exclude Hyundai's, KSP's, and Pusan's claimed home market inventory carrying costs from home market indirect selling expenses used as offsets on ESP sales. Petitioners contend that all of these respondents' inventory carrying costs are based on flawed home market interest rate calculations (see Comment 8). Further more, petitioners maintain that these respondents' use of calculations based on sales value, rather than cost of manufacture, overstates the inventory carrying costs. In addition, petitioners further state that Hyundai's and Pusan's calculations also include an incorrectly calculated average inventory period, and were not verified. Finally, with respect to KSP, petitioners contend that, if the Department does grant an offset for inventory carrying costs, no offset should be made on order sales because these sales by definition are not carried in inventory.

These respondents maintain that they correctly calculated their home market inventory carrying costs. They state that their inventory carrying cost calculations do not overstate these costs and that their interest rate calculations are accurate (*see* Comment 8). Hyundai further states that the Department confirmed at verification the overall integrity and completeness of Hyundai's response, although time constraints did not permit examination of every specific element of Hyundai's response. KSP states that its home market inventory carrying expense was developed based on all sales and should be applied to all sales.

Department Position

We agree with petitioners that these respondents' reported inventory carrying costs are overstated. Following its standard practice, the Department requested that respondents provide inventory carrying cost based on the cost of manufacture of the products sold (see Final Determination of Sales at Less than Fair Value: Certain Internal-Combustion Forklift Trucks from Japan, 53 FR 12552 (April 15, 1988)). Although all of these respondents have placed cost of manufacture information on the record which could have been used as the basis for their inventory carrying cost calculations, they have failed to apply the appropriate methodology as requested. Therefore, as BIA, we have accepted the reported expenses as a reduction to USP but have disallowed them as offsets to the ESP cap.

Comment 8

Petitioners state that the Department should reject Hyundai's, KSP's, and Pusan's claimed home market short-term interest rates because these rates were not based on interest rates set forth in loan documents but instead were calculated using accumulated balances and accumulated interest. Petitioners thus maintain that these respondents have not met their burden of demonstrating that their methodology provides an accurate weighted-average interest rate. As such, they contend that adjustments based on these interest rates must be denied. Petitioners further state that if the Department does not deny these adjustments, it must base them on an interest rate determined using BIA. For Hyundai, petitioners state that, at a minimum, the Department must adjust Hyundai's claimed interest rate to exclude Hyundai's notes receivable discount, which does not represent Hyundai's cost of financing.

Respondents contend that they properly calculated their short-term interest rates. They state that (1) administratively, they could not calculate interest loan by loan, (2) their methodologies, in effect, calculate the actual interest rates, and (3) their methodologies, to their knowledge, are the normal approach taken to calculate a company's overall interest rate. KSP states that petitioners do not understand KSP's interest rate methodology which, as verified by the Department, accurately matches an interest amount with the appropriate loan, resulting in an accurate short-term average interest rate for the POI. Hyundai states that in the normal course of business it incurs expenses by discounting to banks notes receivable received from customers, and that given the nature of this discounting expense and the short-term nature of these notes, it was perfectly reasonable for it to include this as part of its overall calculation of its short-term interest expense.

Department Position

We agree with respondents that their home market interest rate methodologies are reasonable, because they use data from company records which reflect the relevant costs to these companies of borrowing in the home market. Such documentation reflects the home market interest expenses actually incurred by these companies.

We have also determined that Hyundai should be allowed to include in its cost of borrowing those expenses which Hyundai incurs when discounting to banks the notes receivable received from customers. In this instance, the discounting of notes receivable means that a shorter period enters into Hyundai's calculation of average accounts receivable and, therefore, into Hyundai's calculation of the home market credit period. Any expenses related to discounting of notes receivable are inherently offset by a shorter credit period, thus ensuring that overall expenses are not overstated.

Comment 9

Petitioners state that the Department should calculate credit on Hyundai's ex-dock duty paid and net 30-day sales from the date of shipment from Korea, not the date of shipment after landing in the United States. Petitioners maintain that the cost to respondents of financing the merchandise while en route to the United States in purchase price situations is a credit expense, and not an inventory carrying cost.

Respondents maintain that credit on such "back-to-back" purchase price sales should be calculated from the date that the merchandise arrives in the United States. Hyundai states that it is only upon arrival of the goods in the United States that an invoice is issued to the unrelated customer and that the sale is posted to the company's accounts receivable ledger. Hyundai asserts that, under long-standing practice, the Department considers the creation of an accounts receivable to the unrelated customer to be the triggering event for the calculation of credit, and that no circumstances exist here to warrant a different approach.

Department Position

We agree with petitioners. Contrary to respondents' assertions, the Department's long-standing practice is to calculate credit on purchase price sales from the time that the merchandise is shipped from the foreign production site. See, *e.g.*, Final Determination of Sales at Less Than Fair Value: 3.5" Microdisks and Coated Media from Japan, 54 FR 6433 (February 10, 1989).

Because terms of sale are established prior to the shipment of the merchandise from the foreign production sites, respondents incur credit expenses on these sales from that shipment date, regardless of when the final invoices to the customers are issued. We have calculated the credit period on all purchased price sales from the date of shipment from Korea to the date of payment.

Comment 10

Petitioners state that for ESP transactions, the Department should not grant Hyundai and KSP offsets for indirect selling expenses on home market sales because these respondents failed to allocate all indirect selling expenses on the basis of sales value, as instructed by the Department. Petitioners also state that Hyundai has incorrectly included certain production overhead expenses and inappropriate general and administrative expenses in its calculation of indirect selling expenses.

These respondents contend that for the limited number of expenses which they allocated on a basis other than sales value, their allocation was more appropriate than one based on sales value. Hyundai adds that all expenses challenged by petitioners are properly categorized as indirect selling expenses, and that petitioners' allegations that Hyundai included certain inappropriate general and administrative expenses in indirect selling expenses can be refuted by examining Hyundai's previous submissions.

Department Position

We agree with respondents. In the limited instances where respondents allocated indirect selling expenses on a basis other than sales value, it was reasonable to do so. For example, expenses such as heat and water for a building are reasonably allocated based on the number of personnel in each department contained in the building, rather than on the sales value of each department. In addition, petitioners have not supported their claims that elements of Hyundai's indirect selling expense calculations are inappropriate. Therefore, we have granted offsets for indirect selling expenses on home market sales being compared to ESP sales.

Comment 11

Hyundai, KSP, and Pusan state that in matching home market sales to U.S. sales, the Department should exhaust the three alternative matches provided in the companies' concordances for each U.S. product before using constructed value for FMV. These respondents further state that when the most similar home market product match is found to be below the cost of production, there is nothing in the statute or in the Department's application of the statute that precludes the use of a second (or third) similar model. Indeed, these respondents state it is clear that the statute generally shows a legislative preference for the use of a similar model before resorting to constructed value, and maintain that the Department has expressed intentions to completely exhaust home market sales in its search for model matches, prior to resorting to constructed value.

Petitioners state that respondents' argument for the use of alternative model matches is contrary to statute, Department precedent, and the Department's stated intent in this case. Petitioners cite Final Results of Administrative Review: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, 57 FR 28373 (June 23, 1992), where the Department resorted to constructed value after it found that there were insufficient above-cost sales of a given model match. The Department stated in that case that "[a]lthough section 773(b) expresses a preference for using sales rather than CV as the basis of FMV, it does not instruct the Department to use the next most similar merchandise as the basis for FMV, but rather it requires the use of CV." Finally, petitioners cite the Department's letter of April 8, 1992, to these respondents, which stated that the Department would base FMV on constructed value for any model match where more than 90 percent of its sales were found to be below cost.

Department Position

We agree with petitioners. In our April 8, 1992, letter to Hyundai, KSP, and Pusan, we accepted these respondents' proposal to limit the reporting of cost information for home market sales to products within their sales concordances, which included several alternative matches for each product in the United States. Our letter also stated that the Department would base FMV on constructed value for any model match where more than 90 percent of its sales were found to be below cost. This approach is consistent with sections 773(b) and 771(16) of the Act. Furthermore, these respondents have only provided information on a limited number of sales in the such or similar category. Therefore, even assuming, *arguendo*, that the respondents are correct in asserting that the Department

should use similar home market product matches before resorting to CV, the respondents' limited reporting would unacceptably permit them to control which product comparisons the Department could make. Therefore, we based FMV on CV when the most similar home market product match was found to be below COP.

Comment 12

Hyundai, KSP, and Pusan state that the level of trade (LOT) analysis used by the Department in its preliminary determination was inappropriate. These respondents state that the presumed correlation between specific, named levels of trade and prices, as exists in the U.S. market, does not exist in the Korean home market and that, without such a correlation, sales comparisons should be made without regard to LOT.

Petitioners state that the Department should continue to base its margin analysis on comparisons of sales to distributors in both markets since there is an absence of reliable, verified data indicating that this analysis should be changed. Petitioners maintain that respondents' arguments, as presented in their case brief, are based on pricing analysis which was not verified. Petitioners further contend that respondents' pricing analysis was based on selected sales, and is thus meaningless, while other statements about pricing patterns in the United States are unsupported speculation.

Department Position

We agree with petitioners. In their case brief, respondents argued for the first time that there is no consistent pattern between LOT and the price at which pipe is sold either in the home market or in the U.S., and that the Department should not make sales matches based on LOT. Citing to Import Administration Policy Bulletin, 92-1 (1992), respondents argue that lack of correlation between price and LOT is sufficient evidence to rebut the presumption that FMV is affected by LOT. However, the Policy Bulletin states, "only if a contesting party has shown that there is not a significant correlation between prices and selling expenses on the one hand, and LOT on the other, will we disregard the LOT when making sales comparisons in cases where different functional levels of trade exist." Respondents have not alleged that the identical levels of trade in the U.S. and in Korea perform different functions and, furthermore, have failed to address the relationship between selling expenses and LOT. Therefore, we have determined that there is insufficient evidence to rebut the presumption that FMV is affected by LOT and will continue to match sales using LOT.

Comment 13

Hyundai and Pusan state that certain home market "overrun" sales were sold outside of the ordinary course of trade and should be excluded from the Department's margin calculations. Hyundai states that evidence on the record demonstrates that prices of overrun sales are consistently below average when compared to average prices of commercial sales. Hyundai cites to Final Results of Administrative Review: Certain Welded Carbon Steel Standard Pipes and Tubes from India, 56 FR 64,753 (December 12, 1991) (Pipes and Tubes from India) to maintain that the Department's consistent practice is to exclude overrun sales from its analysis. Pusan states that its overrun sales were of small quantities of foreign-specification pipe for which there is no ready market in Korea. Pusan cites the Department's consistent exclusion of overrun sales, as evidenced by the statement that "to the extent that a company under investigation sells products in the home market manufactured according to foreign engineering specifications and cannot demonstrate that they were made to satisfy a home market customer's order, we consider those products to be production overruns not sold in the ordinary course of trade." Final Determination of Sales at Less than Fair Value: Rectangular Welded Carbon Steel Pipes and Tube from the Republic of Korea, 49 FR 9,936 (March 16, 1984).

Petitioners state that home market overrun sales may only be excluded from the Department's margin calculations after such or similar matches have been made. Petitioners contend that precedents cited by respondents to support exclusion of their overrun sales do not, in fact, support that proposition. Petitioners state that, in this investigation, there is a regular market for merchandise of the same foreign specification as the overrun merchandise, and that average size of sales in the overrun market have not been shown to be significantly different from the regular market in Korea for merchandise of the same technical standard. Petitioners conclude that the Department is required to seek the first identical or similar product match under the criteria in that section, without regard to any other factor, and that only then may be Department determine if that merchandise is not suitable for comparison to the U.S. merchandise for other reasons.

Department Position

We disagree with respondents. First, the Department's consistent practice is to exclude overrun production from its analysis only if the products are sold outside the ordinary course of trade. Section 773(a)(1)(A) of the Act and 19 CFR 353.46(a) provides that foreign market value shall be based on the price at which such or similar merchandise is sold in the exporting country in the ordinary course of trade for home consumption. Section 771(15) of the Act defines "ordinary course of trade" as "the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind." See also, 19 CFR 353.46(b).

As we stated in Pipes and Tubes From India, in determining whether home-market sales are within the ordinary course of trade, the Department does not rely on one factor taken in isolation but rather considers all the circumstances particular to the sales in question. Therefore, whether respondents' sales consisted of "overrun" production is not the issue. The issue is whether the sales in question were made within the ordinary course of trade. In Pipes and Tubes from India the question concerned whether there was a ready market in the standard pipe trade for American Society Testing Materials (ASTM) products compared to Indian Standard pipe. The Department concluded there was not. In the present case, we agree with petitioners that there does appear to be a ready market for ASTM pipe in Korea (*see* the Department's Concurrence Memorandum for this determination, on file in Room B-099 of the main Commerce building). Respondents report many sales of ASTM as being sold in a regular market. The average sales quantity of pipe which respondents call overrun production did not differ significantly from the average sales quantity of other ASTM pipe sold in the home market. Moreover, Hyundai's claims that its ASTM overrun sales were priced consistently below the average price of commercial sales are unsubstantiated. We conclude that sales of ASTM pipe were made in the ordinary course of trade in Korea during the POI; and, based on the similar prices and quantities, respondents' so-called overrun sales were also within the ordinary course of trade. This situation is therefore distinguishable from Pipe and Tubes From India.

Comment 14

Pusan states that its sales of returned goods should be excluded from the Department's margin calculations. Hyundai states that the seven sales of returned goods presented at the outset of verification should be excluded from the Department's margin calculations. These respondents maintain that the first sales of these goods to unrelated customers were made outside the POI. Respondents cite Final Determination of Sales at Less than Fair Value: Polyethelene Terephthalate Film, Sheet, and Strip from Japan, 56 FR 16,300 (April 22, 1991), stating that the Department concluded that sales of returned goods should be excluded because (1) the goods had originally been purchased prior to the POI and (2) a sale can only be examined once. Respondents maintain that the Department has no statutory authority to consider sales that are not within the scope of the investigation. Respondents further contend that, even if the Department should decide not to exclude these sales because they were originally sold before the POI, these sales should not be included in the Department's margin analysis because they are aberrant sales of damaged or defective merchandise.

Petitioners maintain that the Department cannot exclude Pusan's sales of returned goods from the overall margin calculation. Petitioners state that the Department should either make appropriate adjustments to ESP or use BIA to calculate margins for these sales.

Department Position

We agree with these respondents that the small number of sales in question should be excluded from any analysis because of the aberrant nature of these sales or damaged or defective merchandise, as confirmed at verification. Since we have excluded these sales on that basis, we do not needs to address respondents' contentions regarding other bases for excluding the sales.

Comment 15

Petitioners state that Hyundai has not reported in its U.S. sales listing certain purchase price sales that were confirmed on Hyundai's books during the POI, but were not confirmed on the books of Hyundai's U.S. subsidiary until after the POI. Petitioners further state that since Hyundai deliberately withheld this information from the Department, the Department should use as BIA for these sales either the highest margin calculated for any other reported sale or the highest margin listed in the petition.

Hyundai states that it properly reported all U.S. sales. Hyundai notes that petitioners misstated the implication of figures in verification exhibits, and that to properly assess Hyundai's total sales during the POI, it is necessary to take into account the proper dates of sale.

Department Position

We agree with Hyundai that it properly reported its U.S. sales. The Department successfully verified Hyundai's reported sales figures and found no evidence that any sales with dates of sale during the POI had not been reported to the Department.

Comment 16

Petitioners state that the Department should deduct from U.S. price previously unreported discounts revealed at Hyundai's verification.

Hyundai states that it has properly reported to the Department all discounts on its U.S. sales.

Department Position

We have deducted the discounts in question from U.S. price.

Comment 17

Petitioners state that Hyundai failed to include interest expenses for a U.S. subsidiary in its calculation of selling expenses. Petitioners maintain that since there is no detailed information on these expenses, as BIA the Department should allocate all of these expenses to Hyundai's selling expenses. Petitioners also state that Hyundai has failed to include in its selling expenses a portion of the SGA of the corporate headquarters of Hyundai's U.S. subsidiary. Petitioners conclude that, as BIA, all the SGA for that office must be included in Hyundai's selling expenses.

Hyundai states that the Department's verification report contradicts petitioners assertion that Hyundai failed to include any relevant expenses in its indirect selling expenses.

Department Position

We agree with respondent. Our examination of these expenses at verification found no discrepancies. Therefore, we have accepted Hyundai's indirect selling expense calculations as reported.

Comment 18

Petitioners state that the Department found at verification extra shipping charges for certain of KSP's U.S. sales. Petitioners maintain that the Department should ensure that those charges have been included in the ocean freight deduction claimed by KSP.

KSP states that the additional charges for ocean freight have been included, as appropriate, in the ocean freight fields in KSP's sales listing.

Department Position

We agree with respondent. At verification, we confirmed that extra charges incurred on shipments to certain ports located on the Eastern Coast of the United States were included in the ocean freight charges reported by respondent.

Comment 19

Petitioners claim that all of KSP's bank and letter of credit (L/C) charges are direct selling costs associated with the sale, and not indirect selling expenses as claimed by KSP. Petitioners argue that the fact that the charges are incurred by Korea Steel Pipe America (KSPA), a related party to KSP, on ex-dock duty-paid (EDDP) net 30 day sales is irrelevant in determining whether the sales are direct or indirect. Petitioners contend that KSPA is temporarily absorbing the credit costs on behalf of the purchasers and the costs are being passed on to the unrelated purchases in the sales price.

KSP states the charges in question are associated with the transfer of merchandise between related companies, and that consistent Department practice considers any credit-related expenses associated with transfers between related companies as inventory carrying costs.

Department Position

We agree with respondent. These expenses result from intra-company transfers which occurred before the sale to the first unrelated party, and are not directly tied to individual sales to unrelated customers. The Department considers such expenses to be indirect selling expenses. See, e.g., Final Results of Antidumping Duty Administrative Review: Color Television Receivers from Korea, 55 FR 26225 (July 27, 1990). Therefore, we have included these expenses in the total U.S. indirect selling expenses for this determination.

Comment 20

Petitioners state that the Department should make an adjustment to U.S. price for commissions discovered at verification which KSP paid to an employee for all U.S. sales made through KSPA or Certified Pipe and Tube (CPT). Petitioners further state that by failing to report these commissions until the time for submission of new factual information had passed, KSP waived its

right to challenge this item as an adjustment to U.S. price.

KSP contends that (1) the "commissions" in question were on the record prior to verification, (2) the payments in question are not true commissions, and do not vary directly with the quantity or value of particular sales, (3) these payments are made only to KSPA, not to an employee, and (4) these payments are associated with sales of all of KSP's merchandise, not just subject merchandise. KSP concludes that, given the aforementioned facts, these expenses are properly classified as indirect selling expenses.

Department Position

We disagree with both parties. The "Commission Receivable" in question is not a real expense to KSP, but simply an intra-company transfer of funds between KSP and KSPA. No actual expense was incurred by either KSP or KSPA. Therefore, we have made no adjustment.

Comment 21

Petitioners claim that KSP has understated U.S. indirect selling expenses by overstating KSPA's sales during the POI. Petitioners maintain that since KSPA's sales figure is unusable, and since KSP has not placed information on the record permitting the calculation of an accurate figure, the Department should use one half of the KSPA's reported sales for the year 1991 as a BIA figure for sales during the six-month POI.

KSP states that petitioner's claim is disproved by the Department's verification report, the verification exhibits, and KSP previous submissions.

Department Position

We agree with respondent. In its April 10, 1992, submission, KSP explained the methodology it used to allocate indirect selling expenses. Petitioners have failed to convincingly support their claim that KSP has overstated KSPA's sales. We have therefore used KSP's indirect selling allocation as reported.

Comment 22

Petitioners state that KSP has understated ESP charges, such as marine insurance. With respect to marine insurance, petitioners claim that by overstating CPT's profit percentage on sales during the POI, KSP has overstated the factor used to calculate the adjustment, and understated the adjustment for ESP sales.

KSP states that the Department's verification report confirms the correctness of the calculations in question, and that its adjustment factors were based on audited financial statements.

Department Position

We agree with respondent. The elements in question were successfully verified. Therefore, we are accepting the charges in question as reported by KSP.

Comment 23

Petitioners state that the Department should correct several data errors in KSP's most recent sales listing. Petitioners further state that the Department should use BIA to determine margins for ESP sales observations which lack control numbers, and thus have no match offered in KSP's concordance. Petitioners state that Pusan's U.S. sales with control numbers which do not appear in Pusan's product concordance are unmatched to home market sales, and the Department must also use BIA to calculate the margins for those sales.

KSP states that the Department has the information necessary to match the four ESP sales observations for which the control number was inadvertently omitted, and requests that the Department insert the control number for these observations. Pusan states that there is information on the record to correctly match the sales in question, and it requests that the Department do so.

Department Position

Because of the limited nature of the errors, we have corrected the data errors in question, which involve information previously on the record which was inadvertently deleted from these respondents' most recent tape submissions to the Department.

Comment 24

Petitioners state that Pusan's claimed short-term interest rate should be recalculated to exclude overdraft interest rates on a commercial checking account and interest rates which Pusan charges on promissory notes from customers. Petitioners also maintain that Pusan incorrectly calculated its figure for average accounts and notes receivables.

Pusan contends that its short-term interest rate calculation was acceptable, with each item representing a bona-fide short-term financing expense related to the financing of sales. Pusan concludes that its credit calculation was in line with its records and was verified.

Department Position

We agree with respondent. These elements of Pusan interest rate calculation are legitimate short-term financing costs. In particular, petitioners have misstated that Pusan's calculation includes interest rates which Pusan charges on promissory notes from customers. In fact the rates in question are those which Pusan's banks use to discount promissory notes which Pusan receives from its customers, and thus are an accurate reflection of Pusan's short-term financing costs. We have accepted Pusan's short-term interest rate calculation as reported.

Comment 25

Petitioners state that Pusan has improperly included in its claimed home market indirect selling expenses (1) items that are not indirect selling expenses and (2) expenses incurred in selling non-subject merchandise. Petitioners maintain that, based on this incorrect calculation of indirect selling expenses, the Department should deny Pusan's indirect selling expense offset on ESP sales.

Pusan states that all expenses which it included in indirect selling expenses are indirect selling expenses incurred during the POI. Pusan also states that certain expenses, by nature, cannot be identified with a particular product or products, but that all expenses were properly allocated.

Department Position

We agree with respondent. We examined Pusan's indirect selling expense methodology at verification and the elements in question were successfully verified.

Comment 26

Hyundai states that the Department should include its sales to related customers in the calculation of FMV. Hyundai maintains that evidence on the record demonstrates that its sales to related parties were at arm's length, and that any difference in overall pricing to related customers versus pricing to unrelated customers is due to differences in product mix.

Department Position

We disagree with respondent. The Department will not calculate FMV based on sales to related parties unless it is satisfied that such sales are made at arm's length (*i.e.*, at prices equivalent to or above prices charged to unrelated parties). See 19 CFR 353.45(a). The analysis presented by Hyundai in its case brief shows that Hyundai's sales to related parties are at prices below its prices to unrelated parties. While Hyundai attributes this difference in pricing to differences in product mix, this conclusion is unsupported. Indeed,

differences in product mix, which Hyundai's calculations have failed to take into account, could just as easily be masking larger pricing differentials between sales to related and unrelated customers. Given the unconvincing analysis performed by Hyundai, we find no reason to consider its home market sales to related customers to be at arm's length. We have only compared Hyundai's U.S. sales to sales to unrelated customers in the home market.

Comment 27

Masan states that the Department must make allowances for differences in the quantities of comparison merchandise sold in individual transactions in the U.S. and third country markets.

Department Position

We agree with Masan that the Department's regulations require the Department to compare sales of comparable quantities and to make reasonable allowances where price differentials result from differences in quantities. See 19 CFR 353.55. However, Masan presented no information in its questionnaire response, and indeed has presented no detailed information whatsoever, to justify or quantify any adjustments for quantity differences. Furthermore, Masan's arguments in its brief cite quantities of pipe with different surface finishes and/or end finishes sold in the U.S. and in its third country market, but the Department must match merchandise based on similarity in physical characteristics before considering comparability of sales quantities.

Comment 28

Masan states that the Department should make sales comparisons at comparable levels of trade in the U.S. and third country markets or, where that is not possible, make adjustments for differences in trade levels affecting price comparability.

Department Position

We agree with Masan that its sales comparisons should be made at comparable levels of trade, and we have done so. However, in those instances where sales comparisons at comparable levels of trade in the U.S. and third country markets were not possible, Masan has presented no detailed information to support its reported adjustment for sales comparisons at different levels of trade. Therefore, we have made no additional adjustments to Masan's prices for claimed differences in levels of trade.

Cost Issues

Comment 29

Petitioners contend that the Department should either base costs on those used by the respondents to value inventory or increase the submitted costs by an adjustment factor. They state that methodologies used by the respondents deviated significantly from their normal cost accounting procedures, and contend that the methodology used by respondents shifted costs to products which were not subject to investigation.

Respondents state that any deviations from their normal accounting systems were not significant and were explained. Respondents contend that they proved that total costs were reflected in their questionnaire responses, and state that a comparison of inventory values and submitted costs is not relevant.

Department Position

We agree with respondents. The submitted cost methodology did not deviate significantly from the systems used in their normal accounting records. The instances where respondents did deviate from their normal accounting systems were appropriate to comply with the reporting requirements. Furthermore, we have no evidence that costs were shifted to products not covered by the investigation.

Comment 30

Petitioners contend that costs were understated because of the methodology used to account for second-grade pipe. Petitioners state that since the respondents are in business to produce and sell standard grade pipe, all manufacturing cost should be allocated to its production. Petitioners claim that this second-grade pipe is a by-product of prime grade standard pipe, and thus the costs associated with producing the two should be allocated differently. Any revenues earned on the sale of by-products should be treated as an offset to the cost of producing the standard grade product. Petitioners contend that the second-grade pipe is not a co-product because there is no distinct and developed market.

Respondents argue that the statute directs the Department to value prime and second-grade pipe equally. Respondents claim that they expend the same material, capital, labor and overhead for both grades of pipe and therefore costs should be allocated in such a manner. Respondents state that second grade pipe is different from scrap in that scrap is what is left over as waste while second grade pipe is counted as a product. Respondents argue that existence of separate sub-market is irrelevant.

Department Position

We agree with respondents. In this case, the so-called second-grade pipe consisted of overruns and pipe not meeting specification. The costs incurred to produce this pipe have been directly identified to this type of pipe. This methodology is consistent with the Department's treatment in other similar cases and has been upheld by the Court of International Trade. See *IPSCO, Inc.* v. *United States*, Slip Op. 91-1236, -1257 (Fed. Cir. June 6, 1992).

Comment 31

Petitioners contend that total duties paid should be allocated to home market production costs, since any duty paid on exported products is rebated upon exportation. Petitioners state that total duties paid should be divided only by the cost of materials used in domestically-sole and duty paid exported merchandise, and not by the total cost of materials for all domestically-sold and duty paid exported products. Petitioners state that using total material costs in the denominator understates the per unit duty costs. Petitioners also claim that duty costs and duty drawback amounts should be exactly correlated since Korean law only allows for the rebate of duties up to the amount of duty costs.

Respondents argue that their methodology of allocating total duty costs over total purchases of domestic and import material is appropriate. Respondents state that this methodology supports the Department's practice of calculating identical costs for identical products sold in export and domestic markets. Respondents also argue that the antidumping laws and Department practice do not require that duty costs claimed on raw materials mirror duty drawback claims.

Department's Position

The Department requested that respondents report CV exclusive of import duties, as any duty paid on materials would have been refunded upon exportation. Rather than comply with the Department's request, respondents submitted CV inclusive of duty. However, respondents did not provide their information to the Department in a manner which identifies the amount of duty reported in the material cost of the specific pipe, thus making it impossible for us to exclude the duty from the reported CV. As BIA, the Department used the costs submitted by the respondents, which

included duty. However, also as BIA, we did not adjust USP for duty drawback when compared to CV.

Comment 32

Petitioners, asserting that Hyundai's material costs for galvanized pipe are understated, contend that the "ground-up" methodology used by Hyundai was unrealistic in that total zinc physically incorporated plus zinc recovered actually exceeded total zinc consumed.

Hyundai argues that the galvanization costs were based on actual costs from the financial records and allocated to the products on the basis of total standard usage. Hyundai maintains that all costs were absorbed and that the allocation was made on a consistent basis.

Department Position

We agree with respondent. During verification we reviewed the allocation methodology used by Hyundai and found that it adequately captured costs for the galvanizing process. The zinc costs reported in their financial records were properly allocated to each model.

Comment 33

Petitioners assert that Hyundai understated its depreciation costs in the submission by not basing them on the revalued balances of its fixed assets as reflected in the financial statements.

Hyundai argues that calculating depreciation costs based on the revalued basis is distortive and contrary to U.S. Generally Accept Accounting Principles (GAAP). Hyundai contends that the Department's past precedent dictates that depreciation on a revalued basis is warranted only in cases of hyperinflation, and that aside from hyperinflationary economies, historical costs provide the most accurate method of recording true depreciation cost.

Department Position

We agree with petitioners. In general, the Department adheres to an individual firm's recording of costs in accordance with the GAAP of its home country when the Department is assured that foreign GAAP accurately recognizes the actual costs incurred by that company. See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Small Business Telephone Systems From Korea, 54 FR 53141 (December 27, 1989). We find in this case that Hyundai's financial statements were prepared in accordance with Korean GAAP using a revaluation of its fixed assets. In their submissions, however, Hyundai deviated from its own accounting practice by reporting depreciation on a historical cost basis. Although in the United States assets are not normally revalued, U.S. GAAP states that when fixed assets are written up to market or appraisal value, the depreciation should be based on the written-up amount (ARB–43). Therefore, we consider revaluation to be an accurate methodology for valuing depreciation, and we have relied on it for purposes of this investigation.

Comment 34

Petitioners assert that Hyundai and KSP should not have used rental income and proceeds from the sale of scrap to offset G&A expenses.

Hyundai and KSP argue that since the depreciation expense associated with the rental units was included as part of the total G&A expense, the income associated with it should be used as an offset. Hyundai further argues that the sale of scrap was derived from various items used in the factory, and accordingly should be offset against production costs.

Department Position

We agree with petitioners with respect to rental income. The rental income is derived from activities unrelated to the production of the subject merchandise. Accordingly, we did not reduce G&A by the amount of this income. We also did not include the depreciation costs associated with this activity. With regard to the sale of scrap, however, the Department verified that this income was derived from general operation of the factory. Therefore, we reduced the submitted costs by the amount of scrap income.

Comment 35

Petitioners assert that KSP overstated the amount of zinc recovered in the production process. Petitioners contend that KSP's methodology ignored the fact that in any galvanization process, a significant quantity of zinc is lost in the pot as zinc dust.

KSP argues that its methodology provided for the total absorption of zinc costs and included both usage and recovery.

Department Position

We agree with KSP. During verification, the Department examined the zinc costs included in the submission and concluded that zinc costs were fully allocated to COP and CV.

Comment 36

Petitioners asset that KSP's interest expense should not be offset with interest income from long-term bonds.

KSP argues that the Department should include the interest from corporate bonds as short-term interest income. KSP contends that income is earned on this investment every three months and, accordingly, is short-term in nature.

Department Position

We agree with petitioners. The fact that income was received every three months on this investment does not necessarily dictate that this income was derived from a short-term investment. Indeed, during verification, the Department noted that this income was derived from investments that were held longer than one year. In accordance with our well-established practice of not including interest income earned from long-term investments, we did not offset the submitted costs with this interest income. See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Sweaters of Man-Made Fibers From Korea, 55 FR 32659 (August 10, 1990).

Comment 37

Petitioners contend that the Department should increase Pusan's process costs for costs included in the financial statements but not reflected in the submission. Petitioners state that it is more appropriate to use year-end adjusted costs than the monthly amounts because these costs reflect adjustments which relate to the cost of the subject merchandise.

Pusan contends that the majority of the depreciation costs relate to non-subject merchandise. Pusan also contends that the difference in the year-end amount and the submitted amount does not result from a year-end adjustment, but rather from a change in the monthly cost. Pusan also contends that the Department should adjust insurance and labor entitlement costs as the amount in the submission was estimated as part of the year-end adjustment.

Department Position

We agree with petitioners. While Pusan recorded year-end adjustments in months outside the POI, these costs relate to all months during the year, including the POI. Accordingly, we recalculated Pusan's data to include these costs. We have no evidence that these costs relate to non-subject merchandise.

Comment 38

Petitioners argue that the Department should revise Pusan's submitted G&A expense to exclude income from activities unrelated to the subject merchandise. Petitioners state that dividend income from stock investments

should be considered long term in nature. Furthermore, petitioners argue that dividend income is not related to current operations as this activity is entirely unrelated to manufacturing operations.

Pusan argues that the dividend income was derived from short-term investments in stocks. Pusan argues that these investments are similar to short-term certificates of deposit which the Department allows as an offset to interest expense. Pusan also argues that the commission income relates to income items whose costs were included in general expenses and therefore should be allowed as reduction to costs.

Department Position

We agree with petitioners. The Department did not reduce costs by including income derived from activities unrelated to the production of the subject merchandise. Dividend income differs from interest income earned from investment of working capital in short-term investments because dividend income represents income from an investment activity unrelated to the production of the subject merchandise. The commission income relates to various activities unrelated to the production of the subject merchandise. Accordingly, we did not reduce the submitted costs by this income. The expenses associated with commission income were not separately identified by Pusan, so the Department had no means to identify and exclude these costs.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe that are entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
Hyundai Steel Pipe Co., Ltd	5.60
Korea Steel Pipe Co., Ltd	6.21
Masan Steel Tube Co	11.63
Pusan Steel Pipe Co., Ltd	4.91
All Others	5.97

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22561 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-201-805]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4136, or (202) 377-1769, respectively.

Final Determination

We determine that circular welded non-alloy steel pipe (standard pipe) from Mexico is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination (57 FR 17868 (April 28, 1992)), the following events have occurred:

Based on the April 28, 1992, request of HYLSA, S.A. de C.V. (Hylsa), a respondent in this investigation which accounts for a significant proportion of exports of the subject merchandise from Mexico, we postponed the final determination until September 10, 1992 (57 FR 22208 (May 27, 1992)).

We received requests for a public hearing from petitioners on May 5, 1992 and from Hylsa and Industrias Monterrey, S.A. (IMSA), another Mexican producer and exporter of the subject merchandise, on May 8, 1992. Sales verification took place on May 18-20, 1992, at Hylsa's Tubular Products division headquarters in Monterrey, N.L., Mexico.

Hylsa submitted revisions and corrections to its antidumping questionnaire responses during May 1992, and submitted revised computer tapes incorporating these changes and verification findings on June 5, 1992.

Petitioners, Hylsa and IMSA filed case briefs on June 17, 1992, and rebuttal briefs on June 24, 1992. A public hearing was held on June 26, 1992.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for

redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50,85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar comparisons on the basis of: (1) Commercial or industry grade/classification; (2) nominal pipe size; (3) wall thickness; (4) surface finish or coating; and (5) end finish. We made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether sales of standard pipe from Mexico to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we found that the home market was viable for sales of standard pipe. We calculated FMV using the methodology described in the preliminary determination. Based on Hylsa's questionnaire response revisions and information developed at verification, we made the following changes from the preliminary determination:

We made no deduction for co-export program rebates on those sales where this rebate was granted since this discount is already reflected in the gross unit price reported to the Department.

We did not recalculate credit expenses in either market because the revised sales listings included reported credit expenses which correctly accounted for all expenses borne by Hylsa prior to customer payment.

We made an additional circumstance of sale adjustment for differences in warranty expenses, which were not reported prior to the preliminary determination.

We compared U.S. sales to home market sales without regard to level of trade, with the exception of home market sales to retailers, which we have excluded from our analysis. See Comment 3.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the POI. In place of the official certified rates, we used the average monthly or elected not to participate or whose questionnaire response was deemed insufficient, as in, *e.g.*, Final Determination of Sales at Less than Fair Value: Silicon Metal from Brazil, 56 FR 26977 (June 12, 1991), IMSA contends that it should be assigned the "all others" deposit rate.

Petitioners contend that the Department's resort to BIA was justified as IMSA was clearly aware that it had been chosen as a mandatory respondent on the day the questionnaire was presented. Petitioners cite the Department's Memorandum to the File of December 6, 1992, which indicates that IMSA understood its classification as a mandatory respondent at the time it received the questionnaire. Further, petitioners argue that it was within the Department's power and discretion to name IMSA as a mandatory respondent.

DOC Position

The Department has reconsidered its earlier classification of IMSA as a mandatory respondent and has assigned it the "All Others" rate. At the time of the preliminary determination, the Department was reassessing its policy regarding the treatment of voluntary respondents. At that time, we stated that once a company notified us of its intention to participate, it would be subject to the potential use of BIA if it failed to cooperate. We have since refined the policy. Accordingly, as previously announced, in all ongoing and future proceedings, once a voluntary respondent is provided an antidumping duty questionnaire by the Department and demonstrates its intent to participate in an antidumping investigation by submitting a quarterly exchange rates published by the International Monetary Fund.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1

IMSA objects to its classification as a mandatory respondent in this investigation, which resulted in ISMA's preliminary determination margin being based on best information available (BIA) following IMSA's decision not to submit a questionnaire response. IMSA states that there is no reason given in the record of this case why the Department decided to reclassify it from a voluntary to a mandatory respondent in this case. IMSA notes that examination of its exports to the U.S. was not necessary in order for the Department to examine at least 60 percent of POI subject merchandise sales, pursuant to 19 CFR 353.42(b). Without any other grounds in the record for this reclassification, IMSA contends that, under the regulations and consistent agency practice prior to the preliminary determination, IMSA should not be considered a mandatory respondent in this investigation. Consistent with Department treatment of other proceedings where a voluntary respondent has response to the questionnaire, the Department will treat that respondent on the same basis as a mandatory respondent in all respects, including the potential use of adverse BIA. See Addendum to Notice of Initiation: Certain Flat-rolled Steel Products from Various Countries, 57 FR 33487 (July 29, 1992).

Comment 2

Hylsa claims that, because it grants quantity discounts to at least 20 percent of its sales to home market customers, which are categorized as "Class 1 customers", all U.S. sales should be compared to home market Class 1 sales as these home market transactions meet the quantity discount criteria of 19 CFR 353.55(b).

Petitioners contend that the Department properly rejected this argument in the preliminary determination. They state that Hylsa has turned the regulation on its head and would have the Department

compare the prices on sales of completely different quantities. Based on its reading of the statute, petitioners state that sales at quantity discounts shall be the sole basis of foreign market value only when all the sales in the U.S. market are made in comparable quantities. In this case, not all U.S. sales are made in those comparable quantities. Petitioners also argue that Hylsa's claimed home market quantity discounts are not quantity discounts within the meaning of 19 CFR 353.55(b), as they are based on purchase volume expectations rather than quantities of specific sales.

DOC Position

We agree with petitioners. First, Hylsa's claimed home market quantity discounts are not quantity discounts within the meaning of 19 CFR 353.55. Adjustments for quantity discounts under the regulation are based on the premise that higher volume sales lead to cost savings on each individual sale used to establish FMV. See, *e.g.*, Final Results of Antidumping Duty Administrative Review; Color Television Receivers from the Republic of Korea, 55 FR 26225 (June 27, 1990). Hylsa's quantity discounts, in contrast, are based on cumulative sales, without regard to the volume of individual sales. Second, even if Hylsa had established the requisite quantity discounts, we do not interpret 19 CFR 353.55(b), when read in conjunction with 19 CFR 353.55(a), to mean that simply because a respondent may grant quantity discounts on 20 percent or more of its home market sales, only those sales should be the basis of comparison to 100 percent of U.S. sales. Rather, as petitioners note, such a comparison is inappropriate for those U.S. sales made in smaller quantities than the discounted home market sales.

Comment 3

Hylsa contends that, while it has identified its home market customers as functioning as either industrial end users, distributors, or retailers, the Department should consider industrial end users and distributors as a single level of trade, since these two categories are not generally distinguished and some customers act in both functions. As there are no sales to retailers in the U.S., Hylsa asserts that home market sales to retailers should be excluded from comparison. Hylsa adds that, if industrial end users and distributors are considered to be separate levels of trade, the Department should compare U.S. distributor sales to home market Class 1 distributor sales, and U.S. industrial end user sales to home market Class 1 industrial end user sales.

Petitioners agree with Hylsa that home market sales to retailers should be excluded from comparison, and that distributors and industrial end users should be considered a single level of trade. Petitioners add that these functional classifications are based only on Hylsa's perceptions of the use which the purchaser makes of the majority of the purchased products. They do not agree with limiting home market comparisons to Class 1 sales for the reasons stated in Comment 2.

DOC Position

We agree that different levels of trade exist between sales to retailers and sales to industrial end users and distributors. Since no sales were made to retailers in the U.S. market, we have excluded home market retailer sales from comparison. For the final determination, we have treated the remaining functions as a single level of trade in both markets. While Hylsa was able to identify these customers as either distributors or end-users, it has reported from the outset that some of its customers act in both distributor and industrial end user functions, thus blurring the distinction between these categories. The fact that some purchasers are classified based on what is sold to their corporate affiliates, rather than the purchaser itself, further demonstrates that distributors and industrial end users are not sufficiently distinct from each other to be considered as separate levels of trade.

Comment 4

Hylsa contends that, like a duty drawback, the steel supplier rebate increases Hylsa's revenues on each export sale on a sale-specific basis, in an amount that was predictable at the time Hylsa entered into each export transaction, and thus is directly related to individual export sales. Accordingly, Hylsa asserts that it is entitled to a circumstance of sale adjustment for the rebate amount. Hylsa continues that this adjustment is necessary in order to achieve a fair comparison under the antidumping statute, stating that the steel supplier rebate is economically identical to duty drawback. To deny an adjustment here would make the antidumping margins depend on the accident of where the exporter happened to choose to purchase inputs for the particular export sales. Hylsa also takes issue with the Department's rejection of this type of adjustment in two recent cases, Final Results of Antidumping Administrative Review: Certain Welded Carbon Steel Standard Pipes and Tubes from India, 56 FR 64753 (December 12, 1991) ("India Pipes"), and Final Results of Antidumping Administrative Review: Light-Walled Rectangular Carbon Steel Tubing from Taiwan, 56 FR 26382 (June 7, 1991) ("Taiwan Tubing"), where the Department distinguished between circumstances related to production and circumstances related to sale. Hylsa argues that both the courts and the Department have recognized that adjustments are appropriate for programs that have nothing to do with marketing practices. In addition, Hylsa asserts that, as the steel supplier rebate is paid as a result of the act of exportation, and not as a result of production, it should be treated as a circumstance of sale much as a royalty is paid for production technology but determined based on sale amounts.

Petitioners cite India Pipes and Taiwan Tubing as the basis for their objection to granting an adjustment for Hylsa's steel supplier rebate. They note that, since the purpose of the rebate program is to minimize the difference between domestic and international steel prices used to produce the subject merchandise, the rebate results in a difference in production costs, not selling costs, and therefore does not qualify as a circumstance of sale under the regulations. Petitioners also assert that the steel supplier rebate and other dual pricing schemes are different from duty drawback programs in purpose, operation, and effect, noting the Department's rejection of this comparison in Taiwan Tubing and, in contrast, that the use of duty drawback programs is specifically recognized in the General Agreement on Tariffs and Trade (GATT).

DOC Position

The Department's opinion on this issue has been detailed in India Pipes and Taiwan Tubing and Hylsa has not offered a sufficient basis for us to overturn these recent determinations. Hylsa's steel supplier rebate is akin to the IPRS scheme in India Pipes. As such, this rebate program does not qualify for a circumstance of sale adjustment because it reflects a cost adjustment to the price of material inputs used in production, rather than a difference in selling expenses. Adjustments for circumstances of sale are, by definition, limited to consideration of a seller's marketing practices and expenses, and are unaffected by conditions affecting production.

Comment 5

Petitioners argue that, consistent with the decision in *LMI-La Metalli Industriale, S.p.A.* v. *United States*, 912 F.2d 455, 460 (Fed. Cir. 1990) (*LMI*), in the absence of actual borrowings in the home market currency, the Department should use the actual borrowings in U.S. currency to calculate home market credit expenses for the final determination in order to reflect commercial reality.

Hylsa states that, although it did not have any peso-denominated borrowings, its corporate parent did. Further, since its home-market customers paid in pesos, its imputed credit expense must also be measured using a Mexican-peso interest rate which will reflect the Mexican peso inflation rate.

DOC Position

In order to reflect "usual and reasonable business behavior," as LMI requires, we are using the reported Mexican peso interest rate to impute home market credit expenses. While Hylsa did not borrow in Mexico during the POI, it has demonstrated access to Mexican peso financing and reported an interest rate consistent with that situation. Furthermore, because Hylsa's home market sales also were made in pesos, we believe it appropriate here to impute an interest rate based on that currency rather than apply an interest rate tied to the U.S. dollar to sales made in pesos. LMI is not to the contrary. It does not direct the Department simply to use the lowest interest rate available to a respondent, regardless of the market. LMI also does not suggest that we disregard the currency in which the credit expense is imputed, as petitioners would have us do. Indeed, in *United Engineer & Forging* v. *United States*, 779 F.Supp. 1375 (CIT 1991), the Court of International Trade (CIT) acknowledged that the Department is not limited to a comparison of the rates of interest in the home market and the U.S. market when deciding how to impute credit expenses, but may consider other factors that likely affect a rational borrower's selection of financing.

Comment 6

Petitioners claim that the Department must determine the amount of the Mexican value-added tax (VAT) passed through to Hylsa's home market customers before making an adjustment. Petitioners cite *Zenith Electronics Corp.* v. *United States*, 633 F.Supp. 1382 (CIT 1986) (Zenith), and *Daewoo Electronics Co.* v. *United States*, 712 F.Supp 931 (CIT 1989) (Daewoo), to support their contention that 19 USC 1677a(d)(1)(C) requires the Department to analyze the incidence of the VAT to determine the amount that is actually passed through to consumers in the home market.

Hylsa states that this argument has been consistently rejected by the Department. As discussed in such proceedings as Final Results of Administrative Review: Color Television Receivers from Taiwan, 56 FR 65218 (December 16, 1991), the Department has indicated that it does not agree with this interpretation of the statute. For this determination, Hylsa argues that the Department should continue to reject this argument.

DOC Position

We do not agree with the CIT's decisions in Zenith and Daewoo, but have not had an opportunity to appeal this issue. Therefore, consistent with our long-standing practice, we have not attempted to measure the amount of tax incidence in the Mexican home market. We do not agree that the statutory language, limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of standard pipe sold in the Mexican home market, requires the Department to measure the home market tax incidence. See, *e.g.*, Final Results of Antidumping Administrative Review; Color Television Receivers, Except for Video Monitors, from Taiwan, 57 FR 20241, 20242 (May 12, 1992).

Comment 7

Petitioners claim that the Department failed to correctly subtract a portion of freight expenses in both markets for the preliminary determination margin calculations. Petitioners also claim that the Department incorrectly accounted for these expenses in its credit calculations.

Hylsa explains that petitioners apparently misunderstand Hylsa's reporting of freight expenses. The expenses that they discuss were not incurred by Hylsa because they are not included in the gross price. Hylsa bills its customers separately for these expenses. Additional freight expenses which were not covered by the invoiced freight amount were reported separately and correctly accounted for in the preliminary determination. Thus, Hylsa contends that no further adjustments need to be made. Similarly, in the credit calculation, the imputed credit on the additional freight is already included as part of the gross unit price base. Hylsa adds that including the freight charges due from the customer in the credit base is proper because they are part of the total amount due from the customer.

DOC Position

We agree with Hylsa. All freight expenses in both markets were correctly accounted for in calculating USP and FMV, and were also properly included in the gross price base for credit calculations.

Comment 8

Petitioners claim that the Department failed to add U.S. credit expenses to FMV and must do so for the final determination. They also claim that the Department incorrectly failed to deduct U.S. credit expenses from the U.S. price.

Hylsa asserts that this expense was correctly added to FMV in the Department's preliminary determination computer program. In doing so, Hylsa states that the Department followed standard purchase price methodology, where U.S. credit expenses are not deducted from USP, but are added to FMV, in accordance with the Department's Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change (November 1985). Hylsa further notes that petitioners' allegations in this regard are inconsistent, since to deduct U.S. credit expenses from USP and also to add them to FMV would result in a double-counting of these expenses.

DOC Position

We agree with Hylsa. U.S. credit expenses have been properly treated by adding them to FMV.

Comment 9

Petitioners contend that the Mexican VAT should not be included in the gross price base used to calculate credit expenses because they claim Hylsa does not incur the credit expense until Hylsa pays the government. They state that, since Hylsa has not demonstrated that it has extended credit to its customers on the VAT amount, the Department should not include VAT in the credit calculation base price.

Hylsa responds that it extends credit on the VAT amount since it is part of the invoice total. Therefore, it is appropriate to include this amount in the credit base since it properly reflects the opportunity cost incurred by Hylsa.

DOC Position

We agree with Hylsa. As above with respect to the separately-invoiced freight expenses (Comment 7), while Hylsa's customers pay Hylsa the full amount of the assessed VAT, the customers do not pay it for the imputed opportunity cost Hylsa incurs on that invoiced item from the time of shipment until the time of payment. Therefore.

this amount is properly included in the credit expense calculation base.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of standard pipe that are entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
HYLSA, S.A. de C.V.	32.62
All Others	32.62

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22562 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-802]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4136, or (202) 377-1769, respectively.

Final Determination

We determine that circular welded non-alloy steel pipe (standard pipe) from Romania is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination on (57 FR 17890 (April 29, 1992)), the following events have occurred:

Based on the April 29, 1992, request of Metalexportimport, S.A. (MEI), the respondent in this investigation, we postponed the final determination until September 10, 1992 (57 FR 22208 (May 27, 1992)).

We received requests for a public hearing from MEI on April 23, 1992, and from the petitioners on May 5, 1992.

Petitioners and MEI filed case briefs on July 13, 1992, and rebuttal briefs on July 20, 1992. A public hearing was held on July 22, 1992.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structured or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outline above are included within the scope of this investigation, except in line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Fair Value Comparisons

To determine whether sales of standard pipe from Romania to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination.

Foreign Market Value

As discussed in the preliminary determination, we calculated FMV using a factors of production methodology under Section 773(c)(1) of the Act. Romania is considered a nonmarket economy country (NME).

Surrogate County

Section 773(c) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the NME and that are significant producers of comparable merchandise. As discussed in the preliminary determination, the Department determined that Thailand, Turkey, Argentina, Malaysia, and Chile are the most comparable to Romania in terms of overall economic development,

based on per capita gross national product (GNP), the national distribution of labor, and growth rate in per capita GNP. Of the countries that are comparable to Romania and produce comparable merchandise, Thailand is the most comparable and therefore is the preferred surrogate country for purposes of valuing the factors of production used in producing the subject merchandise. See also Comment 1. Where Thai factor values were not available, we used available data from the next most comparable surrogate country.

We calculated FMV in the same manner as in the preliminary determination with the following exceptions:

Hot-rolled steel and scrap steel unit values were updated based on publicly available statistical data for Thailand for the POI, rather than for 1990, as utilized in the preliminary determination. In addition, we excluded statistical data for Japanese and Taiwanee hot-rolled steel imports, as discussed in Comment 4.

We used a methane value based on publicly available data for Argentina, instead of a value obtained from the U.S. Embassy in Turkey, as discussed in Comment 8.

The selling, general and administrative (SG&A) expense ratios derived from Thai experience were recalculated to exclude the Thai domestic business tax included in the amounts used in the original calculation. Because the recalculated SG&A ratio applied to certain products is below the statutory minimum of 10 percent, we are using the statutory minimum for those products. See Comment 9.

Currency Conversion

When calculating FMV, we made currency conversions in accordance with 19 CFR 353.60(a). For conversions from Thai currency, we used the official exchange rates as certified by the Federal Reserve Bank.

Interested Party Comments

Comment 1

MEI argues that Indonesia, rather than Thailand, is the appropriate surrogate county for purposes of calculating FMV. MEI bases its assertion on the comparison of Romania's 1991 per capita GNP estimates to Indonesia's per capita GNP which, it contends, shows that Indonesia is the most comparable country.

Petitioners support the continued use of Thailand as the surrogate country. Petitioners contend that a change to Indonesia at this point is untimely and inappropriate. Moreover, petitioners note that Indonesia was not among any of the proposed surrogate countries cited in the Department's surrogate country selection memorandum of December 3, 1991, as prepared by the Department's Office of Policy. Citing Final Results of Administrative Review: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France et. al.), 57 FR 28422 (June 24, 1992) (AFSs), petitioners maintain that the Department may only select a surrogate country from the list of surrogates provided by the Department's Office of Policy.

DOC Position

The Department continues to hold that Thailand is the most appropriate surrogate country for this investigation, based on the reasoning detailed in the surrogate country selection memorandum of December 3, 1991. Our reasons for selecting Thailand were further detailed in a February 10, 1992 memorandum, in which we pointed out that the information now cited by MEI to support its position was inconsistent with other data on the Romanian economy.

As the February 10 memorandum points out, the price inflation in Romania during October 1990–June 1991 far exceeded the decline in Romanian output, making extremely unlikely a decline in Romania's nominal (*i.e.*, as expressed in current Romanian lei) GNP. Given this fact, it is reasonable to reject respondent's claim, which is based on an income estimate that implies an absolute decline in Romania's lei GNP over the 1990–1991 period. The "low", lei-denominated income estimate on which MEI's claim is based is not a nominal income figure; most likely it has been "deflated" (*i.e.*, adjusted downward for inflation). Using a deflated income estimate and a dollar-lei market exchange rate, which itself reflects the inflation in Romania, results in a double discounting of Romanian GNP for inflation. It is this double counting that makes MEI's estimate unacceptable; it is also this double counting that explains why MEI's income estimate is so low relative to the Department's estimate.

Comment 2

MEI objects to the use of data from Foreign Trade Statistics of Thailand (FTST) for calculating the Thai surrogate value of hot-rolled steel material inputs. Thailand is not a producer of hot-rolled steel coil and, citing Final Determination of Sales at Less than Fair Value: Urea from Romania, 52 FR 19553 (May 26, 1987) and Final Determination of Sales at Less than Fair Value: Urea from the German Democratic Republic, 52 FR 19549 (May 26, 1987), MEI contends that the Department must select a surrogate country that is a producer of key inputs. As Thailand is not a producer of hot-rolled steel, MEI holds that the Department has inherently biased the calculation of this key surrogate value by using values derived from import values of merchandise imported from Japan, Korea, and Taiwan. Nevertheless, if Thai prices are to be used as the basis for the surrogate value of hot-rolled steel, MEI objects to the use of FTST data for steel inputs because the unit value is derived from "basket" Thai HTS categories that include higher value pickled or patterned-in-relief steel, in addition to the basic, commodity grade hot-rolled steel used by the Romanian manufacturer, Tepro, S.A. (Tepro). Accordingly, MEI contends that this surrogate value should be calculated based on the specific type of steel used by Tepro, which is not possible with the FTST data. As its preferred alternative, MEI proposes the use of unit values derived from the European Economic Community (EEC) Export Statistics of shipments to Thailand. MEI states that this data is superior to FTST data because the trade statistics are classified in such a way as to allow calculation of a unit value based on the specific type of steel used by Tepro.

Petitioners argue that the Department was correct to use FTST data to value hot-rolled steel since they are public, published data and thus, citing Final Determination of Sales at Less than Fair Value: Butt-Weld Pipe Fittings from the People's Republic of China, 57 FR 21058 (May 18, 1992), (PRC Pipe Fittings), the preferred source for factor valuation purposes. Petitioners also contend, citing the same case, that even if the FTST data were based on basket categories, the Department's continued use of these data would be in keeping with its practice of preferring the use of basket categories from the surrogate country over other sources of data.

Doc Position

Section 773(c)(4) of the Act only requires the Department to select a surrogate country that is a significant producer of comparable merchandise, and does not require that the country also produce the inputs for manufacturing that merchandise. Accordingly, we determine that it is proper to value hot-rolled steel based on Thai prices.

As we stated in PRC Pipe Fittings, our preference is to calculate a surrogate value based on published, publicly

available data in the first choice surrogate country. The FTST data are exactly the sort of data that meet this criterion. The import categories used for hot-rolled steel are sufficiently specific to cover the type of steel used by Tepro for its subject merchandise production. Further, unlike the EEC data, FTST data account for all of Thailand's imports during the period of time covered by the data. While also publicly available and perhaps more specific with respect to the type of steel covered, the EEC data are inferior to the FTST data because they only cover a fraction—around five percent—of the steel imported into the Thai market. In contrast, FTST data cover 100 percent of Thai steel imports and, thus, are far more representative of Thai imports.

Comment 3

MEI proposes that, if the Department rejects the use of EEC statistics for valuing hot-rolled steel inputs, published Metal Bulletin prices should be used. MEI contends that the Metal Bulletin prices reflect general European market prices available to Romanian users and are indicative of actual prices. Should these prices be used, MEI further argues that the price should be adjusted to deduct commissions and discounts, and to reflect the steel quality used by Tepro.

DOC Position

As discussed above in Comment 2, we hold that FTST data are most appropriate for valuing steel inputs. Moreover, we have no legal basis to consider Metal Bulletin prices as surrogate values. Section 773(c)(4) of the Act requires the Department to value the factors of production in the surrogate county. Metal Bulletin prices are world values, not specific to the surrogate county, and thus cannot be used for surrogate values.

Comment 4

MEI contends that, if the FTST data are to be used for valuing steel factors, several adjustments should be made. First, the Department should calculate the unit value using FTST data for January through September 1991, rather than the POI (April through September 1991), since the longer period provides the Department with a more representative value based upon a longer period of time rather than the POI "snapshot". Second, MEI contends that the unit value should be adjusted to deduct the costs of ocean freight included in the FTST data. Third, MEI asserts that the values of Thai imports from NME countries should not be excluded from the calculation because the Department has no basis to do so. Fourth, MEI contends that the unit value should be adjusted downward by 50 dollars per metric ton to account for the inclusion of pickled or patterned steel in the data. Finally, MEI argues that Japanese and Taiwanese data should be excluded in calculating the weighted-average unit value because the higher unit value from these two sources means it is likely that imports from these countries include value-added and/or higher quality merchandise that is not used by Tepro in its production of the subject merchandise.

Petitioners contend that ocean freight costs should not be deducted from the FTST data because the Department should be concerned with what the input costs a producer in the surrogate country. Since all Thai producers must import hot-rolled steel, all will incur ocean freight charges as part of the price of the steel input. Petitioners state that it is proper for the Department to exclude NME imports from its calculation as the Department has excluded such data in other proceedings because the prices charged by state owned producers in NME countries do not necessarily reflect market forces. Petitioners argue that to adjust the unit value for allegedly higher value products is not possible at this point since there is no evidence on record as to the additional costs of these products. Finally, petitioners maintain that the Department should not exclude Japanese or Taiwanese steel imports from the value calculation since the world steel market contains a range of prices and to conclude that these imports are different solely because they are more expensive is pure speculation.

DOC Position

We agree with petitioners on all points except the last. Our analysis of the specific FTST data used shows a substantial difference in price between Thai imports from Japan and Taiwan, and imports from other countries. The weighted-average unit values of Japanese and Taiwanese imports is nearly 60 percent greater than the weighted-average unit values for imports from all other countries. This price difference alone does not demonstrate conclusively that these imports are physically different than the other imports, as suggested by MEI. Nevertheless, given the range of products covered by this HTS category, it is reasonable to assume that such prices probably reflect types of steel that are of a higher quality than the basic low-quality steel used by Tepro. Excluding these imports from our calculations results in a surrogate value that is a more reasonable indication of a market-based price for the type of steel used. We therefore excluded Thai imports of Japanese and Taiwanese steel in our final calculation.

No further changes to the FTST-based value calculation have been made. Our normal practice is to base all costs and expenses, where practical, on those incurred in the POI, to insure consistency in all calculations. We continue to exclude NME exports to Thailand since the prices charged by state owned producers in NME countries do not necessarily reflect market forces. Since there is no domestic producer of steel, the Thai producer must import the raw materials and will therefore incur ocean freight charges. Thus, ocean freight charges should be included because they are a part of the input costs for a producer in the surrogate country. Finally, we find no objective basis to make further adjustments to the value because of alleged physical differences in the merchandise.

Comment 5:

MEI contends that, since the FTS value for lacquer is acknowledged to have been derived from a "basket" category which included paints and enamels as well as lacquer, this value should be rejected and the lacquer value submitted by MEI, as obtained by MEI from Thai lacquer price quotes, should be used.

Petitioners maintain that the Department should reject MEI's data since they are derived from an unverified source, whereas the FTST data were obtained from a published, publicly available source.

DOC Position:

We agree with petitioners. The FTST data are preferred (see PRC Pipe Fittings) since the information is public, published data. MEI's submitted price quotes cannot be accepted because this information, obtained independently from MEI's own sources, may be self-serving and is unverified.

Comment 6:

MEI argues that the Department should not adjust any pre-POI surrogate values for Thai rates of inflation since these adjustments are applied to import data which reflect price levels in the country of exportation, rather than Thailand.

DOC Position:

We disagree. The Department has consistently adjusted all noncontemporaneous surrogate values, including import data, for inflation based on the inflation rate in the surrogate country. See. *e.g.*, Final Determination of Sales at Less Than Fair Value: Lug Nuts from the People's Republic of China, 56 FR 46153

(September 10, 1991), and Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China, 56 FR 55271 (October 25, 1991). This adjustment is appropriate in order to accurately reflect the price levels and general conditions in the surrogate country during the POI. Accordingly, we consider import prices to be a component of price levels in the surrogate country. Therefore, we ajusted the data to reflect the inflation rate in Thailand.

Comment 7

MEI claims that the Department double-counted energy costs in its FMV calculation for the preliminary determination because the factory overhead data used to calculate the factory overhead percentage already included these energy costs. MEI states that, based on its analysis of the information used to calculate the factory overhead ratio (*i.e.*, the public version of an antidumping duty questionnaire response submitted by a Thai producer of standard pipe in another proceeding), there is no basis to believe that the overhead costs reported by the Thai respondent were exclusive of energy costs.

Petitioners argue that MEI's claim of double-counted overhead is mere speculation since MEI offers no factual basis for its assertion that the Thai respondent's overhead rate already includes these energy costs. Petitioners also maintain that energy costs are not normally an element of overhead.

DOC Position

In responding to this comment, it must be noted that two types of energy consumption are involved. First, there is the energy consumption that is incurred as part of factory overhead, such as for climate control and lighting. Second, there is the energy consumption that is incurred for production line use. In the questionnaire response, the latter consumption was the type reported for the energy factors of production. Thus, we agree with the petitioner that MEI has no basis for their claim that costs for production line energy consumption were double-counted. In addition, our valuation methodology for this factor is consistent with Tepro's accounting, where overall factory energy consumption (*e.g.*, factory lights, heat, etc.) is included in overhead and thus is part of the factory overhead calculation, while production line energy consumption is measured and valued separately.

Comment 8

MEI argues that the Turkish methane price obtained from the U.S. Embassy in Turkey and used in the preliminary determination is unreasonable for valuing this factor because the price used is an annual average, which is inappropriate for a high-inflation economy such as Turkey's where a more specific date for a value must be used. Further, MEI states that the Turkish value reported is inconsistent with world methane prices, based on information MEI submitted for the record. As alternatives, MEI proposes the use of either prices in Argentina or Chile, alternative surrogate countries, obtained from publicly available statistical sources as submitted by MEI, or a 1984 Thai methane price cited in a 1986 Court of International Trade (CIT) proceeding.

Petitioners contend that, since Thai data on methane prices was not available, the Department was correct in choosing a methane price from the second most comparable surrogate country, Turkey. Moreover, petitioners reject the use of the 1984 Thai methane price because it is too untimely.

DOC Position

We agree that, as the Turkish economy experienced high inflation during 1991, time specificity of data is important. Since the Turkish price reported appears to be an annual average, we cannot accurately account for Turkey's high inflation in using this price. We agree with petitioners that the Thai price suggested by MEI is inappropriate since the quote was obtained at least seven years prior to the POI. Accordingly, we have used a methane value based on the January 1990 Argentine value obtained from publicly available published data, as submitted by MEI prior to the preliminary determination, and adjusted to the POI for Argentine inflation.

Comment 9

MEI contends that the Thai selling, general, and administrative (SG&A) ratios used in the preliminary determination for calculating FMV should be adjusted to exclude Thai business tax expenses from the data used to calculate the ratios. MEI contends that, according to the source of the SG&A data, the Thai business tax is only charged on domestic sales and thus must be excluded when calculating FMV.

DOC Position

Our analysis of the information submitted for calculating SG&A shows that the business tax would not be assessed if the merchandise were to be exported. Thus, we agree with MEI that this expense should be excluded from our SG&A ratio calculations.

Our recalculation of the SG&A ratios for the two types of standard pipe products results in one of these ratios falling below the statutory minimum of 10 percent. For those products, we have therefore applied the statutory minimum in calculating SG&A.

Comment 10

Petitioners contend that the Department should adjust the Thai ratios for factory overhead and SG&A used in the preliminary determination, as derived from public versions of 1988 antidumping duty questionnaire responses, to account for cost changes between 1988 and the POI. According to petitioners, the price changes for material and labor inputs between 1988 and the POI result in higher factory overhead and SG&A ratios that more accurately estimates surrogate country experience during the POI.

MEI maintains that there is no evidence that the Thai respondents in the 1988 proceeding experienced a decrease in its raw material costs, as suggested by petitioners. MEI counters that raw material prices have actually increased since 1988, which, in turn, would result in a reduction of the overhead and SG&A ratios, rather than an increase.

DOC Position

Petitioners' assertion rests on speculation regarding the input prices used to calculate these ratios. Rather than revise the valuation of these factors based on such speculation, we continue to calculate these ratios based on the actual data provided.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue suspension of liquidation of all entries of circular welded non-alloy steel pipe from Romania, as defined in the "Scope of Investigation" section of this notice that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins for Metalexportimport, S.A., and all others is 14.90%.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22563 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-814]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-8922.

Final Determination

We determine that imports of circular welded non-alloy steel pipe (standard pipe) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination (57 FR 17892, April 28, 1992), the following events have occurred:

On May 5, 1992, Yieh Hsing Enterprise Co., Ltd., (Yieh Hsing), an exporter accounting for a significant proportion of exports of standard pipe from Taiwan, requested that we postpone our final determination. We published a notice postponing the final determination until not later than September 10, 1992 (57 FR 22208, May 27, 1992). On May 5, 1992, petitioners requested that a public hearing be held in this proceeding; that request was withdrawn on May 27, 1992.

Verification took place May 18-21, 1992, at the offices of Kao Hsing Chang Iron & Steel Corp. (KHS) in Kaohsiung, Taiwan. Petitioners filed a case brief on June 9, 1992. Neither respondent filed a case brief, and no party filed a rebuttal brief.

Scope of Investigation

The merchandise subject to this investigation is (1) circular welded non-alloy steel pipes and tubes, of circular cross-section over 114.3 millimeters (4.5 inches), but not over 406.4 millimeters (16 inches) in outside diameter, with a wall thickness of 1.65 millimeters (0.065 inches) or more, regardless of surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled); and (2) circular welded non-alloy steel pipes and tubes, of circular cross-section less than 406.4 millimeters (16 inches), with a wall thickness of less than 1.65 millimeters (0.065 inches), regardless of surface finish (black, galvanized, or painted) or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes, within the physical description outlined above, are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of standard pipe from Taiwan to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. We used best information available (BIA) as required by section 776(c) of the Act and 19 CFR 353.37 because (1) Yieh Hsing failed to provide requested information in a timely manner and (2) KHC's response could not be verified. See Comments 1 and 2 in the "Interested Party Comments" section of this notice.

Given that KHC responded to all of the Department's requests for information, we are considering it to be a cooperative respondent, even though verification revealed significant inconsistencies in the information reported by KHC. We have, therefore, consistent with our normal practice, determined BIA for KHC to be the average of margins calculated based on information in the petition. See Final Antidumping Duty Determination: Aspheric Ophthalmoscopy Lenses from Japan, 57 FR 6703 (February 27, 1992).

Yieh Hsing, however, failed to respond to the Department's second deficiency letter by the April 14, 1992, deadline. As such, we consider it to be an uncooperative respondent. Accordingly, we have determined BIA to be the highest of the margins calculated based on information in the petition.

United States Price

We calculated USP for both KHC and Yieh Hsing using the methodology described in the preliminary determination.

Foreign Market Value

We calculated FMV for both KHC and Yieh Hsing using the methodology

described in the preliminary determination.

Currency Conversion

We made all currency conversions in accordance with 19 CFR 353.60 (1992) by using the exchange rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we attempted to verify information provided by KHC by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information. No verification of Yieh Hsing was conducted because its response was unusable and it failed to respond to our deficiency letter.

Interested Party Comments

Comment 1

Petitioners contend that still-unremedied deficiencies in the information submitted by KHC warrant the use of BIA for the final determination. Specifically, petitioners contend that KHC improperly calculated its adjustment for differences in merchandise; failed to file a printout of its most recent encoded data submission; and submitted data that were improperly formatted. Thus, petitioners argue, the Department should rely on information in the petition as the basis for its final determination.

DOC Position

We agree. Verification revealed that KHC had failed to report numerous home market sales, including all home market sales of galvanized pipe. KHC's failure to report these sales casts doubt upon whether KHC's model matching methodology was in accordance with the Department's hierarchy set forth in the questionnaire that was presented to KHC. We also discovered at verification that KHC had improperly reported packing expenses, credit expenses, rebates, and commissions for home market sales, and packing expenses and credit expenses for U.S. sales. In addition, KHC's encoded data contained numerous typographical and formatting errors. Thus, KHC's responses are replete with deficiencies and cannot be relied upon for purposes of determining whether and to what extent KHC is selling the subject merchandise at less than fair value in the United States.

Comment 2

Petitioners contend that Yieh Hsing's failure to respond to the Department's supplemental deficiency letter warrants the use of BIA for purposes of the Department's final determination. As BIA, petitioners urge the Department to continue to use the highest margin in the petition as was done for the preliminary determination.

DOC Position

We agree. As stated in our preliminary determination, Yieh Hsing's failure to respond to our second deficiency letter leaves the Department no choice but to base its determination on BIA. We therefore have based our final determination on information in the petition.

Comment 3

Petitioners contend that the Department must, pursuant to section 772(d)(1)(C) of the Act, base its value-added-tax (VAT) adjustment only on the portion of the nominal percentage that is actually passed through to consumers in the home market. Petitioners cite *Zenith Electronics Corp.* v. *United States*, 633 F. Supp. 1382 (CIT 1986) (Zenith); and *Daewoo Electronics Company, Ltd.*, v. *United States*, 712 F. Supp. 931 (CIT 1989) (Daewoo).

DOC Position

Although our fair value comparisons are based on information in the petition, we have nevertheless made the adjustment for VAT as required by section 772(d)(1)(C) of the Act. We do not agree with the U.S. Court of International Trade's decision in Zenith and Daewoo, but have not had an opportunity to appeal this issue. Consistent with our longstanding practice, we have not attempted to measure the amount of tax incidence in the home market. We do not believe that the statutory language limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of pipe and tube sold in Taiwan requires us to measure the home market tax incidence.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of standard pipe from Taiwan entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Margin percentage
Kao Hsing Chang Iron & Steel Corp	19.46
Yieh Hsing Enterprise Co., Ltd	27.65
All others	23.56

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22564 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-307-805]

Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Judith Wey or Steve Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-8320 or (202) 377-5288, respectively.

Final Determination

We determine that circular welded non-alloy steel pipe (standard pipe) from Venezuela is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the

"Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination (57 FR 17693 (April 28, 1992)), the following events have occurred:

Based on the April 27, 1992, request of C.A. Conduven (Conduven), the respondent in this investigation, we postponed the final determination until September 10, 1992 (57 FR 22208, May 27, 1992).

We received a request for a public hearing from petitioners on May 5, 1992. On May 26, 1992, Conduven informed the Department that it would no longer actively participate in this investigation and cancelled verification. Petitioners withdrew their request for a public hearing on May 28, 1992. Petitioners submitted a case brief on July 17, 1992.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of standard pipe from Venezuela to the United States were made at less than fair value (LTFV), we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. Because the respondent chose not to participate in this investigation and did not allow verification, in accordance with section 776(c) of the Act, we based our results on best information available (BIA). We have determined that the BIA was information contained in the petition. As an uncooperative respondent, we have assigned Conduven the highest of the margins calculated based on the information in the petition.

United States Price

We based USP on information provided in the petition. Petitioners provided U.S. prices based on the average customs value of imported standard pipe during the second quarter of 1991.

Foreign Market Value

We based FMV on information provided in the petition. Petitioners based FMV on actual home market price quotations from Venezuelan producers of standard pipe and from retail sellers of standard pipe in Venezuela. The petitioners adjusted, where appropriate, for quantity discounts, cash discounts, and distributor and retailer mark-ups.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for Venezuela for the POI. In place of the official certified rates, we used the average quarterly exchange rates published by the International Monetary Fund.

Interested Party Comments

Although numerous comments were submitted by petitioners, they are not being addressed here because of Conduven's decision not to participate in this investigation, compelling us to base this determination on BIA. Only the comment concerning the use of total BIA is addressed below.

Comment 1

Petitioners assert that the refusal of Conduven to provide the information requested by the Department and allow verification requires the Department to use BIA. As BIA, petitioners contend that the Department should use the highest margin in the petition, modified by updated exchange rates.

Petitioners argue that the Department should adjust the bolivar-denominated Venezuelan price data in the petition to reflect the average exchange rate for the period of investigation. While the Department used an average exchange rate for the second quarter of 1991 in the preliminary determination, petitioners contend that, since the POI spans the entire second and third quarters of 1991, an average exchange rate for the six-month period is more appropriate.

DOC Position

We agree with petitioners, in part. We have based Conduven's final determination margin on BIA and, as an uncooperative respondent, we have assigned Conduven the highest of the margin's calculated based on the information in the petition. We disagree with petitioners concerning the appropriate exchange rate, however. Since USP is based on second quarter 1991 import data, our use of the second quarter 1991 exchange rate is consistent with Department practice of converting FMV on the date of the U.S. sale.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe that are entered, or withdrawn from warehouse, for consumption on or after April 28, 1992, the date of publication of our preliminary determination in the **Federal Register**.

The product under investigation is also subject to a countervailing duty investigation. Article VI.5 of the General Agreement of Tariffs and Trade (GATT) provides that "[n]o . . . product shall be

subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act which prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy. In this case, however, because the subsidy has been determined to be a domestic subsidy rather than an export subsidy, no adjustment to the estimated dumping margin is required.

The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
C.A. Conduven	52.51
All others	52.51

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22565 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-806]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Circular Welded Non-Alloy Steel Pipe From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 16, 1992.

FOR FURTHER INFORMATION CONTACT: Elizabeth Graham or Larry Sullivan, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4105 or 377-0114, respectively.

Final Determination

The Department determines that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of circular welded non-alloy steel pipe.

For information on the estimated net bounty or grant, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination (57 FR 24470 (June 9, 1992)), the following events have occurred.

We verified the information used in making our preliminary determination from June 22 through June 26, 1992.

On June 25, 1992, we aligned the final countervailing duty determination with the final antidumping duty determination (57 FR 29290 (July 1, 1992)).

Parties submitted case and rebuttal briefs on August 11 and 18, 1992, respectively.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1991, which corresponds to the fiscal year of SIDOR. Based upon our analysis of the petition, responses to our questionnaires, verification and written comments from respondents and petitioners, we determine the following:

I. Program Determined To Confer Bounties Or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Venezuela of circular welded non-alloy steel pipe as follows:

Export Bond Program

The Export Bond Program was established in 1973. The program was designed to provide partial compensation for the requirement that exporters convert export earnings at an official exchange rate significantly lower than the free market exchange rate. The export bonds can only be used for the payment of taxes; they cannot be redeemed for cash. The value of the export bond is based on a percentage of the f.o.b. value of the product exported. The applicable export bond percentage for a company corresponds to that company's national value-added percentage. To receive an export bond, exporters must submit the following export documents to their commercial bank: (1) Commercial Invoice; (2) Bill of Lading; (3) Certificate of Income on Foreign Currency; (4) Export Manifest;

and (5) Classification de Valor Agregado Nacional (includes national value-added percentage (VAN)). The application documents are reviewed by the commercial bank and forwarded to the Central Bank of Venezuela which issues the export bond.

Because this program is limited to exporters, we determine that this program confers an export bounty or grant on standard pipe. To calculate the benefit for the review period, we divided the bolivar amount of bonds earned on export sales of standard pipe to the United States by the export sales of standard pipe to the United States. On this basis, we calculated a net bounty or grant of 3.61 percent *ad valorem*.

On June 13, 1991, the Ministry of Foreign Relations and the Ministry of Finance excluded all manufactured products, including standard pipe, from eligibility for the Export Bond Program. In Preliminary Affirmative Countervailing Duty Investigation: Gray Portland Cement and Clinker from Venezuela, 56 FR 41522 (August 21, 1991) we verified, prior to the signature of the suspension agreement, that this program was in fact terminated. Consistent with our policy of taking into account any measurable program-wide changes that occur before the preliminary determination, we are taking into account the termination of the export bond program for duty deposit purposes. See, *e.g.*, section 355.50 of the Department's proposed regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations). Therefore, the duty deposit rate for this program is zero for all manufacturers, producers, and exporters in Venezuela of standard pipe.

II. Upstream Subsidy Analysis

The petitioners have alleged that manufacturers, producers, and exporters of standard pipe in Venezuela receive benefits in the form of upstream subsidies. Section 771A of the Tariff Act of 1930, as amended ("the Act") defines upstream subsidies as follows: The term "upstream subsidy" means any subsidy by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to determine the existence of an upstream subsidy.

a. *Upstream Subsidies Bestowed Upon the Input Product.* SIDOR, the only upstream producer in this investigation, did not respond to the Department's questionnaire. Therefore, we have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for SIDOR. Section 776(c) requires the Department to use BIA whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation.

Where the petition included information which allowed us to value the subsidy under a given program, we used that value. Where petitioners did not supply adequate information to value the alleged subsidy, we looked to prior Venezuelan CVD investigations for that information in accordance with Department practice (see, *e.g.*, *Industrial Belts from Israel*, 54 FR 15509 (April 18, 1989). Because none of these cases established a rate for the subsidies alleged by petitioners in this investigation, we did not include BIA rates for those programs in our overall BIA determination. Based on the information provided in the petition regarding subsidies allegedly received by SIDOR, we calculated a bounty or grant rate for SIDOR of 31.23 percent *ad valorem*.

b. *Competitive Benefit.* In determining whether subsidies to an upstream supplier confer a competitive benefit within the meaning of section 771A(a)(2) of the Act on the producer of the subject merchandise, section 771A(b) directs that a competitive benefit has been bestowed when the price for the input product is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

Section 355.45(d) of the Proposed Regulations offers the following hierarchy of benchmarks for determining whether a competitive benefit exists:

In evaluating whether a competitive benefit exists * * * the Secretary will determine whether the price for the input product is lower than:

(1) The price which the producer of the merchandise otherwise would pay for the input product, produced in the same country, in obtaining it from another unsubsidized seller in an arm's-length transaction; or

(2) A world market price for the input product.

Therefore, we first look for the price at which the standard pipe producer, Conduven, could have bought the input from an unsubsidized supplier in Venezuela. SIDOR is the only known Venezuelan producer of flat-rolled steel. As noted above, based on BIA, we have determined that SIDOR, Conduven's supplier, received benefits under certain of the upstream subsidy programs alleged in the petition. Lacking an unsubsidized price in Venezuela, we must look to a world market price as a benchmark. Because a published world market price for flat-rolled steel does not exist, we constructed such a price for calendar year 1991 by averaging the following data:

(a) Prices published in the Metal Bulletin for "hot coil" traded on the steel trading exchange in Brussels;

(b) Prices published by the Metal Bulletin for "hot-rolled coil (dry)" sold by steel companies in Latin America;

(c) Export prices for U.S. flat-rolled steel as provided by the U.S. Census Bureau (these data and the data from the two sources listed below include only the prices for the three HTS categories of hot-rolled steel in flat-rolled coils which, according to Persico, correspond to the steel it uses in its production of standard pipe);

(d) Export prices for Korean hot-rolled steel in flat-rolled coils as provided by official Korean export statistics; and

(e) Export prices for Japanese hot-rolled steel in flat-rolled coils as provided by official Japanese export statistics.

We collected the prices listed under (a) and (b) on a weekly basis and the prices listed under (c) through (e) on a monthly basis. We then calculated a simple average of these prices for each month, expressed in U.S. dollars per metric ton, f.o.b.

In our preliminary determination, we compared the price Conduven paid SIDOR for flat-rolled steel to the "world market price," unadjusted for delivery (*i.e.*, f.o.b.), to determine whether a competitive benefit existed. In this final determination, we compared Conduven's price to the "world market price," as adjusted upward for delivery (*i.e.*, c.i.f.) to determine the existence of a competitive benefit. After considering the extensive comments made by the

petitioners and respondents on this issue (see Comment 1, below), we have determined that the proper statutory focus of any competitive benefit inquiry is the price the producer of the subject merchandise "would otherwise pay" for the subsidized input product. We believe the approach outlined above (*i.e.*, c.i.f. comparison) best measures the competitive benefit bestowed upon the producer of the subject merchandise as it reflects an actual, commercial alternative to purchasing from subsidized domestic suppliers.

Therefore, we made an upward adjustment to the simple average f.o.b. world market price for delivery charges, thereby achieving a c.i.f. price. Because we have constructed a "world market price," *i.e.*, the price Conduven "would otherwise pay" for the input product anywhere on the world market, we assume that Conduven would purchase that input from wherever delivery charges would be the lowest. Thus, we based our upward adjustment on the smallest differential between the f.o.b. and c.i.f. price quotes received by Conduven.

To determine whether a competitive benefit was bestowed on Conduven through its purchases of subsidized flat-rolled steel from SIDOR, we weighted each monthly average world market c.i.f. price by the quantity of flat-rolled steel purchased by Conduven in that month to arrive at a weighted annual benchmark. We than compared this weighted benchmark price to an identically weighted annual price for Conduven and found that Conduven's price was lower. Thus, we found that a competitive benefit was bestowed on Conduven during the POI.

c. *Significant Effect.* In Certain Agricultural Tillage Tools from Brazil; Final Affirmative Countervailing Duty Determination, 50 FR 34525 (August 26, 1985) (Tillage Tools), we established thresholds regarding the existence of a significant effect. We presume no significant effect if the *ad valorem* subsidy rate on the input product multiplied by the proportion of the input product in the cost of producing the merchandise accounts for less than one percent. If the result of the calculation is higher than five percent, we presume that there is a significant effect. If the result is between one and five percent, we examine the effect of the input subsidy on the competitiveness of the merchandise.

In this instance, the product of the total *ad valorem* subsidy rate on the steel input and the proportion of the total production cost of standard pipe accounted for by the steel input exceeds five percent. Therefore, we presume that the upstream subsidies have a significant effect on the cost of producing the subject merchandise.

d. *Calculation of the Upstream Subsidy to Conduven.* Because the three requirements of section 771A(a) of the Act have been met, we determine that Conduven receives an upstream subsidy through its purchases of flat-rolled steel from SIDOR. As discussed above, the weighted-average world market price for flat-rolled steel during the POI exceeded the weighted-average price Conduven paid SIDOR during the POI for flat-rolled steel. Because the difference between these prices is smaller than the amount of subsidies SIDOR received during the POI, the bounty or grant will be limited, or "capped," by this price differential. See, *e.g.*, Proposed Regulations § 355.45(f).

To calculate the benefit, we divided the price differential between the average world market price and an average of SIDOR's prices to Conduven by the average price Conduven paid for each metric ton of flat-rolled steel. Next, we multiplied the result, by the total value of flat-rolled steel used to produce the standard pipe exported to the United States. This was then divided total sales of standard pipe to the United States. On this basis, we determine that the *ad valorem* bounty or grant received by Conduven from upstream subsidies to be 0.78 percent.

III. Programs Determined To Be Not Used

A. Short-Term FINEXPO Financing

B. Preferential Export Financing

C. Excessive Tariff Drawbacks

D. Preferential Financing Company of Venezuela (FIVCA) Financing

E. VENEXPORT Financing

IV. Programs Determined Not To Exist

A. Provision of Preferential Pricing on Raw Materials for Export

Comments

Comment 1

Petitioners assert that the Department erroneously used f.o.b. prices instead of delivered prices to calculate a world benchmark price. According to petitioners, 19 U.S.C. section 1677–1(b)(1) dictates use of a benchmark price that reflects what the manufacturer or producer of the merchandise would otherwise pay for the input product. Petitioners argue that where there are no other domestic producers of an input product, the Department has no discretion but to consider the delivered price that the respondent would otherwise pay for the imported input.

Petitioners further assert that the legislative history demonstrates that Congress intended the Department to use a delivered price as a benchmark price. The legislative history indicates that the provision was intended to codify past Department practice. That practice was reflected in Carbon Steel Wire Rod from Belgium, 47 FR 30541 (July 14, 1982) and Certain Carbon Steel Products from Belgium, 47 FR 26300 (June 17, 1982), where petitioners allege that the Department determined that coal subsidies at most only equalized the prices of domestic and foreign coal, putting them both on the same commercial level. Petitioners assert that by "commercial level," the final cost to the customer must be equivalent. Similarly, in Oil Country Tubular Goods from Korea, 49 FR 46766 (November 28, 1984), the Department found no countervailable upstream subsidy because the price that respondent paid the subsidized domestic supplier was comparable to the price that respondent paid its foreign supplier. Petitioners contend that "price paid" means the delivered price to Korea.

Petitioners also argue that use of a delivered price is consistent with the Department's decisions since the upstream provision was added to the Act. In Certain Circular Welded Carbon Steel Line Pipe from Venezuela, 50 FR 46801, 46804 (November 13, 1985); and Steel Wheels from Brazil, 54 FR 15523, 15527 (April 18, 1989), the benchmark price used in the competitive benefit analysis included freight, insurance and other charges.

Finally, petitioners assert that the premise underlying the Department's preliminary determination is incorrect. That premise is that the benchmark price should be calculated from the point of view of a hypothetical upstream supplier, *i.e.*, it is the price the upstream supplier would charge for the input absent subsidization. Petitioners point out that market forces would cause the unsubsidized domestic price to approximate the delivered world market price.

In response to petitioners' arguments, respondents contend that, prior to its preliminary determination, the Department reviewed the statute, Department regulations, and the legislative history, and concluded that the benchmark should be based on f.o.b. prices. The Department determined that the benchmark should reflect the price the upstream supplier would charge for the import absent the subsidy. Contrary to petitioners' contention, the Department's regulations which list the hierarchy of benchmarks does not

address whether the benchmark should include movement expenses.

Respondents also contest petitioners' argument that Congress intended to codify Department practice in the upstream subsidy legislation. They state that prior to the passage of the upstream provision, there was no consistent Department practice concerning this issue. Additionally, the Belgian cases cited by petitioners did not discuss the use of delivered prices in the calculation of the benchmark. Petitioners have no real basis to conclude that reference in those cases to "comparisons on the same commercial terms" meant that the Department included delivery costs in its calculation of the benchmarks. Additionally, respondents point out that in companion legislation, addressing this same issue, Congress intended benchmark input prices to be exclusive of the same costs petitioners argue should be included in this case.

Respondents further maintain that Department practice in prior upstream cases is irrelevant to this investigation. The Department has the authority to depart from its past practice when the information and record before the Department requires a change. Respondents argue that this is particularly true in this case, since there have been so few previous upstream subsidy cases.

Respondents also address petitioners' argument that the benchmark should be a delivered price because unsubsidized, profit maximizing firms will price their product at a level approximately the only viable alternative price, *i.e.*, the imported delivered price. Respondents emphasize that there is no single world market price with which SIDOR competes. In setting its prices, SIDOR reviews export prices from various sources, which reflect differences in quality, specifications, delivery schedules, credit terms, etc.

When Conduven makes its sourcing decisions it also looks at several factors, including exchange rate risk. As discussed at verification, Conduven did not source abroad during 1991, due to the instability of the Venezuelan economy and unpredictable exchange rates.

DOC Position

After careful consideration of the arguments submitted on this issue, the Department has reconsidered its position in the preliminary determination and agrees with petitioners that the Department should use delivered prices to adjust its calculation of a benchmark price for flat-rolled steel. While neither the statute nor the Department's proposed regulations specify the basis for calculation of a benchmark price, section 771A of the Act does refer to "* * * the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding *would otherwise pay* for the product in obtaining it from another seller in an arms-length transaction" (emphasis added). We understand this to mean not the price a hypothetical unsubsidized producer in Venezuela would charge for the input product, but the price which represents a commercial alternative to the producer of the subject merchandise. When the commercial alternative is to import, then the price of the alternative must be adjusted for the cost of delivering the input to the producer of the subject merchandise. F.O.B. prices do not provide a measurement of the commercial alternative costs to the downstream producer. Further, the use of delivered prices is consistent with the precedent established in Steel Wheels and Tillage Tools, and Certain Circular Welded Carbon Steel Line Pipe from Venezuela, 50 FR 46801 (November 13, 1985).

Comment 2

Petitioners disagree with the Department's use of Metal Bulletin prices in the benchmark. Three of the six prices used by the Department to determine an average world price were sourced from the industry publication Metal Bulletin. According to petitioner, the Metal Bulletin prices are unreliable and inaccurate for purposes of calculating a benchmark. In particular, the Metal Bulletin price for Latin America is largely based on the heavily subsidized export prices of Brazil.

Similarly, petitioners allege that the European prices reported in Metal Bulletin and used in the Department's benchmark calculations are also heavily subsidized. Petitioners realize that the sale of subsidized steel in the world market affects the prices charged by unsubsidized sellers. While it is impossible to remove the effect completely, it can be minimized by excluding the prices from those countries which are known to subsidize their steel industries.

If the Department determines that it must use a European Metal Bulletin price, then it should use only one of the two used in the preliminary determination to avoid placing undue weight on Europe in calculating the average world market price.

Respondents contend that the Department properly used Metal Bulletin prices in calculating the benchmark. Since there is no one world price for hot-rolled coil, prices for a wide variety of countries are necessary to construct a world price. Regarding petitioners' assertion that the Metal Bulletin prices are inaccurate all, compilations of price information are subject to errors, misclassifications, typos, etc. However, respondents assert, the Metal Bulletin prices are important references for the steel industry, providing a reliable, transparent, and predictable method for price monitoring by Venezuelan steel producers.

Respondents attempt to rebut petitioners' argument that the Department inappropriately included ECSC and Brussels Metal Bulletin prices in calculating the benchmark. Respondents argue that in actuality, the Department has probably understated the importance of European steel prices, since the European countries account for a greater percent of production than any single country included in the benchmark. Respondents further assert that it is essential to include Latin American prices in the calculation of the benchmark. Latin American prices are important in the sourcing and pricing strategies of SIDOR and Conduven. Moreover, contrary to petitioners' argument, the Metal Bulletin prices are not synonymous with Brazilian prices, because they are based on prices for producers in several Latin American countries, including Argentina, Brazil, Venezuela, Mexico, Chile and Trinidad.

Finally, respondents support the Department's view that "the world market price reflects the combined effects of prices from various countries which include highly efficient producers, as well as high cost producers." By using a range of export prices from numerous geographic regions, the Department is accounting for differences in coil quantities, specifications, sales terms, delivery schedules, etc.

DOC Position

In the absence of a clearly defined and generally accepted world market price of flat-rolled steel, we believe that our constructed benchmark price is a reasonable approximation of the "world market price." With respect to petitioners' argument that we should not include prices charged by subsidized suppliers in our benchmark, we disagree. Although we stated in Tillage Tools that we would seek an unsubsidized import price as the benchmark for that investigation, neither the statute nor the proposed regulations limit us to the use of only unsubsidized import prices as benchmarks. Moreover, we believe that inclusion of a variety of prices best reflects what the standard pipe producer

otherwise would pay for the steel input. As discussed above, a competitive benefit arises when the producer of the subject merchandise pays less for the input than the commercially available alternative. This alternative could be provided by a subsidized foreign steel producer. It would, therefore, be inappropriate to exclude all subsidized producers, even assuming that we could identify them.

Regarding the Metal Bulletin, we continue to use the prices listed in this publication in our benchmark calculation. The petitioners have not substantiated their allegation that the information in the Metal Bulletin is "unreliable and inaccurate." However, we agree with the petitioners that by including two sets of European steel prices, we may have given undue weight to European prices for flat-rolled steel in our preliminary determination. Contrary to respondents' assertion that "double counting" of European prices may be appropriate, we are not fine-tuning our benchmark to reflect the frequency with which Conduven might use alternative potential sources of supply. We have, therefore, used the "Brussels prices" which include a wider range of steel producer (*i.e.*, European producers from countries outside the ECSC) and dropped the ECSC prices to eliminate any overlap.

Comment 3

Respondents argue that the Department should issue a final negative determination in this investigation. The only countervailable subsidy program, the Export Bond program, was terminated prior to the preliminary determination in this case and there is nothing on the record to indicate that the GOV would reinstate the Export Bond program.

Petitioners contend that the Department's decision to issue an affirmative preliminary determination is consistent with past practice and the Department's proposed regulations. Conduven's assertion that the GOV will not revive this program is pure speculation.

DOC Position

This issue is moot as the Department has reached a final determination that Conduven benefits from upstream subsidies.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Suspension of Liquidation

We are directing the U.S. Customs Service to suspend liquidation of entries of standard pipe from Venezuela and to require the deposit of estimated countervailing duties at the country-wide rate of .78 percent *ad valorem*.

Return of Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)) and 19 CFR 355.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22559 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-810]

Final Negative Countervailing Duty Determination: Circular Welded Non-Alloy Steel Pipe From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Paulo F. Mendes or Annika L. O'Hara, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5050 or 377-0588, respectively.

Final Determination

The Department determines that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of circular welded non-alloy steel pipe from Brazil.

Case History

Since the publication of the preliminary determination (57 FR 24466 (June 9, 1992)), the following events have occurred. On June 11, 1992, the petitioners requested that this final determination be aligned with the final determination in the companion antidumping duty investigation of circular welded non-alloy steel pipe from Brazil ("standard pipe"). We published our decision to align these determinations on July 1, 1992 (57 FR 29290).

On June 25, 1992, the Department determined that it would not include two upstream suppliers, Companhia Siderúrgica Nacional ("CSN") and Usinas Siderúrgicas de Minas Gerais S.A. ("USIMINAS"), in its upstream subsidy analysis since a single company, Companhia Siderúrgica Paulista ("COSIPA"), supplied most of the flat-rolled steel purchased by the respondent, Persico Pizzamiglio S.A. ("Persico"), during the period of investigation.

We verified the questionnaire responses in Brazil between June 22, and July 3, 1992. Case briefs were filed on August 7 and 10, 1992, and rebuttal briefs were filed on August 18, 1992.

Scope of Investigation

The merchandise subject to this investigation is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and

finished rigid conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in this investigation.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule ("HTS") subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation, "POI") is calendar year 1991, which corresponds to the fiscal years of Persico and COSIPA. Our findings are based upon our analysis of the petition, responses to our questionnaires, verification and written comments from respondents and petitioners.

A. Programs Determined Not To Confer Subsidies

We determine that no subsidies are being provided to manufacturers, producers, or exporters in Brazil of standard pipe in the form of upstream subsidies conferred upon the producers of hot-rolled carbon steel in flat-rolled coils ("flat-rolled steel"), the main input product in the production of standard pipe.

Upstream Analysis

Section 771A(a) of the Trade Act of 1930, as amended, ("the Act") defines upstream subsidies as follows:

The term "upstream subsidy" means any subsidy * * * by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to determine the existence of an upstream subsidy.

1. Subsidies Bestowed Upon the Input Product

a. *Government Equity Infusions.* Historically, the Government of Brazil ("GOB") has been the principal owner of the Brazilian steel industry, primarily through the state-owned holding company Siderurgia Brasileira S.A. ("SIDERBRÁS"). In March 1990, the GOB decided to liquidate SIDERBRAS and privatize its steel mills, including COSIPA. Since the beginning of the privatization process, COSIPA has operated largely as an independent entity. SIDERBRÁS ceased operations following the GOB's March 1990 liquidation decision and did not exercise any operational or financial control over COSIPA during the POI.

We verified that COSIPA received government equity infusions during the period 1977–1989 and in 1991 in the form of cash transfers and debt assumptions in return for equity. The equity infusions were made pursuant to the Stage III Expansion Project for the state-owned steel mills and the Financial Restructuring Plan for SIDERBRÁS. We looked at the time period since 1977 because, pursuant to section 355.49(b)(3) of our *Proposed Regulations* (*see Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments* (54 FR 23366 (May 31, 1989)), "*Proposed Regulations*") the benefits from equity infusions shall be measured over the average useful life of renewable physical assets set forth in the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (*i.e.*, 15 years for integrated steel mills).

We have consistently held that government provision of equity does not *per se* confer a subsidy (see, e.g., Steel Wheels from Brazil; Final Affirmative Countervailing Duty Determination, 54 FR 15523 (April 18, 1989) ("Steel Wheels"). Government equity infusions bestow a countervailable benefit only when provided on terms inconsistent with commercial considerations. Therefore, we examined whether COSIPA was a reasonable investment (a condition we have termed "equityworthy") in order to determine whether the equity infusions were inconsistent with commercial considerations.

A company is a reasonable investment if it shows the ability to generate a reasonable rate of return within a reasonable period of time. To make this determination, we examine a company's financial ratios, profitability and other factors, such as market demand projections and current operating results, to evaluate its current and future ability to earn a reasonable rate of return on investment. We do not, nor did we in this case, take into account the broader goals of the GOB in making these investments because such goals are not relevant to a private investor. In the Final Affirmative Duty Determination; Certain Carbon Steel Products from Brazil, 49 FR 17988 (April 26, 1984) and subsequent administrative reviews, the Department found COSIPA to be unequityworthy during the period 1977–1984. Nothing on the record of this investigation leads us to reconsider this determination.

Upon reviewing COSIPA's financial statements for the period 1985–1991, we noted that the company exhibited negative returns on equity and investment in every year except 1989. In addition, except for 1988 and 1989, the company's current ratios indicate low levels of liquidity available to pay debts. Furthermore, during the 1985–1991 period there was no meaningful indication of future profitability that might have justified the equity infusions received by the company. Therefore, we determine that equity investments in COSIPA were on terms inconsistent with commercial considerations during the period 1985 through 1991.

Where we find that the government's investment has been commercially unreasonable, we examine the "rate of return shortfall" for the POI, *i.e.*, the difference between the national average rate of return on equity during the POI and the company's rate of return on equity during the POI. If no shortfall exists for the POI, there is no countervailable subsidy for that year. If a shortfall does exist, we multiply the rate of the shortfall by the amount of the original equity investment to find the benefit bestowed during the POI.

We measured COSIPA's rate of return on equity for the POI by dividing the company's net result achieved in 1991 by its total capital in that year. Using this methodology, we arrived at the negative rate of return on equity of 2.3 percent. We then compared COSIPA's rate to the national average rate of return on equity in Brazil for 1991, which was negative 2.0 percent according to the August 1992 edition of Exame, a Brazilian business publication. The difference between the two rates, *i.e.*, 0.3 percent, constitutes the rate of return shortfall.

To calculate the value of the equity investment, we converted the nominal amount of each equity infusion into a BTN (Brazilian Treasury Bill) or FAP (Equity Adjustment Factor) equivalent by dividing the nominal amount received by the value of the BTN or FAP. (The BTN index was used for the years 1977–1989 and the FAP index for 1991; COSIPA did not receive any equity infusions in 1990.) In order to adjust the value of all equity infusions to December 31, 1991, we multiplied the BTN/FAP equivalents by the value of the FAP on December 31, 1991. The use of adjusted as opposed to nominal amounts for equity investments is necessitated by Brazil's hyperinflationary economy.

We multiplied the rate of return shortfall by the December 31, 1991 value of all equity investments made in COSIPA between 1977 and 1989 and in 1991. We then divided this amount by COSIPA's total 1991 sales, valued as of December 31, 1991. On this basis, we determine COSIPA's subsidy under this program to be 0.81 percent *ad valorem.*

b. *IPI Incentives.* Under this program, Brazilian steel producers are eligible to receive a rebate of the IPI tax (Imposto sobre Produtos Industrializados), which is a value-added sales tax paid on domestic sales of industrial products. The steel producers must meet the following conditions in order to receive IPI rebates under this program:

(a) The company must product liquid steel;

(b) The IPI rebate must be used to increase the production of certain steel productions;

(c) The company must have an ongoing capital investment project, originally approved by the Conselho do Desenvolvimento Industrial ("CDI"; the Industrial Development Council);

(d) The company must receive quarterly approval from the Department for Industry

and Commerce (a division of the Ministry of Economy, Finance and Planning) to ensure that capital investment in the approved project is continuing; and

(e) The company must have a net IPI tax obligation in each quarter.

The IPI rebate program was originally established in 1977 (Decree Law 1547). Although the program was suspended in April 1990 (Law 8034), steel companies with projects approved before April 12, 1990, are eligible to continue to receive IPI rebates until 1996 pursuant to the old legislation (Law 7554).

Because only steel producers are eligible to receive IPI rebates, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries. We have found that COSIPA received benefits under this program during the POI. To calculate the benefit, we divided the total amount of the IPI rebates received by COSIPA during the POI by the company's total sales in 1991. On this basis, we determine COSPIA's subsidy under this program to be 0.69 percent *ad valorem*.

2. Significant Effect

In Certain Agricultural Tillage Tools from Brazil; Final Affirmative Countervailing Duty Determination, 50 FR 34525 (August 26, 1985) ("Tillage Tools"), we established thresholds regarding the existence of a significant effect. We presume no significant effect if the *ad valorem* subsidy rate on the input product multiplied by the proportion of the input product in the cost of producing the merchandise accounts for less than one percent. If the result of the calculation is higher than five percent, we presume that there is significant effect. If the result is between one and five percent, there is no presumption made either way, and we will examine the effect of the input subsidy on the competitiveness of the merchandise.

For purposes of determining whether the upstream subsidies have a significant effect on the cost of producing standard pipe, we multiplied the total *ad valorem* subsidy rate on the flat-rolled steel input by the proportion of the total production cost of standard pipe accounted for by the input.

In this case, the input subsidy allocated to standard pipe yields a rate lower than one percent. We have, therefore, concluded that the effect of the flat-rolled steel subsidies on the cost of producing standard pipe is not significant.

Because we determined that the subsidies bestowed upon the input product did not have a significant effect upon the cost of producing the subject merchandise, we need not examine whether a competitive benefit existed. Thus, because one of the three requirements of section 771(a) of the Act has not been met, we determine that Persico did not receive an upstream subsidy.

B. Programs Determined Not To Be Used

1. Direct Subsidy Programs

a. Exemption from the IPI tax and import duties under the BEFIEX program.

b. Preferential export financing under the FINEX program.

c. Preferential export financing under the PROEX program.

2. Upstream Subsidy Programs

a. Government privatization assistance.

b. Government provision of operating capital.

c. Fiscal benefits by virtue of a project approved by the CDI.

Comments

Comment 1: Persico alleges that the Department erroneously calculated the significant effect of the upstream subsidies on the cost of manufacturing standard pipe by multiplying COSIPA's subsidy rate by the percentage that flat-rolled steel accounts for in the cost of manufacturing standard pipe. Persico argues that, based on the Proposed Regulations, we should have used instead the percentage that the input accounts for in the total cost of production of standard pipe.

The petitioners believe that the Department should continue to use the cost of manufacturing because to do otherwise would be inconsistent with past practice, and it is in conformity with the statutory purpose. The petitioners argue that the Department's analysis should focus on the competitiveness of the final product. Since a product's competitiveness depends on its cost of manufacture, not on its cost of production, which includes items such as selling, general, and administrative expenses, it would be wrong to use the cost of production as the basis for the significance test.

DOC Position: In accordance with § 355.45(e) of our Proposed Regulations, we calculated the significant effect on the basis of the cost of production. We believe that using the cost of production reflects the commercial impact of the subsidized input on the total costs of the producer of the subject merchandise and, therefore, on the eventual price charged for the subject merchandise.

Comment 2: COSIPA states that the Department departed from its previous practice when it converted the value of the infusions by using an end-of-POI index value rather than the average index value during the POI. COSIPA asserts that the purpose of using an average index value is to approximate more closely the benefit to COSIPA throughout the POI. Furthermore, COSIPA believes that the most accurate method to calculate the benefit associated with the equity infusions would be to convert the equity infusions to a beginning-of-POI value.

DOC Position: We disagree. By adjusting the amount of the equity received using an end-of-POI index and using a sales amount adjusted to the same point in time, both the amount of the equity and the sales figure are then comparably indexed. Using a beginning of the POI or middle of the POI conversion rate would be appropriate only if the sales value for the year also was expressed in beginning of the POI or middle of the POI terms.

Comment 3: COSIPA argues that the Department should exclude COSIPA's end of 1991 equity infusion from its calculation because an end-of-the-year infusion could not have had any impact on the company's sales during the POI. COSIPA believes that the Department can only measure the effect of this infusion against the company's sales in 1992.

Contrary to COSIPA's argument, the petitioners state that the Department, following its past practice, correctly included COSIPA's end of the POI equity infusion in its calculations for 1991.

DOC Position: We agree with the petitioners. It is our past practice to include all funds received during the POI and we have, therefore, included the equity infusion received by COSIPA at the end of the POI in our calculations. This reflects the cash-flow methodology which is based upon the premise that a company receives a benefit when its cash flow is affected (see Proposed Regulations, § 355.48(b)(1)); Final Countervailing Duty Determination: Steel Wire Rope from India, 56 FR 46292 (September 11, 1991).

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, inspecting relevant accounting records, and examining original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099) of the Main Commerce Building.

Termination of Suspension of Liquidation

In accordance with this final determination, we will instruct the U.S. Customs Service to terminate suspension of liquidation of all entries of standard pipe from Brazil. The U.S. Customs Service shall release any cash deposits or bonds posted on entries of standard pipe made prior to this determination.

ITC Notification

In accordance with section 705(d) of the Act we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO. This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671(d)) and 19 CFR 355.20(a)(4).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22555 Filed 9-16-92; 8:45 am]

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[C-428-812]

Preliminary Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3530 or 377-4162, respectively.

Preliminary Determination

The Department preliminarily determines that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Germany of certain hot rolled lead and bismuth carbon steel products. The final determination is currently scheduled for November 24, 1992.

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (57 FR 19884, May 8, 1992), the following event occurred. On June 17, 1992, we found this investigation to be extraordinarily complicated and postponed the preliminary determination until no later than September 10, 1992 (57 FR 27025).

Scope of Investigation

The products covered by this investigation are hot rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of this proceeding is dispositive.

Injury Test

Because Germany is a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine whether imports of the hot rolled lead and bismuth carbon steel products from Germany materially injure, or threaten material injury to, a U.S. industry. On May 28, 1992, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Germany of this merchandise (57 FR 27739).

Analysis of Programs

For purpose of this preliminary determination, the period for which we are measuring subsidies (the period of investigation) is calender year 1991. The investigation includes two producers, Saarstahl AG (Saarstahl) and Thyssen Stahl AG (Thyssen).

Because there is a significant differential in the estimated net subsidy calculated for Saarstahl and Thyssen, we have preliminarily assigned individual company rates pursuant to 19 CFR 355.15(a)(2)(ii).

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

A. Programs Preliminarily Determined To Be Countervailable

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Germany of certain hot rolled lead and bismuth carbon steel products under the following programs:

1. Government Forgiveness of Saarstahl's Debt in 1989

In the years 1971 through 1989, the companies which were eventually to become Saarstahl AG, went through various mergers, restructurings, and name changes. For the sake of simplicity, we are using the name "Saarstahl" when referring to assistance provided to Saarstahl AG or to assistance provided to any of its predecessor companies.

In response to the poor economic condition of the steel industry in the Saarland in the 1970's, the Governments of Germany and Saarland, and the steel companies which were to become Saarstahl, adopted their first restructuring plan in an attempt to create a viable steel industry in Saarland. In order to facilitate the implementation of the restructuring plan, the Federal Government authorized the provision of DM 244 million in funds to Saarstahl in 1978. Repayment of these funds was contingent upon Saarstahl returning to profitability. This contingent repayment

obligation was called a Ruckzahlungsverpflichtung (RZV).

In addition, the Governments of Germany and Saarland guaranteed loans in the amount of DM 1.18 billion made to Saarstahl by a group of private banks. According to the response of Saarstahl, the banks would not have made the loans to Saarstahl without the government guarantees because of the company's poor financial condition. These loans were also used to finance the restructuring plan. Saarstahl made payments on the guaranteed loans until April, 1983. At that time, The governments of Germany and Saarland assumed the payment of interest and principal. Again, these government payments of principal and interest were to be repaid by Saarstahl under RZVs.

The initial provision of DM 244 million by the Government of Germany and the payments of interest and principal by the two governments were the first in a long line of assistance provided by both governments to Saarstahl. Assistance provided to the company from 1981 through 1985 was used to modernize the company, make capital investments, cover operating expenses, and cover employee expenses pursuant to a number of Saarstahl restructuring plans. In addition, the government payments of the interest and principal of the guaranteed loans continued until 1989. All of this assistance was tied to RZVs which obligated Saarstahl to repay the assistance provided the company earned a profit in the future. By 1989, Saarstahl had accumulated DM 3.936 billion in repayment obligations to both governments.

During the period when most of the government assistance was being provided to Saarstahl, the company was wholly-owned by the Luxembourg company, Arbed. By 1985, Arbed was no longer able or willing to function as the owner of Saarstahl. Because of the importance of Saarstahl to the economy of Saarland, the Government of Saarland decided to look for a new owner to replace Arbed. Another steel company in Saarland, the French-owned Dillinger, expressed an interest in Saarstahl. At that time, Dillinger and Saarstahl were already joint venture partners in a company which produced pig iron.

In order to facilitate finding a new investor for Saarstahl, Arbed transferred 76 percent of the ownership of Saarstahl to the Governments of Germany and Saarland for one DM in 1986. A trustee was appointed to hold the shares for both governments while a new investor was sought. At the same time, an agreement was signed under which Dillinger would manage Saarstahl. In April 1989, an agreement was reached between the Government of Saarland and Dillinger's parent company, Usinor Sacilor, regarding the purchase of Saarstahl.

Under the terms of this purchase agreement, Saarstahl and Dillinger became wholly-owned subsidiaries of a newly-created holding company, DHS-Dillinger Hutte Saarstahl AG (DHS). The Government of Saarland contributed the assets of Saarstahl and DM 145.1 million in cash in return for 27.5 percent ownership of Saarstahl's new parent company, DHS.

Pursuant to the purchase agreement, the Governments of Germany and Saarland, and Saarstahl entered into an agreement concerning the previous assistance received by Saarstahl. Under the latter agreement, the Entschuldungsvertrag (the EV), all outstanding RZV repayment obligations for all the funds provided to Saarstahl by the Governments of Germany and Saarstahl, as well as additional rights held by both governments for repayment of principal on the guaranteed loans, were unconditionally forgiven and relinquished. The EV was signed in June 1989.

Because the debt forgiveness under the EV was only provided to Saarstahl, we preliminarily determine it to be countervailable because it was limited to a specific enterprise or industry or group of enterprises or industries.

To calculate the benefit arising from the debt forgiveness, we are treating the amount of the forgiveness, DM 3.936 billion, as a nonrecurring grant since the forgiveness of this debt constitutes a one-time government action, rather than assistance provided pursuant to an ongoing government program. Our policy with respect to nonrecurring grants is to allocate the benefits from such grants over the average useful life of assets in the industry, unless the sum of grants under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy.) See, *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991). Therefore, we have allocated the benefits from this forgiveness over 15 years, the average useful life of assets in the steel industry.

The benefit for the period of investigation was calculated using the declining balance methodology described in the Department's proposed rules (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*)), and used in prior investigations (*see, e.g.*, Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Canada, 51 FR 15037 (April 22, 1986).) For the discount rate in this calculation, we included a risk premium since we have preliminarily determined that Saarstahl was uncreditworthy in 1989, the year in which the debt was forgiven. Our determination that Saarstahl was uncreditworthy is based on an analysis of the company's financial statements and the fact that Saarstahl was unable to obtain commercial lending in 1989 without a guarantee from the government.

When we determine that a company is uncreditworthy, we base our discount rate on the highest long-term interest rate applicable to firms in the country in question, plus an amount equal to 12 percent of the country's prime rate. *See, e.g.*, the Final Affirmative Countervailing Duty Determination: New Steel Rail, Except Light Rail, from Canada, 54 FR 31991 (August 3, 1989), and the Proposed Regulations. According to the response of the Government of Germany, there are no official statistics on long-term interest rates or interest rates comparable to the U.S. prime rate in Germany. Therefore, we reviewed the interest rates published in the International Monetary Fund's International Financial Statistics and used the average annual interest rate reported in that publication for 1989, the year in which Saarstahl's debt was forgiven. We then added to this interest rate an amount equal to 12 percent of the annual average short- and medium-term interest rate in Germany as published in the International Financial Statistics. Based on this approach, we calculated a discount rate of 11.13 percent.

The portion of the benefit allocated to the period of investigation was adjusted pursuant to section 771(6) of the Act. Under this section of the Act, the Department may subtract any application fee, deposit, or similar payment from the benefit if that payment was made in order to qualify for, or to receive, benefits under the program. According to the EV agreement, Saarstahl is required to pay a yearly fee of DM 300,000 to the Government of Germany. Therefore, we deducted DM 300,000 from the portion of the benefit attributable to the period of investigation and divided the resultant sum by DHS's total sales (which includes the total sales of both Saarstahl and Dillinger). We used the sales of DHS because the forgiveness of Saarstahl's debt resulted in a benefit to DHS. Using this methodology, we

calculated an estimated net subsidy of 16.87 percent *ad valorem*.

Respondents have argued that the 1989 formation of DHS resulted in the privatization of Saarstahl. They claim, further, that each participant received the full net worth of its contribution to the new company. Therefore, consistent with the Department's past policy as articulated in Lime from Mexico: Preliminary Results of Changed Circumstances Review, 54 FR 1753 (January 17, 1989), we should find that none of the benefits previously provided to Saarstahl by the German and Saarland governments flow through to the new company.

As respondents submitted this argument on September 1, 1992, we have not had time to review their claim. Moreover, we are requesting additional information on this transaction, particularly with respect to whether the Saarland government's capital contribution to DHS was made on terms inconsistent with commercial considerations.

2. Debt Forgiveness by Private Banks

Commercial banks also participated in the restructuring of Saarstahl during the period from 1978 through the final restructuring of the company in 1989. During part of this time period they provided both short- and long-term loans to Saarstahl which were not guaranteed by the Governments of Germany or Saarland. In the years 1983 through 1985, the banks forgave Saarstahl DM 106.8 million in interest on these loans. According to the response of Saarstahl, this forgiveness was in response to the company's poor financial condition and was not made at the request of, or related to any assistance provided by, the Governments of Germany and Saarland.

Toward the end of 1985, the Government of Saarstahl presented a long-term restructuring plan for Saarstahl to Saarstahl's creditors and requested that they forgive an additional amount of DM 350 million in loans. Based on this request, the banks agreed to forgive DM 217.1 million of debt owed to them by Saarstahl, if the Governments of Germany and Saarland would forgive all the debt owed to them by Saarstahl, and if the Government of Saarland would assure the liquidity of Saarstahl. With the signing of the EV, the governments forgave Saarstahl's debt owed to them, as discussed above, and the commercial banks forgave a portion their unguaranteed loans to Saarstahl.

According to the response of the Governments of Germany and Saarland, the talks on the forgiveness of Saarstahl's debt were based on the common notion that all of the participants, including the private and public creditors, would have to contribute to restoring the company to health. The response states that the Governments of Germany and Saarland made their forgiveness dependent on private creditors also waiving a portion of their claims against Saarstahl. The private creditors laid down the same condition with regard to the claims of the Governments of Germany and Saarland.

We preliminarily determine the forgiveness of interest payments in the years 1983 through 1985 did not confer a countervailable subsidy on Saarstahl because the banks were acting independently without any direction or participation by the Governments of Germany and Saarland. However, we also preliminarily determine that the subsequent forgiveness of DM 217.1 million in principal to be countervailable because it was required by the governments as part of a government-led debt reduction package for Saarstahl.

Saarstahl's response states that the forgiveness of the bank loans was effective as of January 1, 1989. However, according to the financial statements of Saarstahl, a grace period was extended on these loans until they were forgiven as part of the 1989 package. The financial statement for 1989 shows that these loans were removed from the company's reported liabilities owed to credit institutions in that year, the same year the EV was signed. Therefore, we are treating the debt forgiveness of DM 217.1 million as having occurred in 1989.

Using the same methodology used to calculate the subsidy for the government forgiveness of Saarstahl's debt in 1989, we calculated an estimated net subsidy of 0.93 percent *ad valorem* for Saarstahl.

3. Worker Assistance Program

Under Article 56 of the European Coal and Steel Community (ECSC) Treaty, persons employed in the coal and steel industry who lose their jobs may receive assistance for "social adjustment." This assistance is provided for workers affected by restructuring measures, particularly as workers withdraw from the labor market into early retirement or are forced into unemployment. Assistance is also provided for training and redeployment efforts. The ECSC disburses assistance on the condition that the affected country makes an equivalent contribution.

German companies seeking assistance under Article 56 of the ECSC Treaty must apply to both the Federal Minister of Labor and Social Affairs and to the Federal Minister of Economics. Notification of approval is provided by the Federal Minister of Labor and Social Affairs which is also in charge of distributing such funds on its own account and on behalf of the ECSC.

During the period of investigation, Saarstahl and Thyssen received payments for their workers under Article 56(2)(b) of the ECSC Treaty. The payments were made to provide for the early retirement of company employees. According to the responses of Saarstahl and Thyssen, the companies include payments under Article 56 as part of the severance pay arrangements which they have with their employees. These arrangements are part of the social plans the companies have with their employees.

We consider the assistance provided under this program to be recurring since the program is longstanding and payments are made automatically, every year, whenever the eligibility requirements are met. Therefore, we limited our analysis to the period of investigation, 1991.

The ECSC share of the payments is provided from its budget, which is financed by contributions from the coal and steel industry and the interest earned on the investment of the contributions. Deficits in the budget are made up by Member State contributions. However, no contributions have been made by the Member States since 1984. Because the ECSC payments were financed solely from producer contributions, we preliminarily determine that they do not confer a countervailable benefit.

However, we preliminarily determine that the German Government's share of funds under this program is countervailable because the provision of these funds is limited to a specific industry or group of industries, and because the funds relieved the companies of obligations they normally would have incurred. Saarstahl and Thyssen would have otherwise incurred these expenses because these severance pay benefits are mandated by the social plans the companies have with their employees.

To calculate the benefit, we took half of the funds received by the companies under this program in 1991, which is that portion attributable to the Government of Germany, and divided it by each company's total sales during the period of investigation. Using this methodology, we calculated an estimated net subsidy of 0.39 percent *ad valorem* for Saarstahl and 0.16 percent *ad valorem* for Thyssen.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain hot rolled lead and bismuth carbon steel products from Germany, which are entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for such entries of this merchandise in the amount of 18.19 percent *ad valorem*, except for merchandise produced by Thyssen. Thyssen is exempt from the suspension of liquidation because its estimated net subsidy is *de minimis*. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department's final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations, we will hold a public hearing, if requested, on November 13, 1992, at 10 a.m. in room 1412, to afford interested parties an opportunity to comment on this preliminary determination. Individual parties who wish to request or participate in a hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of issues to be discussed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In accordance with 19 CFR 355.38(c) and (d), ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than November 4, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than November 10, 1992. If the case and rebuttal brief contain only nonproprietary information, then ten copies of each respective brief must be submitted to the Department. An interested party may make an affirmative presentation only on arguments included in the party's case or rebuttal briefs. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written arguments should be submitted in accordance with § 355.38 of the Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22557 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-412-811]

Preliminary Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Annika L. O'Hara, Office of Countervailing Investigations, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5055 or (202) 377-0588, respectively.

Preliminary Determination

The Department preliminarily determines that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in the United Kingdom of certain hot rolled lead and bismuth carbon steel products. The final determination is currently scheduled for November 24, 1992.

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (57 FR 19884, May 8, 1992), the following events have occurred. On June 17, 1992, we found this investigation to be extraordinarily complicated and postponed the preliminary determination until no later than September 10, 1992 (57 FR 27025).

Scope of Investigation

The product covered by this investigation is hot rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States ("HTSUS") Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products.

Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of the following products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Injury Test

Because the United Kingdom is "a country under the Agreement" within the meaning of section 701(b) of the Act, the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from the United Kingdom materially injure, or threaten material injury to, a U.S. industry. On May 28, 1992, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured

by reason of imports from the United Kingdom of the subject merchandise (57 FR 27739).

Analysis of Programs

For purposes of this preliminary determination, the period for which we are measuring subsidies (the period of investigation—"POI") is calendar year 1991, which corresponds to the fiscal year of UES Holdings Limited ("UES") and ASW Limited ("ASW"). The fiscal years of British Steel plc ("BS plc") and Glynwed International plc ("Glynwed") change from year to year.

We received a questionnaire response from Glynwed, a holding company registered in the United Kingdom. One company in Glynwed International's Steel & Engineering Division, Glynwed Steels Limited, produced and exported the subject merchandise to the United States during the POI. According to the response, Glynwed did not receive any government assistance during the POI.

Because there is a significant differential in the estimated net subsidy calculated for UES and Glynwed, we have preliminarily assigned individual company rates pursuant to 19 CFR 355.15(a)(2)(ii).

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

A. Program Preliminarily Determined To Be Countervailable

UES, the company which is the main focus of our investigation, was created as a joint venture between Guest, Keen and Nettlefolds ("GKN") and the British Steel Corporation ("BSC"). Consideration of the joint venture was part of a wider program of the UK Government which sought to rationalize and restructure the overlapping interests of the smaller, independent, and essentially profitable private sector steel industry and the peripheral steelmaking activities of the then-state-owned BSC.

The Department of Trade and Industry ("DTI"), the branch of the UK government with responsibility for BSC at the time, sought to bring about commercially viable arrangements that would remedy the fundamental problems of overcapacity and continue the process of privatizing peripheral operations of BSC. An area of significant product overlap between BSC and GKN was the production of engineering equality and special steels in bloom, billet, and bar form. BSC and GKN had formed successful joint ventures in the past (*e.g.*, ASW) and, therefore, the managements of the two companies were familiar to each other. Discussions on a possible joint venture between BSC and GKN, which began in 1982, culminated in an agreement in principle between BSC, GKN, and DTI in late 1985. The agreement was subjected to detailed verification by independent advisors which concluded that BSC was realizing a fair deal from the transaction.

On January 14, 1986, the formation of UES was announced. UES began trading on March 24, 1986.

In determining whether UES received a countervailable benefit during the POI, the Department examined the formation of the joint venture to determine whether the government's participation could be considered consistent with commercial considerations. The formation of UES involved contributions by the government (BSC) and GKN. In return for these contributions, BSC and GKN received rights to the future earnings of UES in the form of shares. In our analysis, we have attempted to determine whether the future earnings BSC could expect to receive were "adequate" in light of the amount BSC contributed to UES. To the extent that the expected future earnings were not commensurate with BSC's contribution to the joint venture, BSC paid too much and its investment was not consistent with commercial considerations. Put another way, from UES's point of view, UES may have paid too little for the assets and other elements contributed to it by BSC. The amount of the subsidy to UES would be the amount by which it underpaid BSC.

This approach is consistent with our Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada ("Groundfish") 51 FR 10041 (March 24, 1986), where the Department, in examining a governmental equity investment, did not look at the equityworthiness of the company receiving the funds *per se*, but examined the expected rate of return on the investment. In Groundfish, we determined that the expected rate of return on shares purchased by the government was below that which would be required by a private investor and, therefore, we found that the government's investment was inconsistent with commercial considerations. The subsidy to the company receiving the equity investment was the difference between the expected rate of return to the private investor and the expected rate of return to the government.

In the present investigation, like Groundfish, we have a private investor against which we can measure the government's actions to determine whether the government's investment in UES was consistent with commercial considerations.

BSC and GKN contributed four general types of assets to the joint venture: (1) Fixed (land, buildings, and related facilities); (2) accounts receivable; (3) stocks (investories); and (4) cash. The parties used book value as the starting point for the valuation of the fixed assets contributed to UES. Several upward adjustments were made to assets contributed by both parties as a consequence of the negotiations. GKN received goodwill for its contributions to the joint venture, the amount of which was determined on a negotiated basis between the parties and was intended to reflect the "marketedly better historic profitability" of the GKN businesses involved than those contributed by BSC. The "marketedly better historic profitability" of the GKN businesses contributed to the joint venture is not supported by information on the record. For example, when stated in accordance with "Generally Accepted Accounting Principles", the financial statements for GKN's Brymbo operations, indicate that this business was actually operating at a loss for the four years proceeding the formation of the joint venture. (Brymbo Steelworks, a melting shop and billet mill, was among the assets that GKN contributed to the joint venture.) Because GKN received credit for significantly higher profitability for its contributed assets than BSC, when there is no evidence of such higher profitability, the price per share it paid for UES must be adjusted downward.

In order to determine whether UES received a benefit from this transaction, we used the amount of GKN's contribution to the joint venture, minus goodwill, as our "private investor" benchmark. We then compared the price paid per share by GKN to the price paid per share by BSC. To the extent that BSC overpaid for the shares it received in the joint venture, we determined that UES received a benefit.

To calculate the benefit arising from this overpayment, we are treating the amount of the overpayment as a nonrecurring grant. Our policy with respect to nonrecurring grants is to allocate the benefits from such grants over the average useful life of assets in the industry, unless the sum of grants under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy). See, *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991). Therefore, we have allocated the benefit

from this overpayment over 15 years, the average useful life of assets in the steel industry.

The benefit for the POI was calculated using the declining balance methodology described in the Department's proposed rules (Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments (Proposed Regulations), 54 FR 23366 (May 31, 1989)), and used in prior investigations (see, e.g., Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Canada, 51 FR 15037 (April 22, 1986)). Applying the Department's grant methodology and dividing the subsidy allocated to the POI by UES' total sales during the POI, we calculated an estimated net subsidy of 0.67 percent *ad valorem*.

In the formation of UES, BSC agreed to joint control of the new company despite the fact that BSC owned the majority of shares. We have considered the possibility that BSC should have received additional remuneration to account for this, but have not been able to establish a "price" for relinquishing control. We invite interested parties to comment on this issue so that we may give it fuller consideration in the final determination.

We find that the benefit received by UES in 1986 is unaltered by the privatization of BSC in 1988 because the structure of the joint venture remained the same after the privatization. Furthermore, when only part of the equity in a company changes hands, the Department may reasonably treat any previous benefits as still residing in the portion of the company did not change hands. See Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review, 56 FR 47184 (September 18, 1991). Therefore, we preliminarily determine that the 1988 privatization of BSC had no effect on the benefits received by UES in 1986.

B. Program Preliminarily Determined Not To Be Counteravailable

Bloom Caster Loan

BSC lent the joint venture £55 million in funds which had been provided to BSC by the DTI in accordance with section 18(1) of the Iron and Steel Act 1975. These funds were convertible on a quarterly basis as expenditures were made on a bloom caster at one of UES' facilities. The loans were to be converted into a combination of 35 million Preference Shares and 20 million 'A' Loan Stock. Prior to conversion, these funds were to be provided interest-free for at least four years. By September 30, 1988, however, all of the loans had been converted. The 20 million 'A' Loan Stock was repaid by UES on January 2, 1990.

We preliminarily determine that the loan capital provided by BSC constitutes an interest-free loan to the joint venture. However, the portion that was not converted to Preference Shares was repaid by 1990, prior to our POI. Therefore, we are only concerned with the outstanding portion of this loan which was converted to equity, *i.e.*, the 35 million Preference Shares. Based on our review of UES' financial statements from 1986 to 1988, the years in which in this loan was converted to equity, we determine that UES was equityworthy. Therefore, we determine that the equity was not provided on terms inconsistent with commercial considerations. Accordingly, we preliminarily determine that this program is not counteravailable.

C. Program Preliminarily Determined Not To Be Used Award Under the Energy Efficiency Best Practice Program

This program was established in 1989. It is administered by the Energy Efficiency Office (EEO), which is part of the Department of the Environment. The objective of the program is to disseminate information on efficient energy use. One of the program's four elements, "Good Practice," seeks to promote information in the form of guides or case studies on energy saving techniques that are being practices by British companies. In order to collect the information needed to prepare these guides or case studies and to disseminate them, the EEO pays up to £10,000 to companies that provide the information.

According to the questionnaire response, the assistance received under this program did not benefit the production or exportation of the subject merchandise. Therefore, we preliminarily determine that this program was not used.

D. Program for Which Additional Information Is Needed Formation of ASW

ASW was formed as a joint venture between BSC and GKN in 1981 to undertake steelmaking and re-rolling. Although information on the record provides the general outlines of the formation of ASW, the Department does not have sufficient information to conduct a thorough analysis of the formation of this joint venture (*e.g.*, the joint venture agreement, completion accounts, independent advisor reports, financial statements reflecting the assets contributed to this joint venture.) Accordingly, we determine that we require additional information to properly analyze this transaction.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of additive steel from the United Kingdom, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register** and to require a cash deposit or bond for such entries of the merchandise in the amount of 0.67 percent *ad valorem* except for merchandise produced by ASW and Glynwed. Glynwed is exempt from the suspension of liquidation because its established net subsidy is zero. ASW is exempt from the suspension of liquidation because the Department needs more information before it is able to analyze this company. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department make its final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations, we will hold a public hearing, if requested, on November 9, 1992, at 9 a.m. in room 3708, to afford interested parties an opportunity to comment on this preliminary determination. Interested parties who wish to request or participate in a hearing must submit a request within ten days of the publication of this notice in the **Federal**

Register to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number participants; (3) the reason for attending; and (4) a list of the issues to be discussed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In accordance with 19 CFR 355.38 (c) and (d), ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than October 28, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than November 4, 1992. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written argument should be submitted in accordance with section 355.38 of the Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22558 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-427-805]

Preliminary Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Susan Strumbel, Office of Countervailing Investigations, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0167 or 377-1442, respectively.

Preliminary Determination

The Department preliminarily determines that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in France of certain hot rolled lead and bismuth carbon steel products.

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (57 FR 19884, May 8, 1992) the following events have occurred. On June 17, 1992, we found this investigation to be extraordinarily complicated and postponed the preliminary determination until no later than September 10, 1992 (57 FR 27025).

Scope of Investigation

The products covered by this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of these investigations are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Injury Test

Because France is a "country under the Agreement" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the certain hot rolled lead and bismuth carbon steel products from France materially injure, or threaten material injury to, a U.S. industry. On May 28, 1992, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from France of this merchandise (57 FR 27739).

Analysis of Programs

For purposes of this preliminary determination, the period for which we are measuring subsidies (the period of investigation (POI)) is calendar year 1991, which corresponds to the fiscal year of Usinor Sacilor.

Based upon our analysis of the petition and the responses to our questionnaire, we preliminarily determine the following:

A. Programs Preliminarily Determined To Be Countervailable

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in France of certain hot-rolled lead and bismuth carbon steel products under the following programs:

1. *Reductions in Paid-in Capital.* During the period 1978 through 1988, the paid-in capital of Usinor, Sacilor, and their successor, Usinor Sacilor, was increased through conversions and reclassification of various financial instruments into common stock. As the companies sustained losses over this same period, the paid-in capital was used to offset these losses. The conversions, reclassifications, and reductions in paid-in capital are described below.

In 1978, the GOF, the principal steel companies (Usinor, Sacilor, Chatillon-Neuves-Maisons, their subsidiaries), and their creditors agreed upon a plan to help the steel companies restructure their debt. This plan included a reduction in paid-in capital.

Furthermore, the steel companies and their creditors, Fonds de Developpement Economique et Social (FDES), Credit National and bondholders, created a new instrument called "Loans with Special Characteristics" (PACs) to provide additional equity so as to allow steel companies to reconstitute their capital. According to the responses, pre-1978 loans from Credit National and FDES to the steel companies were converted into PACs.

The PAC was an instrument akin to redeemable subordinated nonvoting preferred stock. PACs could be included in shareholders' equity on the balance sheet and had the following characteristics: 1) a symbolic 0.10 percent enumeration for the first five years and 1.0 percent thereafter, 2) no schedule of reimbursement but in the

event the steel companies became profitable, the PACs holders could elect to redeem their PACs or share in profits according to a predetermined formula, and 3) PACs were subordinated to all but the common stock.

Additionally, prior to 1978, bonds were issued for the benefit of the steel companies by various financial institutions. The Societe de Gestion D'Emprunts Collectifs pour la Siderurgique (GECS) was created by the GOF and was substituted for the steel companies as the debtor on these bonds. Consequently, the GECS also became a creditor of the French steel companies for the bond amounts. The amounts owed to the GECS were also converted to PACs.

The Corrected Finance Law of 1981 allowed the PACs resulting from the 1978 debt conversion to be used to cover operating losses. According to the responses, the process involved two steps, neither of which involved the injection of new funds: first, the steel companies were permitted to reclassify PACs issued between 1978 and 1981 as common stock, and, second, paid-in capital was immediately reduced by a similar amount.

In addition to allowing the conversion of PACs and reduction of capital, the 1981 Corrected Finance Law granted Usinor and Sacilor the authority to issue convertible bonds. The Fonds d'Intervention Siderurgique (FIS) or steel intervention fund was created by decree of May 18, 1983, in order to implement that authority. According to the responses, Usinor and Sacilor issued convertible bonds to the FIS, which, in turn, with the GOF guaranty, floated bonds to the public and to institutional investors. In 1983, 1984, and 1985, Usinor and Sacilor issued convertible bonds to the FIS.

Furthermore, the GOF financed the recurring needs of Usinor and Sacilor through shareholders' advances beginning in 1982. These shareholders' advances carried no interest and there was no precondition for receipt of these funds. Consistent with the GOF policy of adherence to the EC State Aids Code, and with the GOF private investor policy articulated by President Mitterand in 1984, the GOF, in 1986, paid out the last of the advances it had agreed to make under this program.

Another restructuring plan, developed at the end of 1985 and implemented in late 1986, called for significant reductions of capacity, deep cuts in employment, modernization of equipment and alleviation of financing costs. Pursuant to this plan, the capital of Usinor and Sacilor was restructured. The restructuring did not include the injection of any new funds into the capital of either Usinor or Sacilor. Rather, it involved the additional reclassification of PACs as common stock as well as the conversion of FIS convertible bonds and shareholders' advances into common stock. The GOF then reduced the paid-in capital of both companies.

At the end of 1987, Usinor and Sacilor, companies owned by the GOF, were merged to become one holding company called Usinor Sacilor. According to the responses, this transaction entailed bookkeeping entries only and did not involve any new capital being injected into Usinor Sacilor or any of its subsidiaries.

At the end of 1988, Usinor Sacilor was substituted as debtor for Usinor and Sacilor for the bonds issued by them to the FIS between 1983 and 1985. The GOF then purchased the bonds from the FIS. As a result, the GOF became a creditor of Usinor Sacilor for a like amount. Usinor Sacilor then issued new shares to the GOF which paid for them by canceling the debt represented by the bonds. The increase in shareholders' equity stemming from this cancellation of bond indebtedness was then offset by accumulated losses from past years, *i.e.*, paid-in capital was reduced to reflect these losses.

Because the restructurings described above, including the reclassification and conversions of PACS, FIS bonds, and shareholders' advances into common stock, and the corresponding reductions in paid-in capital, were limited to the companies in question, we have preliminarily determined that these measures provided subsidies to Usinor Sacilor.

For purposes of calculating the benefit, we have treated each reduction of paid-in capital in the years 1978, 1981, 1986, and 1988, as discussed above, as non-recurring grants. Our policy with respect to nonrecurring grants is to allocate the benefits from such grants over the average useful life of assets in the industry, unless the sum of grants under a particular program is less than 0.50 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy.) *See, e.g., Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway*, 56 FR 7678 (February 25, 1991). Therefore, we have allocated the benefits from these reductions over 15 years, the average useful life of assets in the steel industry.

We calculated the benefit for the POI using the declining balance methodology described in the Department's proposed rules (*Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*)), and used in prior investigations (*see, e.g., Final Affirmative Countervailing Duty Determinations: Oil Country Tubular Goods from Canada*, 51 FR 15037 (April 22, 1986)). For the discount rate, we included a risk premium since we have preliminarily determined that Usinor, Sacilor, and Usinor Sacilor were uncreditworthy from 1978 through 1988.

For the years 1978 and 1981, where we previously found Usinor and Sacilor uncreditworthy, (*See, Final Affirmative Countervailing Duty Determination: Certain Steel Products from France*, 47 FR 39335 (August 17, 1982)), we have continued to consider Usinor and Sacilor uncreditworthy for purposes of the preliminary determination. The GOF has provided certain information arguing that the companies should be considered creditworthy during 1978 through 1981, but it was not provided in the requested format and we have not had sufficient time to analyze the data actually provided. We will consider this information for the final determination. Our determination of uncreditworthiness for the years 1986 and 1988 is based on our analysis of Usinor, Sacilor and Usinor Sacilor's cash flow, interest expense, and various other ratios, *e.g.*, times interest earned.

When we determine that a company is uncreditworthy, we base our discount rate on the highest lending rate applicable to firms in the country in question, plus an amount equal to 12 percent of the country's prime rate. *See, Final Affirmative Countervailing Duty Determination: New Steel Rail, Except Light Rail, from Canada*, 54 FR 31991 (August 3, 1989), and the *Proposed Regulations*. We used the interest rates published in the International Monetary Fund's *International Financial Statistics* and used the highest annual interest rate reported in that publication for the years the reductions in paid-in capital took place. We then added to this interest rate an amount equal to 12 percent of the prime rate in France for the same year. We calculate 12 percent of this prime rate and added it to the annual interest rate. On this basis, we calculated an estimated net subsidy of 11.71 percent *ad valorem*.

2. *Repaid PACS*. Shareholders' advances held by the former majority shareholders were converted to PACs in 1978. Unlike the other PACs, discussed above, the PACs created from the shareholders' advances were repaid. Although Sacilor paid no interest on the PACs, the full value of the advances was repaid in 1989. Therefore, we are

treating this as a zero interest loan where benefits expired prior to the POI. However, the amount repaid by Usinor in 1981 was less than the original shareholders' advance. Therefore, we are treating the difference between the original shareholders' advance and the amount repaid as a nonrecurring grant. Accordingly, we have applied the grant methodology discussed above to calculate an estimated net subsidy of 0.01 percent *ad valorem*.

3. *Long-term Loans from FDES.* The Law of July 13, 1978, created participative loans (prets participatifs), which were by law available to all French companies. Under these loans, which were issued by the FDES and the Caisse Francaise de Developpement Industriel (CFDI), the borrower paid a lower-than-market interest rate plus a share of future profits according to an agreed upon formula. These loans were obtained by either Usinor, Sacilor, or their subsidiaries. On July 1, 1990, the outstanding principal on the FDES loans to Usinor and Sacilor was consolidated into long-term loans.

We have preliminarily determined that we should treat the 1990 consolidation as loans given in 1990. The GOF did not provide information regarding the distribution of FDES loans for that year. However, for the period 1985 through 1989, the GOF provided a chart showing by sector, *i.e.*, agricultural and food industries, mineral extraction and metallurgy, electrical and mechanical industries, chemical, rubber and glass-related industries, miscellaneous industries and textiles, building materials and construction related industries, and other activities, the total distribution of FDES loans for the years 1985 through 1989.

Comparing the amount of Usinor Sacilor's consolidated loans with this information indicates that Usinor Sacilor's consolidated loans exceeded the total amount of FDES loans distributed to all sectors of the economy for the years 1987, 1988, and 1989 combined. Based on this comparison, we preliminarily conclude that the FDES loans are *de facto* limited to a specific enterprise or industry or group of enterprises or industries.

To determine whether the loans were made on terms inconsistent with commercial considerations, we used the methodology described in section 355.44(b)(4) of the Department's proposed regulations. Because we have preliminarily found Usinor Sacilor to be creditworthy in 1990, we have used as the benchmark and the discount rate a rate from the OECD Financial Statistics publication "Typical Short-term Interest Rates" publication as our benchmark rate for 1990. On this basis, we preliminarily determine that the FDES loans to Usinor Sacilor are on terms inconsistent with commercial considerations. Using this methodology, we calculated an estimated net subsidy during the POI of 0.01 percent *ad valorem*.

4. *Loans from Credit National and CFDI.* In 1991, outstanding loans to Usinor Sacilor from Credit National and CFDI were consolidated. Consistent with our treatment of the FDES loans, we are treating these consolidations as new loans in 1991. Because it is reasonable to assume that no interest would be due on a long-term loan taken out in 1991 until 1992, no cash flow effect would occur until 1992. Only at that time would any potential subsidy be realized. Therefore, given our POI is 1991, we have not analyzed whether the 1991 consolidations of Credit National and CFDI loans confer a subsidy on Usinor Sacilor.

However, the loans which were consolidated were outstanding during our POI. No information was submitted on the terms of these "old loans" or whether these loans were limited to a specific enterprise or industry or group of enterprises or industries. Lacking such information, we are applying best information available, in accordance with section 355.37 of the Department's regulations.

To calculate the benefit arising from these loans during the POI, we have assumed that no interest was paid and have compared this to the rate from the OECD Financial Statistics publication "Typical Short-term Interest Rates" as our benchmark rate. On this basis, we calculated an estimated net subsidy rate of 0.67 percent *ad valorem* for "old" Credit National and CFDI loans.

5. *Equity Infusions.* a. *Purchase of Common Shares by Credit Lyonnais.* On July 12, 1991, an official announcement was made regarding the acquisition by Credit Lyonnais of 20 percent of the voting capital stock of Usinor Sacilor. The transaction was set to close on December 31, 1991, in order to allow the EC Commission time to examine the transaction with regard to the EC State Aids Code. Under the EC State Aids Code, the Commission examined whether the proposed transaction was on terms consistent with commercial considerations. To that end, the EC Commission retained the services of a Swiss consulting firm whose task was to evaluate the value of Usinor Sacilor as a whole so as to enable the Commission to decide whether Credit Lyonnais' proposed investment was one which a prudent investor would make. On November 28, 1991, the EC Commission granted its approval of the transaction.

According to the responses, Credit Lyonnais purchased both newly issued shares of Usinor Sacilor and existing shares held by the GOF at the same price. The only objective of the GOF was that the shares be sold at a price reflecting the value of the company.

For purposes of this preliminary determination, we have examined profit trends and other information on the record regarding Usinor Sacilor's future financial prospects and have determined that Usinor Sacilor was unequityworthy during 1991. Therefore, Credit Lyonnais' purchase of 20 percent of Usinor Sacilor's voting capital stock is found to be inconsistent with commercial considerations.

To calculate the benefit we have followed the methodology described in section 355.44(e)(1) of the Proposed Regulations and applied in previous cases (see, *e.g.*, *Preliminary Affirmative Countervailing Duty Determination: Circular Welded Non-Alloy Steel Pipe from Brazil*, 57 FR 24466 (June 9, 1992)) the rate of return shortfall during the period of investigation by comparing Usinor Sacilor's rate of return for 1991 to the national average rate of return in France for the same year. We then multiplied this rate of return shortfall by the amount of the investment made by Credit Lyonnais to derive the total benefit.

b. *Equity Infusion in 1988.* Although most of the increases in paid-in capital resulting from the reclassification of PACs and the conversions of FIS bonds and shareholder's advances into common stock were used to offset losses, as discussed above, a balance remained in 1988. Accordingly, we have treated this residual amount as an equity infusion.

Because we have preliminarily determined Usinor Sacilor was unequityworthy for 1988, based on our analysis of profit trends and other information on the record regarding Usinor Sacilor's future financial prospects from 1988 forward, this equity investment was made on terms inconsistent with commercial considerations.

c. *Equity Infusion in 1991.* In 1991, the GOF decided to redeem the last remaining PACs which were outstanding. The transaction took the form of a capital increase to Usinor Sacilor, which then used the proceeds to redeem the PACs.

Because we have preliminarily determined that Usinor Sacilor was unequityworthy during 1991, we find this equity investment to be on terms

inconsistent with commercial considerations.

Following the methodology discussed above under 5a, we calculated an estimated net subsidy for these equity infusions of 0.50 percent *ad valorem.*

The Department has received comments from interested parties regarding its methodology for treating government equity infusions into unequityworthy companies. We are soliciting comments from all interested parties on this issue. We will address these comments in the final determination.

B. Programs Preliminarily Determined Not to be Used

EC Programs

a. Article 54 of the Treaty of Paris—the ECSC guarantees commercial loans to coal and steel industries
b. Article 54 of the Treaty of Paris, Industrial Investment Loans
c. Article 56—Loans for Investment in Non-Steel Enterprises in areas of decreased steel activity
d. Article 56 Conversion Loans
e. Article 56 of the Treaty of Paris—Labour Assistance and Rehabilitation Aid
f. Under Article 54 of the Treaty of Paris—Interest Rebates on Investment and Reconversion Loans
g. European Investment Bank Loans
h. NCI Loans

C. Program Preliminarily Determined Not To Be Countervailable

Assistance for Research and Development. Petitioners alleged that the French producers of hot-rolled lead and bismuth carbon steel products benefit from research and development performed by the Institute de Recherches de la Siderurgie Francaise (IRSID).

According to the responses, IRSID is a wholly-owned subsidiary of Usinor Sacilor. IRSID carries out basic research on steel properties as well as research on production processes and publishes its results in scientific and technical journals. In addition, the results of IRSID-sponsored seminars and colloquia are open to interested parties throughout the world.

Because the results of the research and development performed by IRSID are made publicly available, we find this program to be not countervailable for purposes of this preliminary determination.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of hot-rolled lead and bismuth carbon steel products from France, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register** and to require a cash deposit or bond for such entries of the merchandise in the amount of 12.88 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with Section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations, we will hold a public hearing, if requested, on November 16, 1992, at 9:30 a.m. in room 3708, to afford interested parties an opportunity to comment on this preliminary determination. Interested parties who wish to request or participate in a hearing must submit a request with ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In accordance with 19 CFR 355.38 (c) and (d), ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than November 6, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than November 12, 1992. If the case and rebuttal brief contain only nonproprietary information, then ten copies of each respective brief must be submitted to the Department. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written argument should be submitted in accordance with section 355.38 of the Department's regulations and will be considered it received within the time limits specified in this notice.

This determination is published pursuant to Section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22556 Filed 9-16-92; 8:45 am]

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[C-351-812]

Preliminary Affirmative Countervailing Duty Determination; Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Laurel Lynn, Office of Countervailing Compliance, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1168, respectively.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that benefits which constitute subsidies within the meaning of Section701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of the subject merchandise, certain hot rolled lead and bismuth carbon steel products (leaded bar). The final determination is currently scheduled for November 24, 1992.

For information on the estimated net subsidy please see the "Suspension of Liquidation" section of this notice.

Case History

The publication of the notice of initiation in the **Federal Register** (57 FR 19884, May 1992). We found this investigation to be extraordinarily complicated and postponed the preliminary determination until September 10, 1992 (57 FR 27025, June 17, 1992).

A. Limiting Respondent Selection

On June 6, 1991, the respondents requested that the Department not require one producer of leaded bar, the Villares Group, to respond to the Department's questionnaire because of its insignificant share of exports of leaded bar from Brazil to the United States. On June 19, 1992, we decided that the Villares Group would not be required to answer our questionnaire because its share of leaded bar exports to the United States is extremely small. Therefore, this investigation includes two producers/exporters of the subject merchandise, ACESITA and Mannesmann S.A.. The Villares Group's share of exports of leaded bar to the United States is subject to verification.

B. Additional Programs Being Investigated

As stated in the May 8, 1992, initiation notice of this investigation, we determined that we would not initiate an investigation of BNDES financing programs because BNDES financing had been found not countervailable in Certain Carbon Steel Products from Brazil (49 FR 17989, April 26, 1984), and petitioners did not provide sufficient new information to warrant re-examination of the program.

On July 24, 1992, we initiated a countervailing duty investigation of certain steel products from Brazil (57 FR 32970, July 24, 1992). In that case, petitioner alleged that BNDES financing was provided disproportionately to the steel industry and provided sufficient new information for the Department to initiate an investigation.

Because leaded bar is a steel product, we requested information regarding BNDES financing programs from respondents in the instant case.

In addition, based on information supplied in the questionnaire responses, we determined that a reasonable basis existed to believe or suspect that, one respondent, ACESITA, was not a commercially viable investment at the time of the Brazilian government's conversion of *partes beneficiarias* (profit participation certificates) into equity in 1989. Therefore, on August 11, 1992, we issued a supplemental questionnaire requesting information regarding the equityworthiness of ACESITA at the time the *partes beneficiarias* were converted into equity.

Scope of Investigation

The merchandise subject to this investigation is hot rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes or sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1(f), except steels classified as other alloy steels by reason of containing weight 0.4 percent of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00, and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of this proceeding is dispositive.

Injury Test

Because Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry. On May 28, 1992, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of the subject merchandise (57 FR 23428, June 3, 1992).

Analysis of Subsidies

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the responses cannot be supported at verification, and a program is otherwise countervailable, the program will be considered a countervailable subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidies (the period of investigation—"POI") is calendar year 1991.

In determining the rates under the various programs described below, we used the following methodology. We first calculated a country-wide rate for Brazil. This rate comprised the sum of the *ad valorem* rates received by each firm weighted by each firm's share of exports to the United States of the subject merchandise. Pursuant to 19 CFR 355.20(d), we compared the total *ad valorem* rate received by each firm to the country-wide rate for all programs. The rate for ACESITA was significantly different from the weighted-average country-wide rate. Therefore, ACESITA received its own rate. Because ACESITA's rate is significantly different from the country-wide rate, its rate is removed from the calculation of the rate applied to all remaining companies (all other rate). Because Mannesmann is the only remaining firm, it will receive its own rate, and its rate will become the all other rate which will be assigned to all other exports of leaded bar from Brazil.

A. Programs Preliminarily Determined To Be Countervailable

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of leaded bar under the following programs:

1. Government Debt Forgiveness to ACESITA

A government-owned bank, the Banco do Brasil, financed a repurchase of ACESITA's foreign-denominated debt in 1990. Banco do Brasil provided a loan to a third party to purchase ACESITA's foreign-denominated debt at a discount, with the understanding that the third party would then contract with ACESITA to waive the foreign-denominated debt in return for ACESITA's assumption of the third party's loan from the Banco do Brasil. Because ACESITA's foreign-denominated debt to the Banco do Brasil was repurchased at a significant discount, we preliminarily determine that such a transaction is essentially debt forgiveness by the Government of Brazil (GOB), and as such bestowed a

countervailed benefit to ACESITA. ACESITA was relieved from a debt that it otherwise would have had to pay absent government intervention. Therefore, we have treated the amount of debt that was forgiven as a nonrecurring grant and used the grant methodology described for such grants in our proposed regulations. (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (Proposed Regulations), 54 FR 23366 (May 31, 1989)). See also, Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Canada, 51 FR 15037 (April 22, 1986)). Using our grant methodology, we allocated the amount of debt forgiven in 1990 over 15 years, the average useful life of assets in the steel industry. We divided the result by ACESITA's total sales in 1991. On this basis we preliminarily determine the benefit to ACESITA to be 8.02 percent *ad valorem*.

We have insufficient evidence to date on the record to determine that such transactions by the Banco do Brasil are not limited to a specific enterprise, or industry, or group of enterprises or industries. However, we are requesting additional information from the Banco do Brasil regarding its practices in such transactions.

We also preliminarily determine that the Banco do Brasil loan used to finance this arrangement, does not, in and of itself, confer a countervailable benefit. Although the Department determined that ACESITA was uncreditworthy at the time the loan was made, the interest rate charged by Banco do Brasil for this loan is higher than the Department's benchmark rate including the risk premium for uncreditworthy companies. Therefore, we preliminarily determine that the loan was made on terms consistent with commercial considerations.

2. Government Equity Infusions Into ACESITA

Historically, the GOB has been the principal owner of the Brazilian steel industry, primarily through the state-owned holding company Siderurgia Brasileira S.A. (SIDERBRAS). In March 1990, the GOB decided to liquidate SIDERBRAS and sell its steel mills, including ACESITA. The sale of ACESITA is scheduled to be completed in 1992.

According to the questionnaire responses, ACESITA received government equity infusions from the Banco do Brasil in the form of conversions of redeemable *partes beneficiarias* to equity in 1989.

Partes beneficiarias are hybrid instruments which have qualities of both debt and equity. *Partes beneficiarias* are similar to a liability because the issuer repays the bearer the nominal purchase value in equal yearly installments following a grace period. *Partes beneficiarias* are also similar to equity because the purchaser has the right to share in the company's annual profits.

ACESITA issued *partes beneficiarias* in 1983, 1984, and 1985. We have determined that the *partes beneficiarias* should be considered an equity infusion at the time of the 1989 decision to convert all outstanding *partes beneficiarias* to equity. ACESITA recorded the *partes beneficiarias* as equity in their balance sheet. After the 1989 decision, all redemption obligations ceased, but profit-sharing obligations continued. Thus, *partes beneficiarias* retain the qualities of equity, but not the qualities of debt.

We have consistently held government provision of equity does not *per se* confer a subsidy (see, *e.g.*, Final Affirmative Countervailing Duty Determination; Steel Wheels from Brazil (54 FR 15523, April 18, 1989) (Steel Wheels)). Government equity infusions bestow a countervailable benefit only when provided on terms inconsistent with commercial considerations. Therefore, we examined whether ACESITA was a reasonable investment in 1989 (a condition we have termed equityworthy) in order to determine whether the equity infusions were inconsistent with commercial considerations.

A company is a reasonable investment if it shows the ability to generate a reasonable rate of return within a reasonable period of time. To make this determination, we examine the company's financial ratios and profitability for a period of three years prior to the year of each infusion, as well as other factors such as market demand projections and feasibility studies to evaluate its future ability to earn a reasonable rate of return on investment.

Based on our analysis of the information on the record, we conclude that ACESITA was unequityworthy at the time that the Banco do Brasil voted to convert its *partes beneficiarias* into equity, *i.e.*, 1989. Accordingly, we determine that the equity infusion made into ACESITA by the GOB was inconsistent with commercial considerations and may confer a subsidy.

To the extent that we find government investment to be commercially unreasonable and the government's rate of return on its investment less than the national average rate of return on investment, we consider the investment to provide a countervailable benefit (see, Proposed Regulations and, *e.g.*, Steel Wheels). We examine the "rate of return shortfall" for the POI, which is the difference between the national average rate of return on equity during the POI and ACESITA's rate of return on equity. If no shortfall exists for the POI, there is no countervailable benefit for that year. If a shortfall does exist, we multiply the rate of the shortfall by the amount of the equity infusion to find the benefit for the POI. The Department has received comments from interested parties regarding its methodology for treating government equity infusion into unequityworthy companies. We are soliciting comments from all interested parties on this issue. We will address these comments in the final determination.

Due to hyperinflation in the Brazilian economy, the normal value of the original equity infusions have increased substantially. We have, therefore, used the U.S. dollar values of the *partes beneficiarias* converted into equity in our calculations. In its response to our questionnaires, ACESITA also used the U.S. dollar values of the *partes beneficiarias* to correct their nominal value.

We measured the rate of return for ACESITA by dividing its net loss in 1991 by its total capital. We then compared the result with the national average rate of return on equity in Brazil in 1991, as reported in the August 1992 edition of *Exame*, a Brazilian business publication. ACESITA's rate of return on equity in 1991 was lower than the national average. The difference between ACESITA's rate of return on equity and the national average rate of return on equity constitutes the rate of return shortfall. We multiplied the rate of return shortfall by the value of the equity infusions provided to ACESITA. Finally, we divided this benefit amount by the dollar value of ACESITA's total sales for 1991.

Under no circumstances do we countervail in any year an amount greater than what we would have countervailed in that year had we treated the government's equity infusion as an outright grant (see, Proposed Regulations). Therefore, we compared the amount of subsidy that resulted from our calculation with the amount of subsidy that would have resulted had we treated the equity infusion as an outright grant. Based on this comparison we determine that we have no need to cap the amount of the subsidy for the

POI at the level that would have resulted if we had treated the equity infusion as a grant.

To determine the grant cap for the POI, we allocated the U.S. dollar value of the equity infusion in 1989 using a declining balance methodology and the 15-year allocation period. We have used as a discount rate the cost of dollar-denominated, long-term, fixed-rate debt of ACESITA in 1989. We divided the amount of the benefit attributable to 1991 by the U.S. dollar value of ACESITA's total sales in 1991.

On this basis, we determine that the subsidy to ACESITA from the government equity infusions was 12.43 percent *ad valorem*.

3. IPI Rebate Program Under Law 7554/86

The IPI Rebate Program, which consists of a rebate of 95 percent of the value-added sales tax (IPI) paid on domestic sales of industrial products, was established by Decree-Law 1.547 in 1977. After several amendments to Decree-Law 1.547, the program was suspended on April 12, 1990, by Decree-Law 8.034. Pursuant to this law, only companies with projects approved prior to April 1990 are eligible to continue to receive benefits from this program. ACESITA and Mannesmann received benefits under this program during the POI.

In Steel Wheels we determined that this program is limited to specific enterprises or industries. We have no information that warrants a reconsideration of that determination. Therefore, we preliminarily determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries. To calculate the benefit, we divided the total amount of each company's IPI rebates received during the POI by their respective total sales in 1991. On this basis, we determine the subsidy under this program to be 2.90 percent *ad valorem* for ACESITA, and 0.67 percent *ad valorem* for Mannesmann during the POI.

4. Exemption of IPI and Duties on Imports Under Decree-Law 2324

Decree-Law 2324 of March 30, 1987, provided exporters of manufactured products exemptions from IPI and duties on imported spare parts and machinery. Because this exemption was limited to exporters, and because the imported goods were not physically incorporated into the subject merchandise, we preliminarily determine that it is countervailable. One respondent, Mannesmann, was provided exemptions under this law during the POI. To calculate the benefit, we divided the amount of IPI and import duties exempted in 1991 by Mannesmann's total exports in 1991. On this basis, we determine the benefit to be 0.15 percent *ad valorem* for Mannesmann during the POI. In its questionnaire response, the GOB stated that the program was terminated in June 1991. However, because the GOB provided no documentation to support its claim that this exemption has been terminated and that no residual benefits have been provided, we have not adjusted the cash deposit of estimated countervailing duties.

5. Exemptions of IPI and Duties on Imports Under Law 2894

Law 2894 of October 1, 1956 specifically exempts ACESITA from import duties and IPI on imports of all goods which are destined for the improvement, expansion and maintenance of steel and hydro-electric plants owned by ACESITA. This law provides different benefits from the IPI Rebate Program under Law 7554/86 mentioned above, because this law applies to IPI and duties due only on imports. The law is effective as long as the Banco do Brasil remains the majority shareholder of ACESITA. Because this exemption was limited to one company, we preliminarily determine that it is countervailable. To calculate the benefit, we divided the amount of IPI and import duties exempted in 1991 by ACESITA's total sales in 1991. On this basis, we determine the benefit to be 0.21 percent *ad valorem* for ACESITA during the POI.

B. Programs Preliminarily Determined Not To Be Countervailable

1. Long-Term Loans Through FINEP

The Fund of Studies and Projects (*FINEP; Financiadora de Estudos e Projectos*) is a government agency within the Secretary of Science and Technology that provides and administers loans given under this program. FINEP, which was founded in 1976 and became a public company in 1985, lends funds in connection with technological development projects. Sectors receiving financing from FINEP include electric, electronic and communications equipment, civil construction, engineering and consulting, mining, metallurgy, and mechanics, infrastructure, transportation, and communications, and livestock, fishing, and agriculture. According to information provided in the questionnaire responses, we found no evidence that FINEP loans are limited either by law, or in fact, to an industry or group of industries, or regions. Therefore, we preliminarily determine that FINEP loans are not provided to a specific enterprise or industry, or group of enterprises or industries, and hence do not bestow a countervailable benefit to exporters or producers of the subject merchandise.

C. Programs Preliminarily Determined Not To Be Used

1. BNDES Preferential Financing

2. FINEX Preferential Export Financing

3. PROEX Preferential Export Financing

4. Import-Export Reform Plan Preferential Financing

5. Tax Incentives and Funds Through Project CONSERVE

6. IPI and Import Duties Exemptions Through the BEFIEX Program

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of leaded bar from Brazil which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register** and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated below. This suspension will remain in effect until further notice:

Producer/exporter	Estimated net subsidy/duty deposit rate
ACESITA	23.56 percent, ad valorem
Mannesmann	0.82 percent, ad valorem.
All others	0.82 percent, ad valorem.

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final

determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations, we will hold a public hearing, if requested, on November 12, 1992, to afford interested parties an opportunity to comment on this preliminary determination. We will notify all interested parties of the place and time of the hearing. Interested parties who wish to request or participate in a hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In accordance with 19 CFR 355.38(c) and (d), ten copies of the business proprietary version and five copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than November 3, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than November 10, 1992. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written argument should be submitted in accordance with Section 355.38 of the Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to Section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 92-22632 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access and Special Regime Programs

September 11, 1992.

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

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: November 1, 1992.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that CN & M Industrial is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on November 1, 1992, to deny CN & M Industrial the right to participate in the Special Access and Special Regime Programs, for a period of three years, beginning November 1, 1992 and ending October 31, 1995.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and FR 50425, published on December 6, 1989.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 11, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that CN & M Industrial is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on November 1, 1992, you are directed to prohibit CN & M Industrial from further participation in the Special Access and Special Regime Programs, for a period of three years, beginning November 1, 1992 and ending October 31, 1995. Goods accompanied by Form ITA-370P which are presented to U.S. Customs for entry under the Special Access and Special Regime Programs will no longer be accepted. In addition, for the period November 1, 1992 through October 31, 1995, you are directed not to sign ITA-370P forms for export of U.S.-formed and cut fabric for CN & M Industrial.

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

Sincerely,

Auggie D. Tantillo,

Committee for the Implementation of Textile Agreements.

[FR Doc. 92-22467 Filed 9-16-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Defense Intelligence Agency Advisory Board

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 92-463, the "Federal Advisory Committee Act," notice is hereby given that the Defense Intelligence Agency Advisory Board (DIAAB) has been renewed, effective September 7, 1992.

The DIAAB provides the Director, Defense Intelligence Agency with scientific and technical expertise and advice on current and long-term operational and intelligence matters covering the total range of the mission of the Agency. The DIAAB provides a link between the scientific/technical and military operations communities and the Defense Intelligence Agency. In the military operations area, the DIAAB will continue to address issues concerning intelligence support to combat units, joint intelligence doctrine, net assessments, arms control, and integration of intelligence and operational planning.

The DIAAB will continue to be composed of approximately 25 to 30 members, who are acclaimed leaders and experts in the scientific and technical areas relating to Defense Intelligence Agency programs. A fairly

balanced membership is achieved in terms of the points of view obtained and relative to the diverse intelligence disciplines represented. Members are drawn from large and small corporations, government agencies, private consultant firms, and the academic community.

For additional information regarding the DIAAB, please contact LTC Bob Hymel, telephone: 703-693-3689.

Dated: September 14, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-22523 Filed 9-16-92; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Joint Precision Interdiction (JPI)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on September 17-18, 1992 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly these meetings will be closed to the public.

Dated: September 14, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-22522 Filed 9-16-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Open Meeting, Armed Forces Epidemiological Board

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of open meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L.92-463), announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 28 October 1992.

Time: 1300-1600.

Place: Comfort Inn, Gransville, Maryland.

Proposed Agenda: Health Promotion and Disease Control.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, room 667, Falls Church, Virginia 22041-3258.

Kenneth L. Denton,

Army Federal Register, Liaison Officer.

[FR Doc. 92-22533 Filed 9-16-92; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet October 8-9, 1992, from 9 am to 5 pm, at Lockheed Advanced Development Company and Northrop Corporation, Los Angeles, California. These sessions will be closed to the public.

The purpose of this meeting is to evaluate U.S. Navy requirements for stealth and stealth countermeasures systems. The entire agenda for the meeting will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept top secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria Virginia, 22302-0268, Telephone (703) 756-1205.

Dated: September 11, 1992.

Geoffrey P. Lyon,

Lt. Col, United States Marine Corps, Federal Register Liaison Officer.

[FR Doc. 92-22535 Filed 9-16-92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by September 30, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Wallace R. McPherson, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service, publishes this notice with the attached proposed

information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title, (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: September 11, 1992.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited.
Title: Application for Grants under the Fund for the Improvement and Reform of Schools and Teaching: Schools and Teachers Program/Family-School Partnership.
Abstract: This form will be used by eligible applicants to apply for grants under the Fund for the Improvement and Reform of Schools and Teaching: Schools and Teachers Program/Family-School Partnership. The Department uses this information to make grant awards.
Additional Information: The Office of Educational Research and Improvement is requesting an expedited review from OMB for the Fund for the Improvement and Reform of Schools and Teaching: Schools and Teachers Program/Family-School Partnership in order to process the grant awards in a timely fashion.
Frequency: Annually.
Affected Public: State or local governments; non-profit institutions.
Reporting Burden:
Responses: 800.
Burden Hours: 13,596.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

Office of Educational Research and Improvement

Type of Review: Expedited.
Title: Application for Grants under the Dwight D. Eisenhower National Program for Mathematics and Science Education.
Abstract: This form will be used by eligible applicants to apply for grants under the Dwight D. Eisenhower National Program for Mathemathics and Science Education. The Department uses this information to make grant awards.
Additional Information: The Office of Educational Research and Improvement is requesting an expedited review from OMB for the Dwight D. Eisenhower National Program For Mathematics and Science Education in order to process the grant awards in a timely fashion.
Frequency: Annually.
Affected Public: State or local governments; non-profit institutions.
Reporting Burden:
Responses: 500.
Burden Hours: 10,404.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.

[FR Doc. 92-22458 Filed 9-16-92; 8:45 am]

BILLING CODE 4000-1-M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An Emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by September 14, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Wallace R. McPherson, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: September 11, 1992.

Cary Green,

Director, Information Resources, Management Service.

Office of Postsecondary Education

Type of Review: Emergency.
Title: Nomination Form For Regulations Negotiators.
Abstract: This form will be used by participants at the four regional meetings to nominate individuals, including themselves, to work with the Department in late November and early December 1992 to finalize proposed regulations for programs authorized by the Higher Education Act, as amended.
Additional Information: An emergency review is requested in order to have this form available for the first of the four regional meetings which begins on September 14, 1992 in San Francisco, California.

In the **Federal Register** on August 26, 1992, the Secretary published an invitation to all interested individuals and organizations to participate in four regional meetings to be held between September 16 and September 30, 1992. These meetings are part of the Department's response to the charge by Congress to obtain full public participation in the development of program regulations. Following these meetings further regulation negotiation and development will continue at meetings held in Washington DC.

Based on the requirements of the Public Law 102-325, the Secretary is establishing a procedure whereby participants at the regional meetings can nominate individuals, including themselves, to work with the Department in late November and early December 1992 to finalize proposed regulations for programs authorized by the Higher Education Act, as amended. The information

requested on this nomination form is only that information specified by Congress in Public Law 102–325.

Frequency: One-time-only.

Affected Public: Individuals.

Reporting Burden:

Responses: 200

Burden Hours: 4

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Nomination Form For Regulations Negotiators To Department of Education For HEA Reauthorization Part B, G, & H of Title IV

[Negotiations Tentatively Scheduled For November 30—December 5, 1992 In Washington, D.C.]

I nominate the following person to be a negotiator: [Include Self-nomination].

Print Name:
Address:
[Area Code/Number]
Phone:

Position:
Affiliation:

Fax:

The above nominee represents one or more of the following categories: (Check all appropriate categories):

_____ Legal Assistance Organization Representing Students
_____ Local _____ National
_____ Urban _____ Rural
_____ Institution of Higher Education
_____ Public 4-Yr _____ Public 2-Yr
_____ Private 4-Yr _____ Private 2-Yr
_____ Proprietary _____ Foreign
_____ Other

_____ Guaranty Agency	_____ State	_____ National
_____ Lender	_____ State/Local	_____ National
_____ Secondary Market	_____ State/Local	_____ National
_____ Loan Servicer	_____ State/Regional	_____ National
_____ Guaranty Agency Servicer	_____ State/Regional	_____ National
_____ Collection Agency	_____ State/Local	_____ National
_____ Accrediting Agency	_____ State/Regional	_____ National
_____ Student Affiliation	_____	_____ National
_____ Institutional	_____ State Association	
_____ Regional	_____ National	

Other group involved in Student Financial Assistance Programs (specify)

Other factors that would promote diversity in negotiated rulemaking (specify)

Nominated by: [Optional]
Print Name:
Address:
[Area Code/Name]
Phone:
Fax:

Nomination Form Must Be Returned To: Robert W. Evans, Director, Division of Policy Development, Policy, Training, & Analysis Service, ROB–3 Room 4310, 7th & D Street, S.W., Washington, D.C. 20202

Fax Nomination Form To: Fax Number 202–205–0786, Robert W. Evans, Division of Policy Development

Nomination Form Must Be *Received* by Close of Business, October 9, 1992, 5:00 PM, Eastern Standard time, Mail or Fax Copy

[FR Doc. 92–22459 Filed 9–16–92; 8:45 am]

BILLING CODE 4000–1–M

[CFDA No.: 84.237D]

Program for Children and Youth With Serious Emotional Disturbance; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To support projects, including research projects, for the purpose of improving special education and related services to children and youth with serious emotional disturbance, and demonstration projects to provide services for children and youth with serious emotional disturbance.

This program supports AMERICA 2000, the President's strategy for achieving the National Education Goals, by improving our understanding of how to enable children and youth with serious emotional disturbance to reach the high levels of academic achievement called for by the National Education Goals and by encouraging the creation of communities where learning can happen.

Eligible Applicants: Institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies are eligible for awards under this competition.

Deadline for Transmittal of Applications: March 19, 1993.

Deadline for Intergovernmental Review: May 19, 1993.

Applications Available: November 20, 1992.

Available Funds: $1,337,000.

Estimated Average Size of Awards: $334,000 for the first 24 months of the projects ($167,000 per 12 month period). Projects are likely to be level funded at $167,000 for the third year unless there are increases in costs attributable to significant changes in activity level.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 328.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 328.3 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will select for funding only

those applications proposing projects that meet this priority:

Priority—Development and Support for Enhancing Professional Knowledge, Skills, and Strategies (CFDA 84.237D1)

This priority provides support to institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies for research projects that improve special education and related services to children and youth with serious emotional disturbance. Projects must develop the knowledge, skills and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies.

Invitation Priority: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that conduct research on providing training and support for education, mental health, social work, and other relevant personnel to improve services for children and youth with serious emotional disturbance. The Secretary encourages projects that include the following activities: (a) Identifying knowledge and skills needed by "post-entry" personnel (i.e. personnel who have completed preservice training and are currently engaged in service delivery) to enhance collaboration and improve services for children and youth with serious emotional disturbance; (b) testing staff development methods to impart the identified knowledge and skills to post-entry personnel; (c) testing staff development, organizational approaches, and other strategies to decrease professional burn-out and attrition, and to promote motivation, a sense of empowerment, and continuing commitment to achieving better outcomes for children and youth with serious emotional disturbance.

The Secretary is particularly interested in supporting projects in a variety of settings, and particularly encourages projects emanating from service providers in collaboration with researchers and other appropriate experts.

For Applications or Information Contact: Dr. David Malouf, U.S. Department of Education, 400 Maryland Avenue SW. Switzer Building, room 3521, Washington, DC 20202-2640. Telephone: (202) 205-8111. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1426.

Dated: September 11, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-22463 Filed 9-16-92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.024J]

Early Education Program for Children With Disabilities Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide Federal support for a variety of activities designed to address the special problems of infants, toddlers, and preschool aged children with disabilities, and to assist State and local entities in expanding and improving programs and services for those children and their families. Activities include demonstration, outreach, experimental, research, and training projects, and research institutes.

This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by assisting those with disabilities in meeting Goal 1, School Readiness.

Eligible Applicants: States are eligible for grants or cooperative agreements under this competition.

Deadline for Transmittal of Applications: March 8, 1993.

Deadline for Intergovernmental Review: May 8, 1993.

Applications Available: December 31, 1992.

Available Funds: $750,000.

Estimated Range of Awards: $140,000-$160,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 309 as amended on October 22, 1991 (56 FR 54686) and June 29, 1992 (57 FR 28964).

Absolute Priority—Statewide Data Systems Projects

Under 34 CFR 75.105(c)(3) and 34 CFR 309.3(i) the Secretary gives an absolute preference to applications that meet this priority. The Secretary funds under this competition only applications that meet this absolute priority.

For Application or Information Contact: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue SW., room 4622, Switzer Building, Washington, DC 20202-2644. Telephone (202) 205-9503. Deaf and hard of hearing individuals may call (202) 205-6170 for TDD services.

Program Authority: 20 U.S.C. 1423.

Dated: September 11, 1992.

Philip S. Link,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-22464 Filed 9-16-92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.180G1]

Technology, Educational Media and Materials for Individuals With Disabilities Program; Notice Inviting Applications for New Awards Under the Technology, Educational Media, and Materials for Individuals With Disabilities Program for Fiscal Year (FY) 1993

Purpose of Program: To support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities.

These priorities support AMERICA 2000, the President's strategy for achieving the National Education Goals, by improving our understanding of how to enable children with disabilities to reach the high levels of educational performance envisioned by the Goals.

Eligible Applicants: Institutions of higher education, State and local educational agencies, public agencies, and private nonprofit or for profit organizations.

Deadline for Transmittal of Applications: November 30, 1992.

Deadline for Intergovernmental Review: January 29, 1993.

Applications Available: October 1, 1992.

Available Funds: $832,000.

Estimated Average Size of Awards: $166,000 for the first 12 months of the projects. Multi-year projects are likely to be level funded unless there are

increases in costs attributable to significant changes in activity level.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 333, as amended on October 22, 1991 at 56 FR 54703–54704.

Priority: Under 34 CFR 75.105(c)(3), 34 CFR 333.1, and 34 CFR 333.3, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this program only applications that meet this absolute priority:

Absolute Priority—Technology, Educational Media, and Materials Research Projects That Promote Literacy

This priority provides support for research projects that examine how advancing the availability, quality, use, and effectiveness of technology, educational media, and materials can address the problem of illiteracy among individuals with disabilities.

Invitational Priority: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

The Secretary is particularly interested in projects that—

(a) Define literacy as: To read, to communicate, to compute, to make judgments and to take appropriate action;

(b) Are of rigorous design and employ clearly explicated quantitative or qualitative methodologies, or both, appropriate to the purpose of the project; and,

(c) Consider learning and psycho-social factors in examining the availability, quality, and use of specified technology, educational media, and materials, and in examining their effectiveness in providing experiences and opportunities that improve the literacy of children and youth with disabilities.

For Applications or Information Contact: Jane Hauser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3521, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205–8126. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1461.

Dated: September 11, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92–22462 Filed 9–16–92; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.180E1]

Technology, Educational Media and Materials for Individuals With Disabilities Program; Notice Inviting Applications for New Awards Under the Technology, Educational Media, and Materials for Individuals With Disabilities Program for Fiscal Year (FY) 1993

Purpose of Program: To support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities.

These priorities support AMERICA 2000, the President's strategy for achieving the National Education Goals, by improving our understanding of how to enable children with disabilities to reach the high levels of educational performance envisioned by the Goals.

Eligible Applicants: Institutions of higher education, State and local educational agencies, public agencies, and private nonprofit or for-profit organizations.

Deadline for Transmittal of Applications: November 30, 1992.

Deadline for Intergovernmental Review: January 29, 1993.

Applications Available: October 1, 1992.

Available Funds: $1,300,000.

Estimated Average Size of Awards: $216,000 for the first 12 months of the projects. Multi-year projects are likely to be level funded unless there are increases in costs attributable to significant changes in activity level.

Estimated Number of Awards: 6 grants.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 333, as amended on October 22, 1991 at 56 FR 54703–54704.

Priority: The notice of final priority for Demonstrating and Evaluating the Benefits of Educational Innovations Using Technology, published in the **Federal Register** on May 13, 1992 at 57 FR 20621. The published priority indicated that 4 projects would be funded. However, the anticipated number of projects to be funded in fiscal year 1993 is 6, not 4 as shown in the priority.

For Applications or Information Contact: Dr. David Malouf, U.S. Department of Education, 400 Maryland Avenue, SW., room 3521, Switzer Building, Washington, DC 20202–2640. Telephone: (202) 205–8111. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1461.

Dated: September 11, 1992.

Robert R. Davila,

Assistant Secretary Office of Special Education and Rehabilitative Services.

[FR Doc. 92–22461 Filed 9–16–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Noncompetitive Financial Assistance Award to Southern Methodist University

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: DOE announces that it plans to award a noncompetitive grant to Southern Methodist University (SMU) under Grant Number DE–FG01–92IE11185. The scope of work will include the following: (1) To determine and report on present and future energy trends Internationally and within the United States (U.S.), and (2) to provide U.S. energy companies exposure and experience to the International Energy

Market through participation in SMU's Institute for the Study of Earth and Man (ISEM), a series of energy briefings designed to introduce new opportunities in energy development. Pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2)(i)(B and D), DOE has determined that eligibility for this grant be limited to Southern Methodist University. The estimated cost for the ISEM conferences is at least $104,100, with $30,000 being provided by DOE with this grant. The procurement request number for this requirement is DE-FC01-92IE11185.000.

FOR FURTHER INFORMATION CONTACT: John Wells, PR-322.4, U.S. Department of Energy, Office of Placement and Administration, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 634-4471.

SUPPLEMENTARY INFORMATION: Approximately five years ago, the U.S. domestic petroleum exploration industry began to seriously deteriorate, affecting the independent explorations as well as the major operators. In response to this, SMU's ISEM was initiated to introduce new opportunities overseas by focusing attention on areas which have been regarded as inaccessible terrain by the industry. Since the advent of this series four years ago, ISEM has hosted delegations from locations world wide. The format is to invite senior level representatives from interested American companies to briefings that typically feature key energy officials from other countries that have the potential to develop new energy resources. ISEM seeks financial assistance from DOE to help maintain a viable and healthy energy industry within the U.S. SMU's ISEM not only contributes to the maintenance of a healthy U.S. energy industry, but also provides developing countries the opportunity to present information on their resources and development potential. SMU has developed a unique and innovative program (ISEM) that potentially may help revive the U.S. domestic energy industry. No other private or government entity possesses ISEM's level of expertise on the subject matter in question. Therefore, the DOE has determined that this award to Southern Methodist University on a restricted eligibility basis is appropriate.

Thomas S. Keefe,

Director, Division "B", Office of Placement and Administration.

[FR Doc. 92-22550 Filed 9-16-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of DOE Furnace Test Procedures From Armstrong Air Conditioning, Inc. (Case No. F-055)

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Armstrong Air Conditioning, Inc. (Armstrong) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's EG6H, EG7H, and EDG6H series of condensing furnaces.

Today's notice also publishes a "Petition for Waiver" from Armstrong. Armstrong's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Armstrong seeks to test using a blower delay time of 30 seconds for its EG6H, EG7H, and EDG6H series of condensing furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than October 19, 1992.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-055, Mail Stop CE-90, room 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-0561.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-431, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On July 23, 1992, Armstrong filed an Application for Interim Waiver regarding blower time delay.

Armstrong's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Armstrong requests the allowance to test using a 30-second blower time delay when testing its EG6H, EG7H, and EDG6H series of condensing furnaces. Armstrong states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 1.3 percent. Since current DOE test procedures do not address this variable blower time delay, Armstrong asks that the Interim Waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, 56 FR 2920, January 25, 1991, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, and 56 FR 6021, February 14, 1991; Lennox Industries, 55 FR 50224, December 5, 1990; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991; Inter-City Products Corporation, 55 FR 51487, December 14, 1991, and 56 FR 63945, December 6, 1991; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, and 56 FR 63940, December 6, 1991; Snyder General Corporation, 56 FR 45960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, and 57 FR 10160, March 24, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; and The Ducane Company, 56 FR 63943, December 6, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Armstrong an Interim Wavier for its EG6H, EG7H, and EDG6H series of condensing furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations part 430, the following letter granting the Application for Interim Waiver to Armstrong was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, September 10, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Department of Energy

Washington, DC 20585

Mr. Bruce R. Maike,

Vice-President Product Engineering, Armstrong Air Conditioning, Inc., 421 Monroe Street, Bellevue, Ohio 44811

Dear Mr. Maike: This is in response to your July 23, 1992, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedure regarding blower time delay for the Armstrong Air Conditioning, Inc. (Armstrong) EG6H, EG7H, and EDG6H series of condensing furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 50 FR 3253, January 31, 1990, 56 FR 2920, January 25, 1991, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, and 56 FR 6021, February 14, 1991; Lennox Industries, 50 FR 50224, December 5, 1990; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991; Inter-City Products Corporation, 50 FR 51487, December 14, 1991, and 56 FR 63945, December 6, 1991; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, and 56 63940, December 6, 1991; Snyder General Corporation, 56 FR 45960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, and 57 FR 10160, March 24, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; and The Ducane Company, 56 FR 63943, December 6, 1991.

Armstrong's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Armstrong will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Armstrong's Application for an Interim Waiver from the DOE test procedure for its EG6H, EG7H, and EDG6H series of condensing furnaces regarding blower time delay is granted.

Armstrong shall be permitted to test its EG6H, EG7H, and EG7H, and EDG6H series of condensing furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, appendix N, with the modification set forth below.

(i) Section 3.0 in appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

Armstrong Air Conditioning Inc.

July 23, 1992.

Assistant Secretary, Conservation & Renewable Energy,

United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585

Subject: Petition for Waiver and Application for Interim Waiver

Gentlemen: This is a Petition for Waiver and application for Interim Waiver submitted

pursuant to Title 10 CFR 430.28. Waiver is requested from the test procedure for measuring Furnace Energy Consumption as found in Appendix H to Subpart B of Part 430.

The current test requires a 1.5 minute delay between burner ignition and the start of the circulating air blower. Armstrong Air Conditioning Inc. is requesting waiver and authorization to use a 30 second delay instead of the specified 1.5 minutes for blower start-up after main burner ignition. Armstrong intends to use a fixed timing control on our EG6H, EG7H, and EDG6H condensing gas furnaces to gain additional energy savings that are achieved with the use of shorter blower on times.

Test data for these furnaces with a 30 second delay indicate an increase in AFUE up to 1.3 percentage points. The use of a 30 second delay reduces flue losses thus increasing furnace efficiency. Copies of confidential test data confirming these energy savings will be forwarded to you upon request.

The current test procedure does not give Armstrong credit for the energy savings that can be obtained using fixed timing. The proposed ASHRAE 103-1988 that is under consideration by D.O.E. addresses the use of timed blower operation. Granting of this Waiver permits testing of similar competitive products to be rated on a comparable basis to that of Armstrong.

Armstrong is confident that this Waiver will be granted, and therefore requests an Interim Waiver be granted until a final ruling is made. Armstrong, as well as other manufacturers of domestic furnaces, have been granted similar waivers.

Manufacturers that domestically market similar products have been sent a copy of this Petition for Waiver and Application for Interim Waiver.

Sincerely,

Armstrong Air Conditioning Inc.

Bruce R. Maike,

Vice President Product Engineering.

[FR Doc. 92-22554 Filed 9-16-92; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Proposed Power Marketing Policy; Cumberland System of Projects

AGENCY: Southeastern Power Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Southeastern Power Administration (Southeastern) has developed the following proposed power marketing policy for its Cumberland System of Projects pursuant to Notice published in the **Federal Register** of February 14, 1992, 57 FR 5443, and in accordance with Procedure for Public Participation in the formulation of Marketing Policy published July 6, 1978, 43 FR 29186. The policy, when finalized, will constitute written guidelines for future disposition of power from the system. The policy is developed under authority of section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and section 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7152. Interested persons are invited to submit written comment directly to Southeastern and/or present written or oral views, data or arguments at the public comment forum on the proposed policy.

DATES: Written comments are due on or before December 4, 1992. Comments should be submitted to the Administrator at the address shown below. A public comment forum will be held in Nashville, Tennessee, at 10 a.m., on November 18, 1992, in Conference Room A-761 in the U.S. Courthouse Annex.

TO SUBMIT COMMENTS OR FOR FURTHER INFORMATION CONTACT: Mr. John A. McAllister, Jr. Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635; Phone: 706-283-9911.

SUPPLEMENTARY INFORMATION: Southeastern received 72 responses to its solicitation for proposals and recommendations contained in its February 14, 1992, Notice of Intent to Formulate Revised Power Marketing Policy. These responses were carefully considered. Major issues raised by the proposed policy are:

1. Are the current policy conditions and the resultant contracts still satisfactory to the parties, thereto, and

2. In light of the existing policy's provision that the policy will be implemented through contracts for terms of approximately 10 years, should the policy and contracts be revised to extend the term of contracts for a greater period of time.

The majority of the responses to the notice of intent to formulate a revised power marketing policy indicate a desire to maintain the existing policy and to extend the term of contracts.

Additionally, an Environmental Assessment (EA) has been prepared and a Finding of No Significant Impact (FONSI) issued regarding the proposed power marketing policy. A copy of the EA, FONSI, and the current marketing policy may be obtained by contacting the Administrator at the address and telephone number listed above.

The public comment forum will not be adjudicative in nature. The Administrator shall act as or appoint a forum chairman. At the start of the forum the chairman shall briefly explain procedures and rules. Customers and the public shall be allowed to make oral statements and comments, introduce relevant documents, and ask questions regarding the proposed power marketing policy of Southeastern representatives at the forum. Persons desiring to speak shall so notify Southeastern at least 3 days before the forum is scheduled so that a list of forum participants can be prepared. If necessary, the chairman may establish time limitations for oral presentations by these participants to assure that all who register to speak shall have an opportunity to do so. Others will be permitted to speak if time allows. Those unable to speak because of time limitations and others who so desire, may submit written comments. The chairman and Southeastern representatives may question forum participants and, the chairman, at his discretion, may permit other participants a like privilege.

Questions not answered by Southeastern representatives during the forum shall be subsequently responded to by Southeastern in writing. All documents introduced and written answers to questions shall be available for inspection and copying at Southeastern headquarters in accordance with the Freedom of Information Act. Forum proceedings shall be transcribed. Copies of the transcript may be purchased from the reporter.

Customers and the public may consult, or file written comments and questions, with Southeastern regarding the proposed marketing policy on or before December 4, 1992. Questions shall receive expeditious response. Comments, questions, and answers shall be available at Southeastern headquarters for inspection or copying in accordance with the Freedom of Information Act. The forum transcript will likewise be available for inspection at Southeastern headquarters in Elberton, Georgia.

Issued at Elberton, Georgia, September 10, 1992.

Leon Jourolmon,

Acting Administrator.

Proposed Power Marketing Policy

Cumberland Projects

General. The projects and power subject to this policy are:

	Capacity (kilowatt) (name-plate)	Energy (mega-watt-hours) (average annual)
Barkley	130,000	[1] 550,000
Center Hill	135,000	385,000
Cheatham	36,000	165,000
Cordell Hull	[1]00,000	360,000
Dale Hollow	54,000	125,000

	Capacity (kilowatt) (name-plate)	Energy (mega-watt-hours) (average annual)
Laurel	61,000	69,000
Old Hickory	100,000	475,000
J. Percy Priest	28,000	72,000
Wolf Creek	270,000	920,000

[1] Does not include increased output resulting from Barkley-Kentucky Canal.

The policy for the Cumberland System of Projects will be implemented as of midnight, May 31, 1993, or as soon thereafter as contracts can be amended or negotiated.

The policy will be implemented through negotiated contracts for terms of approximately 20 years.

Southeastern will seek the use of transmission facilities owned by the Tennessee Valley Authority (TVA) and other utilities within the marketing area for all necessary purposes including bulk transmission and transmitting to load centers where required. Power deliveries may be made at the projects, at utility interconnections with TRA or at customer substations, as determined by Southeastern. The projects will be hydraulically, electrically, and financially integrated and will be operated to make maximum contribution to the TVA System and to permit deliveries to the other utility areas within the selected marketing area. Preference in the sale of power shall be given to public bodies and cooperatives.

Marketing Area. The marketing area will be the TVA service area and the service areas of the following utilities: Big Rivers Electric Corporation; Carolina Power and Light Company, Western Division; East Kentucky Power Cooperative; Kentucky Utilities Company; Municipal Energy Agency of Mississippi, the seven cooperative members of South Mississippi Electric Power Association currently receiving Cumberland Power; and Southern Illinois Power Cooperative. The geographic marketing area will consist of approximately 148,000 square miles. Except where duplication of allocations would result, public bodies and cooperatives located outside the TVA service area and listed on Appendix A attached hereto are eligible to share in Cumberland power marketable under this policy; provided that Cumberland power shall not be made available to meet any portion of any preference entity demand within the selected Cumberland marketing area which is in part required to be met by power from any other Southeastern system. Power marketed to TVA will be for the sole benefit of the 160 preference customers on the TVA system and which are served by TVA.

Allocation of Power. Power available under this policy for allocation from the Cumberland System will be peaking power only. The power will be divided as follows:

Customer	KW
Big Rivers Electric Cooperative	178,000
East Kentucky Power Cooperative	170,000
City of Henderson, Kentucky	12,000
Municipal Energy Agency of Mississippi for its eight municipal members	30,000
Southern Illinois Power Cooperative	28,000
South Mississippi Electric Power Association for its 7 cooperative members currently receiving Cumberland power	51,000
Tennessee Valley Authority	405,000
Municipalities in Kentucky Utilities Company area	62,000
CP&L Western Division Cooperatives & Municipality	14,000

The energy accompaniment of such capacity, except TVA, will be 1,500 kilowatt-hours per kilowatt per year, except that if additional energy is required in given utility areas to make viable capacity allocations under acceptable arrangements such additional energy will be made available from the Cumberland projects. All remaining capacity and energy will be allocated to TVA for the benefit of public bodies and cooperatives in its area. Capacity reserved for the municipalities in the Kentucky Utilities Company area will continue to be marketed to TVA until contracts can be negotiated with the municipalities.

Utilization of Utility Systems. In the absence of transmission facilities of its own, Southeastern will acquire the use of area generation and transmission systems to integrate the Cumberland projects, provide firming, wheeling, exchange and other functions as may be necessary to dispose of system power under reasonable and acceptable marketing arrangements. Utility systems providing such services shall be entitled to adequate compensation. Southeastern will make declarations of all energy available from the Cumberland System to TVA and cooperatively determine the magnitude of delivery from particular projects in accordance with acceptable procedures generally followed by Southeastern and the Corps of Engineers with respect to its other systems. TVA will schedule all of the power to generally meet its own system requirements and will transmit portions of such power to its interconnections in response to allowable schedules submitted by neighboring utilities entitled to receive under appropriate arrangements designated quantities of system power Specific terms and conditions of arrangements between Southeastern and TVA and Southeastern and the other utilities will be the subject of negotiations. Distribution preference agencies directly affected by negotiations with wheeling utilities shall stand in an advisory role to Southeastern and shall be involved as determined by Southeastern and otherwise kept currently advised as to the status and progress of negotiations.

Wholesale Rates. Rate schedules shall be drawn so as to recover all costs associated with producing and transmitting the power in accordance with the current repayment criteria. Production costs will be determined on a system basis and rate schedules will be related to the integrated output of the projects. Transmission costs may cause rate schedules to vary between utility areas. Rate schedules may be revised periodically.

Resale Rates. Resale rate provisions requiring the benefits of SEPA power to be passed on to the ultimate consumer will be included in each SEPA customer contract which provides for SEPA to supply more than 25 percent of the customer's total power requirements during the term of the contract.

Energy and Economic Efficiency Measures. Each customer purchasing SEPA power shall agree to participate in an integrated resource planning process and to encourage the efficient use of energy by ultimate consumers.

Appendix A—Preference Agencies in the Cumberland System Area

Kentucky

Big Rivers Electric Corporation

Member Cooperatives:
- Green River EC
- Henderson-Union REC
- Meade County REC
- Jackson-Purchase EC

Associated Utilities:
- Henderson Municipal Power & Light

East Kentucky Power Cooperative, Inc.

Member Cooperatives:
- Big Sandy REC
- Blue Grass REC
- Clark REC
- Cumberland Valley REC
- Farmers REC
- Fleming-Mason REC
- Fox Creek REC
- Grayson REC
- Harrison REC
- Inter-County REC
- Jackson County REC
- Licking Valley REC
- Nolin REC
- Owen County REC
- Salt River REC
- Shelby REC
- South Kentucky REC

Taylor County REC

Kentucky Utilities Company Area

Barbourville
Bardstown
Bardwell
Benham
Corbin
Falmouth
Frankfort
Madisonville
Nicholasville
Paris
Providence

Associated Utilities:
Owensboro Municipal Utilities

Mississippi

Municipal Energy Agency of Mississippi

Member Municipalities
Canton
Clarksdale
Durant
Greenwood
Itta Bena
Kosciusko
Leland
Yazoo City

South Mississippi Electric Power Association

Member Cooperatives:
Coahoma EPA
Delta EPA
Magnolia EPA
Southern Pine EPA
Southwest Mississippi EPA
Twin County EPA
Yazoo Valley EPA

North Carolina

Carolina Power & Light Company Area (Western Division)

Waynesville
French Broad EMC
Haywood EMC

Illinois

Southern Illinois Power Cooperative

Member Cooperatives:
Egyptian ECA
Southeastern Illinois EC
Southern Illinois EC

[FR Doc. 92-22551 Filed 9-16-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Mutual Assistance Program, Notice of Proposed Cooperative Agreement

AGENCY: Western Area Power Administration, DOE.

ACTION: The Western Area Power Administration (Western)/State Energy Office Conservation and Renewable Energy (C&RE) Mutual Assistance Program, Notice of Proposed Cooperative Agreement.

SUMMARY: The Department of Energy announces that, pursuant to 10 Code of Federal Regulations 600.7(b), eligibility for a cooperative agreement to develop and implement cofunded C&RE activities for the State of Nevada has been restricted to the Nevada Energy Office, Office of Community Services.

ADDRESSES: Requests for further information should be submitted to the following address: Ms. Ruth Adams, Contract Specialist, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-7709, Purchase Requisition Number: GG-PR-19032.

SUPPLEMENTARY INFORMATION: Western's C&RE program is designed to ensure wise stewardship of the Federal hydropower resources and to encourage energy conservation and the development of renewable energy resources. To meet these ends, Western offers a number of C&RE program activities to its customers, including educational workshops and seminars, equipment loan programs, and cost sharing of C&RE projects. Joint program sponsorship with State Energy Offices is one of the methods that Western uses to effectively deliver its C&RE activities to customers within the 15-State marketing area.

Western's Phoenix Area Office has cosponsored joint C&RE activities with the Nevada Energy Office since 1987. Programs cosponsored to date include workshops on subjects such as pump efficiency, infrared thermography, commercial and residential indoor air quality, commercial and industrial energy efficiency, utility scale solar energy technologies, small scale photovoltaics and passive solar technologies, and energy efficiency in mining. Such joint participation mutually benefits the State and the Federal Government through the pooling of resources to provide cost-effective C&RE activities in Nevada.

The Nevada Energy Office is committed to promoting energy efficiency and renewable energy development in its State. Its resources, technical ability, and statewide credibility put it in the best position to manage this cooperative program.

Solicitation Number: DE-RP65-92WG19550.

Scope of Project

The Western/State Energy Office C&RE Mutual Assistance program is designed to allow joint sponsorship of C&RE activities within the State of Nevada by Western and the Nevada Energy Office. The program will provide cost-shared funding for the development and implementation of C&RE activities in three general categories: (1) Technology development and transfer; (2) public information; and (3) economic analysis of C&RE projects. Activities funded under this program may include, but are not limited to: educational workshops and seminars on energy efficiency and renewable energy; State, regional, and national C&RE conferences; energy efficiency tests and monitoring; C&RE publication development; energy efficiency demonstration and evaluation projects, and community energy management activities.

Issued at Golden, Colorado, September 4, 1992.

William H. Clagett,
Administrator.

[FR Doc. 92-22553 Filed 9-16-92; 8:45 am]

BILLING CODE 6450-01-M

Mutual Assistance Program, Notice of Proposed Cooperative Agreement

AGENCY: Western Area Power Administration, DOE.

ACTION: The Western Area Power Administration (Western)/State Energy Office Conservation and Renewable Energy (C&RE) Mutual Assistance Program, Notice of Proposed Cooperative Agreement.

SUMMARY: The Department of Energy announces that, pursuant to 10 Code of Federal Regulations 600.7(b), eligibility for a cooperative agreement to develop and implement cofunded C&RE activities for the State of Nevada has been restricted to the Nevada Energy Office, Office of Community Services.

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The Nevada Energy Office is committed to promoting energy efficiency and renewable energy development in its State. Its resources, technical ability, and statewide credibility put it in the best position to manage this cooperative program.

Solicitation Number: DE-RP65-92WG19550.

Scope of Project

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Issued at Golden, Colorado, September 4, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92-22552 Filed 9-16-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 7045-003 New Hampshire]

Mainstream Hydro Corp.; Availability of Environmental Assessment

September 11, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license for the Claremont Water Power Project.

The amendment includes a redesign of the entire project as licensed on February 2, 1987 (38 FERC ¶ 62,084). A new diversion dam will be constructed 250 feet downstream of the previous diversion point at Broad Street Dam. The penstock, powerhouse, and tailrace will be constructed on the north shore of the river rather than the south shore. Upper Sullivan Dam remains a component of the project. The capacity of the project is revised from 1,890 kilowatts (kw) to 1,555 kw. The project is located on the Sugar River, a tributary of the Connecticut River, in Sullivan County, New Hampshire.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22453 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

September 11, 1992.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Minor License.

b. *Project No.:* 11322-000.

c. *Date filed:* August 20, 1992.

d. *Applicant:* Tuolumne Utilities District.

e. *Name of Project:* Columbia Water Supply/Hydroelectric Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management and Bureau of Reclamation near the town of Sonora in Tuolumne County, California. T2N, R14E in sections 1, 2, and 3; T3N, R14E in sections 34 and 35.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Malcolm D. Crawford, Tuolumne Utilities District, P.O. Box 3728, 13144 Mono Way, Sonora, CA 95370, (209) 532-5536.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219-2827.

j. *Description of Project:* The proposed project would consist of: (1) The applicant's existing 5-mile-long Columbia Ditch which gets water from the Main Tuolumne Canal or Pacific Gas & Electric's licensed Phoenix Project No. 1061; (2) an intake structure on the ditch; (3) an 18,700-foot-long steel penstock; (4) a powerhouse containing one generating unit with an installed capacity of 350 Kw; (5) a 500-foot-long tailrace returning water to the Bureau of Reclamation's existing New Melones Reservoir; (6) a 1,588-foot-long transmission line interconnecting with an existing Tuolumne County Public Power Agency transmission line; and (7) appurtenant facilities.

k. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22442 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-0-M

Hydroelectric Application

September 11, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Minor License.

b. *Project No.:* 11313-000.

c. *Date filed:* July 30, 1992.

d. *Applicant:* Edward M. Clark, dba White Mountain Hydroelectric Power Company.

e. *Name of Project:* Apthorp Dam Project.

f. *Location:* On the Ammonoosuc River, near Littleton, Grafton County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contract:* William K. Fay, P.E., P.O. Box 581, Bolyston, Massachusetts 01505, (508) 869-6091.

i. *FERC Contact:* Mary C. Golato (202) 219-2804.

j. *Comment Date:* September 28, 1992.

k. *Description of Project:* The proposed project consists of the

following features: (1) An existing dam 20 feet high and 180 feet long; (2) an existing reservoir with a surface area of 20 acres and an estimated gross storage of 210 acre-feet; (3) an existing penstock; (4) an existing powerhouse containing one 425-kilowatt turbine-generating unit and a new 175-kW unit; (5) a short transmission line; and (6) appurtenant facilities.

1. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92- 22441 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-161-023]

ANR Pipeline Co., Proposed Changes in FERC Gas Tariff

September 11, 1992.

Take notice that ANR Pipeline Company (ANR), on August 28, 1992, tendered for filing a document outlining its acceptance of the settlement approved by the Commission's August 5, 1992 "Order Approving Settlement on an Interim Basis as Modified and Denying Rehearing" in the captioned proceeding, together with the tariff sheets listed on Attachment A to the filing as part of its FERC Gas Tariff. ANR requests approval of the filing on an expedited basis, in order to permit ANR to implement its settlement and make the subject tariff sheets effective on November 1, 1992.

ANR states that all of its Volume No. 1, 1A, 2 and 3 customers and interested state commissions, and all parties to the proceedings, have been apprised of this filing via overnight mail.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22435 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-687-000]

Columbia Gas Transmission Corp.; Application

September 9, 1992.

Take notice that on September 1, 1992, Columbia Gas Transmission Corporation (Columbia) 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act (NGA), as amended, and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities subject to the jurisdiction of the Federal Energy Regulatory Commission (Commission) to be utilized for firm transportation service, under part 284 of the Commission's Regulations, of 16,200 Dth per day of natural gas for Indeck-Olean Limited Partnership (Indeck). Volumes will be received by Columbia at an existing interconnection between Columbia and ANR Pipeline Company (ANR) and delivered by Columbia to Empire Exploration, Inc. (Empire), an intrastate pipeline, at a proposed interconnection between Columbia and Empire in Cattaraugus County, New York for transportation and re-delivery by Empire to the Indeck cogeneration facility in Olean, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia requests authority to construct and operate the following facilities to provide the service described above:

(1) Delmont Compressor Station—Install one 650-horsepower unit and related equipment and buildings in Westmoreland County, Pa.

(2) Empire Measuring Station—Establish a point of interconnection with Empire, for firm transportation service to Indeck.

The cost of facilities for which Columbia seeks specific authorization is estimated to be $3,774,440. Indeck will make advance contributions in-aid-of-construction equal to Columbia's facility costs, plus applicable "gross up" for tax purposes. Columbia's cost will be limited to the filing fee of $39,440.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate 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 Columbia to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22440 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-7-23-000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 11, 1992.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on August 27, 1992 certain revised tariff sheets included in appendix A attached to the filing. Such sheets are proposed to be effective September 1, 1992.

The above referenced tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and §§ 21.2

and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. The increased gas cost in the instant filing result from: (1) Updating ESNG's pipeline supplier demand rates payable to Transcontinental Gas Pipe Line Corporation and Columbus Gas Transmission Corporation, and (2) updating various storage rates payable to Transcontinental Gas Pipe Line Corporation.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 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 September 18, 1992. 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. 92-22437 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-7-23-001]

Eastern Shore Natural Gas Co. Proposed Changes in FERC Gas Tariff

September 11, 1992.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on September 3, 1992 certain substitute tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective September 1, 1992.

ESNG states that such tariff sheets are being filed pursuant to Section 154.308 of the Commission's regulations and § 21.2 and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. ESNG is filing the above referenced tariff sheets in order to correct sales rates on Sheet No. 13 (WSS-1 Washington Storage Service) and correct pagination of Sheet Nos. 5, 6, 10, 11, 12 and 14 to comply with FERC requirements.

ESNG states that copies of the filing have been served upon its 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 rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22436 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-1-77-000]

High Island Offshore System; Proposed Changes in FERC Gas Tariff

September 11, 1992.

Take notice that on September 8, 1992, High Island Offshore System ("HIOS") filed with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to be effective October 1, 1992.

First Revised Volume No. 1:

Eighth Revised Sheet No. 8
Fifth Revised Sheet No. 8A

HIOS states that the above-referenced tariff sheets are being filed to adjust its Annual Charge Adjustment ("ACA") rate from $0.0024 per Mcf to $0.0023 per Mcf pursuant to Section 5 of the Schedule of Rates and Charges of its FERC Gas Tariff, First Revised Volume No. 1.

HIOS requests that the Commission waive its notice requirements to permit the revised tariff sheets to become effective less than 30 days from the date of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 18, 1992. 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. 92-22439 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-136-025]

National Fuel Gas Supply Corp.; Compliance Filing

September 11, 1992.

Take notice that on August 28, 1992, National Fuel Gas Supply Corporation ("National") filed a "Compliance Filing" pursuant to section V of the Settlement approved by the Commission in the above-captioned proceedings. National proposes to adjust its rates to recover costs associated with Account No. 858 effective on September 1, 1992.

National states that copies of this filing were served upon the Company's jurisdictional customers and the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22454 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-057]

Northern Natural Gas Co.; Report of Distribution of Refund Paid

September 11, 1992.

Take notice that Northern Natural Gas Company, (Northern) on August 25, 1992 tendered for filing its Interim Gas Inventory Charge Report of Distribution of Refunds in the above proceeding.

Northern states that on August 20, 1992 it remitted refunds to its

jurisdictional sales and transportation customers of $241,340.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22449 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1582-009]

National Fuel Gas Supply Corp.; Refund Report

September 11, 1992.

On August 31, 1992, National Fuel Gas Supply Corporation (National) filed a report showing that refunds totalling $196,026.30 were distributed on August 31, 1992, to its firm customers. The refunds are required under Article II, Section 1 of the Settlement Agreement approved by Commission order on April 15, 1992, in Docket Nos. CP89-1582-000, *et al.* The agreement requires National to refund to its customers total revenues received by National for gathering services performed during the period April 1, 1992 through June 30, 1992, plus $75,000.

National states that copies of the report were served upon its customers and upon all interested state regulatory 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 rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be field on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22443 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-058, RP92-228-000 and RP92-1-008]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 11, 1992.

Take notice that Northern Natural Gas Company (Northern) on September 9, 1992, tendered for filing its F.E.R.C. Gas Tariff Fourth Revised Volume No. 1 proposed to be effective November 1, 1992.

Northern states that such tariff sheets are being submitted in compliance with the Commission's Order issued June 26, 1992, in Docket Nos. RP88-259-046 et al. to implement Northern's New Services Settlement effective November 1, 1992.

In addition, Northern is filing to add to the New Services Tariff the provisions approved by the Commission since the filing of the New Services Settlement, as well as certain other clarifications described in the filing. Northern is also filing to effectuate rates on November 1, 1992, in the New Services structure as anticipated in Northern's rate case in Docket No. RP92-1 filed on October 1, 1991.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before September 18, 1992. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22438 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RS92-22-000, RP91-229-000, and RP92-166-000]

Panhandle Eastern Pipe Line Co.; Technical Conference

September 11, 1992.

Take notice that a technical conference has been scheduled in the above-captioned proceeding for 10 a.m. on September 18, 1992 at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The purpose of the conference is to discuss Panhandle Eastern Pipe Line Company's status capacity rights as an Alaska Natural Gas Transportation System prebuild shipper on Northern Border Pipeline Company.

All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call Joel Arneson at (202) 208-2169.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22450 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-142-001 and RP91-68-014]

Penn-York Energy Corp.; Refund Report

On July 20, 1992, Penn-York Energy Corporation (Penn-York) filed a report showing refunds totalling $845,979.21 to its customers for the period October 3, 1991 through July 16, 1992. Penn-York was directed to make the refunds by Commission orders issued in Docket Nos. RP92-142-000 and RP91-68-000. Penn-York has appealed the Commission's orders to the U.S. Court of Appeals for the District of Columbia Circuit. The refund report and the refunds were made under protest.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22444 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-1-80-000 and RP92-164-003]

Tarpon Transmission Co.; Tariff Filing

September 11, 1992.

Take notice that on September 8, 1992, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Revised Substitute Eighth Sheet No. 2A
Revised Substitute First Sheet No. 86A
Revised Substitute Second Sheet No. 96A

Tarpon has requested that the Commission waive its 30-day notice requirement and any other applicable regulations to permit the above-listed tariff sheets to become effective on October 1, 1992.

Tarpon also tendered for filing the following tariff sheets, proposed to be effective on November 1, 1992 (consistent with the Commission's order of May 29, 1992, in Docket No. RP92-164-000 suspending Tarpon's April 30, 1992 rate increase filing, Tarpon Transmission Co., 59 FERC ¶ 61,239 (1992)):

Tenth Revised Sheet No. 2A
Third Revised Sheet No. 86A
Fourth Revised Sheet No. 96A
Alternate Tenth Revised Sheet No. 2A
Alternate Third Revised Sheet No. 86A
Alternate Fourth Revised Sheet No. 96A

Tarpon states that these nine tariff sheets are submitted pursuant to § 154.38(d)(6) of the Commission's Regulations and the Annual Charge Adjustment ("ACA") provision of Tarpon's FERC Gas Tariff.

Tarpon states that on July 27, 1992, the Commission notified Tarpon that the ACA unit charge to be applied to interstate pipeline rates in fiscal year 1993 for the recovery of 1992 Annual Charges assessed pursuant to part 382 of the Commission's Regulations had been revised from $0.0024 per Mcf to $0.0023 per Mcf. Each of the above-listed tariff sheets reflects no change in Tarpon's rates for transportation service other than this revision to the ACA unit charge.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures 18 CFR 385.211 and 385.214. Such motions or 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 desiring 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. 92-22451 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IN86-6-010]

Tennessee Gas Pipeline Co.; Refund Report

September 11, 1992.

On June 30, 1992, Tennessee Gas Pipeline Company (Tennessee) filed a report showing that it flow through refunds of $114,370.47, inclusive of interest, to its jurisdictional sales customers. Tennessee collected the refund from Ozark Gas Transmission System through a $0.005/mcf monthly billing credit to invoices during the period of May 1991 through April 1992, pursuant to a Stipulation and Consent Agreement approved by the Commission in Docket No. IN86-6-000 on August 3, 1987. Tennessee's report and refunds are in accordance with the Commission's orders issued in Docket Nos. IN86-6-001 and IN86-6-002 on February 29, 1988 and April 27, 1988, respectively.

Tennessee states that copies of the report have been mailed to all of its jurisdictional sales customers and affected state regulatory 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 Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22527 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-629-023 and CP90-639-014]

Tennessee Gas Pipeline Co.; Refund Report

September 11, 1992.

Take notice that on August 24, 1992, Tennessee Gas Pipeline Company (Tennessee) filed a refund report in compliance with the Commission's order issued July 23, 1992, in Docket Nos. CP89-629-020 and CP90-639-011. Tennessee states that the report reflects refunds paid on August 21, 1992, to its customers under Rate Schedules NET-Niagara and NET-Northeast. Tennessee states that the refunds are owed because it collected an incorrect GRI surcharge during the first seventeen days of January, 1992. The report is on file with the Commission and open for public inspection.

To be heard or to protest this filing, a person must file a motion to intervene or a protest on or before September 30, 1992. A person filing a motion to intervene or a protest must follow the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions to intervene or protests must be filed with the Federal Energy Regulatory Commission, Washington, DC 20426.

The Commission will consider all filed protests in deciding the appropriate action to take but filing a protest does not make protestants parties to a proceeding. A person wishing to be a party to a proceeding or to participate as a party in a hearing must file a motion to intervene.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22445 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-09228T Texas-71]

State of Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

September 10, 1992.

Take notice that on September 8, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wilcox 8,200' Sand Formation in a portion of Webb County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area lies within Railroad Commission District 4 and consists of all or portions of the following surveys:

Abundio Solis Survey No. 2086 (A-2673)
Jose Anaya Survey No. 2088 (A-2524)
Eugenio R. Rodriguez Survey Porcion 41 (A-269)
Eugenio Sanchez Survey Porcion 42 (A-285)
Jose Cayetano De La Garza Survey Porcion 43 (A-45)
Dolores Garcia Survey Porcion 44 (A-54)
Dolores Garcia Survey Porcion 45 (A-55)

The notice of determination also contains Texas' findings that the referenced portion of the Wilcox 8,200' Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22433 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-09229T Texas-72]

State of Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

September 10, 1992.

Take notice that on September 8, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Edwards Formation in a portion of DeWitt County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The recommended area lies within Railroad Commission District 2 and consists of all or portions of the following surveys:

Survey	Abstract
Franz Henecke	A-218
I.R.R.	A-245
Benj. Haral	A-219
Edw. Edwards	A-605
J.E. Wilson	A-557
W.H. Hartmann	A-522
Rufus Smith	A-543
Indianola R.R.	A-248
Rufus Smith	A-547
L.M. Mason	A-339
John York	A-502
James Foster	A-176

The notice of determination also contains Texas' findings that the referenced portion of the Edwards Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22434 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-7-077]

Transcontinental Gas Pipe Line Corp., Report of Refunds

September 11, 1992.

Take notice that on August 14, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered its Report of Refunds in compliance with the Commission order issued June 4, 1992 in Docket No. RP87-7-075. The refund represents the difference between the amounts billed and the amounts computed utilizing the settlement rates and fuel retention factors for each of Transco's sales, storage, and transportation customers for the period April 10, 1990 through July 31, 1991.

Transwestern states that on August 5, 1992, it issued all applicable refunds totalling $100,162,382.33, including interest, to its customers in accordance with the order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22447 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-137-034 and RP85-31-006]

Transcontinental Gas Pipe Line Corp.; Filing of Refund Plan

September 11, 1992.

Take notice that on August 24, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered its Refund Plan in compliance with the Commission Order on Rehearing issued July 24, 1992 in Docket No. RP83-137-033, which directed Transco to file a refund plan within 30 days detailing its proposed disposition of refunds. The refunds represent the difference between rates charged Transco's transportation customers based upon actual volumes retained at an average retention factor of 6.1%, as compared with an average retention factor of 4.8%, for the period April 1984 through March 1987.

Transco states that it proposes to issue refunds totalling $43,579,762.12, including interest computed through August 24, 1992, plus any additional accrued interest, to its transportation customers as soon as the Commission has acted upon its refund plan. Transco has also indicated the difference in refunds under its proposed plan and the refunds it has already made, with additional refunds (or surcharges) indicated for each customers as appropriate. In accordance with the Commission order, Transco's obligation to make refunds and the required filing of a refund report is delayed until the Commission has acted on the refund plan.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22448 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-54-000]

Western Transmission Corp.; Prefiling Conference

September 11, 1992.

Take notice that a prefiling conference will be convened in this proceeding on Friday, October 2, 1992, at 10 a.m. at the offices of the Federal Regulatory Commission, 810 First Street, NE., Washington, DC. The purpose of the conference is to address Western Transmission Corporation's proposal to comply with Order Nos. 636 and 636-A.

Any party, as defined in 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Kathleen Dias at (202) 208-0909.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22446 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-691-000]

Williams Natural Gas Co.; Request Under Blanket Authorization

September 9, 1992.

Take notice that on September 3, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-691-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to abandon the transportation of natural gas for direct sale to Coastal Derby Refining Company (Coastal), for use at the Coastal crude oil pump station, and to reclaim measuring, regulating and appurtenant facilities in Sumner County, Kansas, under its blanket certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Coastal notified WNG that it no longer requires gas at the crude oil pump station in Sumner County, Kansas. WNG therefore states that it requests authorization to abandon the transportation of gas for direct sale to Coastal and also requests authorization to reclaim the associated measuring, regulating and appurtenant facilities in Sumner County, Kansas. WNG states that the cost to reclaim the measuring, regulating and appurtenant facilities is estimated to be $595.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22452 Filed 9-16-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-4507-7]

National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of complete enforceable commitments received.

SUMMARY: This notice provides a list of companies that have submitted "complete" enforceable commitments to the EPA under the Early Reductions Provisions [section 112(i)(5)] of the Clean Air Act (CAA) as amended in 1990. The list covers commitments determined by the EPA to be complete through the month of July 1992 and includes the name of each participating company, the associated emissions source location, and the EPA Regional Office which is the point of contact for further information. This is the third of a series of notices of this type. The first was published in the May 15, 1992 issue of the **Federal Register** (57 FR 20824) and covered the period through March 31, 1992. Another notice was published on August 3, 1992 for one enforceable commitment found to be complete in the month of May (57 FR 34132). No enforceable commitments were determined to be complete during April or June of 1992 and, therefore, no notices were published for those months. The EPA will publish additional lists of complete submittals on a monthly basis, as needed.

FOR FURTHER INFORMATION CONTACT: David Beck (telephone: 919-541-5421), Rick Colyer (telephone: 919-541-5262), or Mark Morris (telephone: 919-541-5416), Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 for general information on the Early Reductions Program. For further information on specific submittals received under the Early Reductions Program contact the appropriate EPA Regional Office representative listed below.

Region I—Janet Beloin (617) 565-2734.

Region II—Umesh Dholakia or Harish Patel (212) 264-6676.

Region III—Jim Baker (215) 597-3499.

Region IV—Anthony Toney (404) 347-2864.

Region V—John Pavitt (312) 886-6858.

Region VI—Tom Driscoll or Tanya Murray (214) 655-7549, (214) 655-7547.

Region VII—Carmen Torres-Ortega (913) 551-7873.

Region VIII—Dean Gillam (303) 293-1762.

Region IX—Ken Bigos (415) 744-1240.

Region X—Chris Hall (206) 553-1949.

SUPPLEMENTARY INFORMATION: Under section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990, an existing source of hazardous air pollutant emissions may obtain a 6-year extension of compliance with an emission standard promulgated under section 112(d) of the CAA, if the source achieves sufficient reductions of hazardous air pollutant emissions prior to certain dates. On June 13, 1991, the EPA published a proposed rule to implement this "Early Reductions" provision (56 FR 27338). A final rule will be issued shortly.

Sources choosing to participate in the Early Reductions Program must document base year emissions and post-reduction emissions to show that sufficient emission reductions have been achieved to qualify for a compliance extension. As a first step toward this demonstration, some sources may be required to submit an enforceable commitment containing base year emission information, or if not required, may voluntarily submit such emission information to the EPA for approval. As stated in the proposed Early Reductions rule, the EPA will review these submittals to verify emission information, and also will provide the opportunity for public review and comment. Following the review and comment process and after sources have had the chance to revise submittals (if necessary), the EPA will approve or disapprove the base year emissions.

To facilitate the public review process for program submittals, the proposed rule contains a commitment by the EPA to give monthly public notice of submittals received which have been determined to be complete and which are about to undergo technical review within the EPA. Members of the public wishing to obtain more information on a specific submittal then may contact the appropriate EPA Regional Office representative listed above. Approximately sixty-five enforceable

commitments have been received by the EPA, and five have been determined to be complete to date.

Some of the early reductions submittals received actually contain multiple enforceable commitments; that is, some companies have decided to divide their particular plant sites into more than one early reductions source. Each of these sources must achieve the required emissions reductions individually to qualify for a compliance extension. The first three commitments found to be complete were listed in the initial notice of this series which covered the period through March 31, 1992, and appeared in the May 15, 1992, issue of the **Federal Register**. That notice actually listed only two companies; however, the Amoco Chemical submittal contained commitments for two sources at the plant site. Therefore, the first notice should have stated that there were three complete commitments at that time. Another commitment was found to be complete in May, 1992. No commitments were determined to be complete during April or June of 1992 and no notices were published covering those periods. The purpose of today's notice is to add PPG Industries, Inc. to the previously published list of companies that have submitted enforceable commitments determined to be complete by the EPA under the Early Reductions Program. As the remaining submittals are determined to be complete, they will appear in subsequent monthly notices.

At a later time (most likely within one to three months of today's date), the EPA Regional Offices will provide a formal opportunity for the public to comment on the submittal added to the list by today's notice. To do this, the Regional Office will publish a notice in the source's general area announcing that a copy of the source's submittal is available for public inspection and that comments will be received for a 30 day period.

The table below lists those companies that have made complete enforceable commitments or base year emission submittals under the Early Reductions Program through July 31, 1992. These submittals are undergoing technical review within the EPA at this time.

TABLE 1.—COMPLETE ENFORCEABLE COMMITMENTS AS OF JULY 31, 1992

Company	Location	EPA region
1. Kalama Chemical, Inc.	Kalama, WA	X
2. Amoco Chemical Co. (first source).	Texas City, TX	VI

TABLE 1.—COMPLETE ENFORCEABLE COMMITMENTS AS OF JULY 31, 1992—Continued

Company	Location	EPA region
3. Amoco Chemical Co. (second source).	Texas City, TX	VI
4. Johnson & Johnson Medical, Inc.	Sherman, TX	VI
5. PPG Industries	Lake Charles, LA	VI

Dated: September 9, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-22515 Filed 9-16-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4506-7]

Proposed Administrative Settlement; Limon Elevator Site, Limon, CO

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed administrative settlement.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed administrative settlement under section 122(h) concerning the Limon Elevator Site in Limon, Colorado. The proposed administrative settlement requires Union Pacific Railroad, a potentially responsible party at the site, to pay $264,389.79 in removal costs incurred by U.S. EPA in cleaning up the site.

DATES: Comments must be submitted by October 19, 1992.

ADDRESSES: Comments should be addressed to Maureen O'Reilly, (8HWM-ER), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405, and should refer to Limon Elevator Site, Limon, Colorado.

FOR FURTHER INFORMATION CONTACT: Jessie A. Goldfarb, Office of Regional Counsel, at (303) 293-1458.

It is so agreed:

Jack W. McGraw,

Acting Regional Administrator, Environmental Protection Agency, Region VIII.

[FR Doc. 92-22521 Filed 9-16-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-140189; FRL-4162-5]

Access to Confidential Business Information by Unisys Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Unisys Corporaton (UNI), of McLean, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-01-7437, contractor UNI, of 8201 Greensboro Drive, McLean, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in systems software maintenance and the operation of the TSCA CBI computer system.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-01-7437, UNI will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. UNI personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of September 27, 1988 (53 FR 37640), UNI was authorized for access to CBI submitted to EPA under all sections of TSCA. EPA is issuing this notice to extend UNI's access to TSCA CBI under a contract extension.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide UNI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA's National Computer Center in Research Triangle Park, NC.

Clearance for access to TSCA CBI under this contract may continue until January 11, 1993.

UNI personnel will be required to sign nondisclosure agreements and will be

briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: September 2, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-22536 Filed 9-16-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-140187; FRL-4162-3]

Access to Confidential Business Information by ASCI Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ASCI Corporation (ASCI), of McLean, Virginia, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D9-0156, contractor ASCI, of 1365 Beverly Road, McLean, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in providing support for the identification and analysis of options and strategies for chemical regulation and in evaluating New Chemical Program documents.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D1-0156, ASCI will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA to perform successfully the duties specified under the contract. ASCI personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of January 9, 1990 (55 FR 781), ASCI was authorized for access to CBI submitted to EPA under sections 4, 5, 6, 8, and 21 of TSCA. EPA is issuing this notice to extend ASCI's access to TSCA CBI under a contract extension.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 9, and 21 of TSCA that EPA may provide ASCI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until December 31, 1992.

ASCI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: September 2, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-22537 Filed 9-16-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-140188; FRL-4162-4]

Access to Confidential Business Information by Sociometrics, Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Sociometrics, Inc. (SOC), of Hyattsville, Maryland, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D2-0150, contractor SOC, of 6525 Belcrest Rd., Suite 202, Hyattsville, MD, will assist the Office of Pollution Prevention and Toxics (OPPT) in providing support for the identification and analysis of options and strategies for chemical regulation and in evaluating New Chemical Program documents.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 69-D2-0150, SOC will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA to perform successfully the duties specified under the contract. SOC personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 9, and 21 of TSCA that EPA may provide SOC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until July 31, 1997.

SOC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: September 2, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-22538 Filed 9-16-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Dixie Broadcasting, Inc.; Applications for Hearing

1. The Commission has before it the following applications for renewal of the licenses of Stations WHOS(AM)/WDRM(FM), Decatur, Alabama:

Applicant, city and state	File No.	MM Docket No.
Dixie Broadcasting, Inc., Decatur, AL.	BR-881201XN; BRH-881201XO	92-207

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), the above applications have been designated for hearing upon the following issues:

(a) To determine whether the licensee made misrepresentations of fact or was lacking in candor and violated 47 CFR 73.1015 with regard to the stations' EEO program and documents submitted in support thereof;

(b) To determine the extent to which the licensee complied with affirmative action provisions specified in 47 CFR 73.2080;

(c) To determine whether, in light of evidence adduced pursuant to the foregoing issues, a grant of the subject license renewal applications would serve the public interest, convenience and necessity.

3. A copy of the complete Hearing Designation Order (FCC 92-391) 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 20554. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036 (telephone (202) 452-1422).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-22472 Filed 9-16-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Georgia Ports Authority/Lykes Bros. Steamship Co. Terminal Agreement

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200637-001.

Title: Georgia Ports Authority/Lykes Bros. Steamship Co. Terminal Agreement.

Parties: Georgia Ports Authority ("GPA") Lykes Bros. Steamship Co., Inc. ("Lykes").

Synopsis: This modification incorporates annual revisions to the GPA's schedule of rates pertaining to container handling for Lykes.

By order of the Federal Maritime Commission.

Dated: September 11, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-22480 Filed 9-16-92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD-757-CN]

RIN 0938-AF80

Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning On or After July 1, 1992; Correction

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

ACTION: Notice with comment period; correction.

SUMMARY: In the July 1, 1992 issue of the **Federal Register** (FR Doc. 92-15496) (57 FR 29410), we published a notice with comment period that set forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program. The July 1, 1992 notice applies to cost reporting periods beginning on or after July 1, 1992. This notice corrects errors made in the July 1, 1992 document.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Bussacca, (410) 966-4602.

SUPPLEMENTARY INFORMATION: In a notice with comment period published in the **Federal Register** on July 1, 1992 (FR Doc. 92-15496) (57 FR 29410), we set forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program. The schedule of limits is effective for cost reporting periods beginning on or after July 1, 1992.

As stated in the July 1, 1992 notice, we calculated the HHA basic service limits using 112 percent of the mean per-visit costs of free-standing HHAs. We also provided for an add-on to the HHA cost limits in the amount of $.14 per visit for those HHAs that incur costs associated with the universal precaution requirements of the Occupational Safety and Health Administration (OSHA). However, we inadvertently did not apply the 112 percent in calculating the OSHA add-on. Therefore, this correction notice is necessary to clarify that the OSHA add-on should be $.16 per visit ($.14×112 percent=$.1568, rounded to $.16). In addition, the July 1, 1992 notice contained several typographical and technical errors.

Accordingly, we are making the following corrections to the July 1, 1992 notice.

1. On page 29411, in the first column, in the tenth line, the figure "1.59" is changed to "5.9".

2. On page 29411, in the second column, under "A. Data Used", in the first paragraph, in the sixth line, the date "October 31, 1988" is changed to "October 1, 1988".

3. On page 29411, in the third column, in the second full paragraph, in the ninth line, the figure "$.14" is changed to "$.16".

4. On page 29414, in the first column, in the third line from the bottom of the page, the figure "$.14" is changed to "$.16".

5. On page 29414, in the second column, in the "Computation of Revised Limit for Occupational Therapy" example, the figure "1.0283" is changed to "1.0278" and the figure "94.46" is changed to "94.41".

6. On page 29414, in the second column, in the second paragraph, in the fifth line, the figure "$94.46" is changed to "$94.41".

7. On page 29414, the example at the bottom of the second and third columns is revised to read as follows:

Visits	11,000
OSHA Adjustment	×$.16
Subtotal	1,760
Cost Limit	839,910
Adjusted Cost Limit	841,670

8. On page 29416, in the first column, under "IX. Wage Indexes", following the MSA name "Allentown-Bethlehem, PA-NJ", the figure "1.0258" is deleted.

9. On page 29416, in the first column, under "IX. Wage Indexes", following the MSA name "Altoona, PA", the figure "0.9767" is deleted.

10. On page 29421, in the first column, in the last line, the equation in the parentheses is revised to read "(1.0488×1.004×1.004=1.0572)".

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: September 10, 1992.

Joanne Amato,

Acting Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 92-22397 Filed 9-16-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

This meeting will be open to the public to discuss administrative details relating to Special Emphasis Panel (SEP) business for approximately one half hour at the beginning of the first session of the meeting. Attendance by the public will be limited to space available. This meeting will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual contract proposals. These contracts and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, National Heart, Lung, and Blood Institute, Westwood Building, room 7A15, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7548, will furnish meeting information upon request. Since it is necessary to schedule meetings well in advance, it is suggested that anyone planning to attend the meeting contact the Scientific Review Administrator to confirm the exact date, time, and location.

Name of Panel: NHLBI SEP on Planning, Developing, Implementing and Evaluating Education Strategies for NHLBI Education Programs.

Scientific Review Administrator: Dr. C. James Scheirer, telephone 301–496–7363.

Dates of Meeting: September 29–30, 1992.

Place of Meeting: Holiday Inn, Bethesda, Maryland.

Time of Meeting: 7:30 p.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 14, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–22657 Filed 9–16–92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Subcommittee of the National Vaccine Advisory Committee (NVCA), Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of the NVAC Subcommittee on Vaccine Licensure and Regulation.

DATE: Date, Time and Place: October 23, 1992, at 1 p.m. to 5 p.m., Parklawn Building, Chesapeake Conference Room, Third Floor, 5600 Fishers Lane, Rockville, Maryland 20857. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Kenneth J. Bart, M.D., M.P.H., Director and Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, 5600 Fishers Lane, Parklawn Building, room 13A–56, Rockville, Maryland 20857, (301) 443–0715.

Agenda: Open Public Hearing: Interested persons may formally present data, information, or views orally or in writing on issues pending before the Subcommittee or on any of the duties and responsibilities of the Subcommittee as described below. Because of limited seating, those desiring to make such presentations should make a request to the contact person before October 12, and submit a brief description of the information they wish to present to the Subcommittee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 10 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Subcommittee Discussion: The Subcommittee will evaluate and review specific licensing and regulatory processes and make recommendations on mechanisms, procedures, or legislation, if appropriate, to enhance and/or facilitate the licensing and other regulatory processes. The agenda for this meeting will include an industry view of the regulatory process, and if time permits, further discussion on the government's role from agencies other than the Food and Drug Administration.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Subcommittee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person.

September 9, 1992.

Kenneth J. Bart,

Executive Secretary, NVAC.

[FR Doc. 92–22481 Filed 9–16–92; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Disability Benefits Programs; Status of the Rules for Considering Vocational Factors in Evaluating Social Security and Supplemental Security Income Claims Based on Disability (the Medical-Vocational Rules)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of status.

SUMMARY: In the preamble to the final regulations on the "Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered," published November 28, 1978 (43 FR 55349), we stated that we planned to monitor the performance and validity of the medical-vocational rules. On December 20, 1988 (53 FR 51097), we published a notice which reported on the results of our monitoring of the performance of these rules and provided an update as to their validity with respect to our adjudication of claims based on disability in which we consider vocational factors. This notice reports on the continuing validity of the medical-vocational rules.

FOR FURTHER INFORMATION CONTACT: Elbert Spivey, Social Security Administration, 3–A–7 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–9139.

SUPPLEMENTARY INFORMATION: In the preamble to the final regulations on the "Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered," published November 28, 1978 (43 FR 55349), we stated on page 55357 that we planned to monitor the disability program to make sure there were no unforeseen effects as a result of the final rules. We also stated on page 55361 that while we did not anticipate any major changes of job incidence or other occupational data, if later analyses indicated that any rules should be restructured, we would notify the public. In our December 20, 1988, notice, we reported the results of the performance monitoring. We advised that, "Quality assurance data, gathered continuously from all regions of the country, have been compared with data which preceded publication of the medical-vocational rules and have shown no change in overall allowance/denial rates of disability claims where

the medical-vocational rules are applicable." We further advised that since we had received no significant data or other evidence to indicate that the unskilled occupational base as described in the text of these rules had changed substantially, they did not need to be restructured on this basis. The purpose of the present notice is to provide the public with an update concerning the current validity of these rules.

When the medical-vocational rules were published, the third edition of the Dictionary of Occupational Titles (DOT) and its companion volumes were the chief occupational reference sources of the disability program. These sources identified, at the various functional levels, the unskilled occupations which comprise the administratively noticed occupational base for decisions made under the medical-vocational rules. Subsequently, the fourth edition of the DOT (1977–81) and its companion volumes and supplements (1982 and 1986) have replaced the third edition.

As reported in the notice we published on December 20, 1988, when we analyzed the fourth edition of the DOT in detail and compared it with the third edition, we found that while the numbers of individually identifiable occupations showed some variance, the range of work (of which the medical-vocational rules take administrative notice) continued to represent more occupations than would be required to represent significant numbers. A revised version of the fourth edition of the DOT was subsequently issued in September of 1991. A similar analysis of the revised fourth edition and the available data for the upcoming companion volume, Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles, again shows that the range of work of which the medical-vocational rules take administrative notice continues to represent more occupations than would be required to represent significant numbers.

During the period since our last notice, we have received no significant data or other evidence to indicate that there were any unforeseen effects of the medical-vocational rules or that the unskilled occupational base as described in the text of these rules has changed substantially. Therefore, we have no reason to propose any changes to the rules at this time. However, it will continue to be our policy to monitor the use of these rules and to analyze occupational data as they become available.

We had planned to publish a notice of the performance and validity of these rules biennially. Following this schedule would have resulted in the publication of a notice in December 1990. However, we deferred publication of the notice until this time so that we could review the revised edition of the DOT that was issued September 1991 and determine if any changes in the data reflected in that publication would necessitate any changes in the medical-vocational rules. We will continue to inform the public of the results of our reviews and the continuing validity of these rules.

(Catalog Federal Domestic Assistance: Program Nos. 93.802, Social Security Disability Insurance; and 93.807, Supplemental Security Income)

Dated: September 1, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92–22475 Filed 9–16–92; 8:45 am]

BILLING CODE 4190–29–M

Settlement Agreement—Stieberger, et al. v. Sullivan, et al. 84 Civ. 1302 (LBS) S.D.N.Y.

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Commissioner of Social Security (the Commissioner) gives notice of the settlement agreement in Stieberger.

FOR FURTHER INFORMATION CONTACT: Gaye Wallace, Litigation Staff, Social Security Administration, 3–K–26 Operations Building, 6401 Security Boulevard Baltimore, MD 21235, (410) 965–1770.

SUPPLEMENTARY INFORMATION: Pursuant to the settlement agreement approved June 18, 1992, by the United States District Court for the Southern District of New York in the case of *Steiberger, et al.* v. *et al.* 84 Civ. 1302 (LBS), the Commissioner hereby publishes this instruction to all persons who decide Social Security Act disability benefit claims of New York State residents or who review such decisions. This instruction is entitled "Application of Second Circuit Decisions to Social Security Act Disability Benefit Claims of New York Residents" and is referred to in the settlement agreement as Attachment 1.

Dated: September 10, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Attachment 1—Application of Second Circuit Decisions to Social Security Act Disability Benefit Claims of New York Residents

A. General Rule

Effective immediately, all persons who decide Social Security Act disability benefit claims of New York State residents or who review such decisions shall follow and apply the holdings of the United States Court of Appeals for the Second Circuit, except when written instructions to the contrary are issued pursuant to paragraphs D and E. This instruction applies to all Second Circuit disability decisions except those that are expressly designated not for publication.

B. How to Apply Holdings

Holdings of the Second Circuit Court of Appeals must be applied at all levels of administrative review to all claims for title II and title XVI disability benefits filed by New York State residents, unless written instructions to the contrary are issued pursuant to paragraphs D and E. You must apply those holdings in good faith and to the best of your ability and understanding whether or not you view them as correct or sound.

In general, a holding in a decision is a legal principle that is the basis of the court's decision on any issue in the case. There may be more than one holding in a decision. A holding must be applied whenever the legal principles is relevant.

Not all of the discussion in a decision is a holding. For example, the factual discussion in a decision is not a holding although it can help you understand the holding by placing it in context. Also, in their decisions courts may make observations or other remarks that are helpful in understanding the court's reasoning. You are required to apply the holdings, not those observations or other comments of the court.

Of course, you should continue to make sure that the decision whether a claimant is disabled is an individualized decision based on the evidence regarding that claimant.

c. Availability of Decisions and Instructions

To help ensure that decisionmakers and reviewers of decisions apply Second Circuit holdings, SSA will do the following:

1. SSA will provide each office of decisionmakers and reviewers of decisions with a copy of the settlement approved by the Court in *Stieberger* v.

Sullivan.

2. SSA will provide all decisionmakers and reviewers of decisions with a Manual of Second Circuit disability decisions ("Manual")—containing excerpts of the principal holdings of the Second Circuit issued before June 18, 1992, the date that the settlement in Stieberger was approved by the Court.

3. SSA will provide each office of decisionmakers and reviewers of decisions with a copy of each Second Circuit disability decision issued after June 17, 1992, promptly after the decision is issued by the Court. Each such office shall maintain a volume containing copies of these decisions. This volume shall be readily accessible to decisionmakers and reviewers of decisions.

4. SSA will issue instructions to ODD decisionmakers and reviewers of decisions about applying Second Circuit decisions rendered after June 17, 1992. These instructions must be added to the Manual as supplements. SSA may issue instructions to OHA adjudicators.

You should familiarize yourself with the Manual, with SSA's instructions on Second Circuit holdings, and with Second Circuit decisions as they are issued.

While SSA will take the steps described above to help you apply Second Circuit holdings, you must apply the holdings even in the absence of an instruction, and even if they are not included in the Manual.

Example: You have become aware of a Second Circuit disability decision (for example, a claimant draws it to your attention or you receive notification of it from SSA), but you have not yet received an instruction from SSA on how to apply the decision and it is not in the Manual. You must apply the holding(s) of that decision to all claims where it is relevant.

D. Instructions Regarding when Decisions Become Effective

1. You must apply the holdings in a decision once the decision becomes effective. A decision of the Second Circuit generally becomes effective 20 days after the decision is issued by the Court, unless a specific written instruction is issued that requires the decision to be applied earlier or later. If you have not received instructions about a particular Second Circuit decision issued after the date of this instruction, consult with your supervisor for further guidance about whether the decision has become effective. (If you are an administrative law judge, you may inquire with the Regional Office concerning the status of the decision.)

2. As long as a Second Circuit decision is pending further court review, SSA may instruct decisionmakers and reviewers of decisions not to apply some or all holdings stated in that Second Circuit decision. In such instances SSA will issue specific instructions explaining which holdings are not to be applied and identifying the issues addressed by those holdings. When such instructions are issued, decisionmaking and reviewing offices will maintain a list of disability claims decisions that may be affected because the Second Circuit holding is not being applied.

Any notice sent to claimants on the list, denying benefits in whole or in part, will include the following language:

If you do not agree with this decision, you can appeal. You must ask for an appeal within 60 days.

You should know that we decided your claim without applying all of what the court said about the law in _____. _____ is a recent court ruling that we do not consider final because it may be reviewed further by the courts. If it becomes final, we may contact you again.

If you disagree with our decision in your case, do not wait for us to contact you. You should appeal within 60 days of the date you receive this notice. If you do not appeal within 60 days, you may lose benefits.

3. When no further judicial review of a Second Circuit decision will occur, SSA will promptly rescind any instructions issued under this paragraph D, and will advise decisionmakers and reviewers of decisions about the final decision in the case. SSA will also explain what action is to be taken, including any reopenings, with respect to claimants whose cases may have been affected by the instruction not to apply the Second Circuit decision pending further court review.

E. Issuance and Rescission of Acquiescence Rulings

This instruction on application of Second Circuit decisions to disability benefit claims does not prevent SSA from issuing or rescinding acquiescence rulings, or relitigating issues under 20 C.F.R. 404.985 and 416.1485.

F. Questions Concerning this Instruction and Second Circuit Decisions

This instruction is issued pursuant to the settlement agreement in *Stieberger* v. *Sullivan*, 84 Civ. 1302 (S.D.N.Y.). A copy of the complete agreement is available in your office. Any questions about applying Second Circuit decisions that you cannot resolve yourself may be directed to your supervisors and, if more guidance is needed, through supervisory channels to the Litigation Staff in SSA Central Office in Baltimore, Maryland. In addition, a team of SSA personnel will visit the New York ODD one month after you receive this instruction and quarterly thereafter for 3 years to discuss any questions decisionmakers and reviewers of decisions have about applying Second Circuit disability decisions.

G. Binding Effect of This Instruction

This instruction is binding on all personnel, including state employees, ALJs, Appeals Council Administrative Appeals Judges, quality assurance staff, and all other personnel who process, render decisions on, or review claims of New York residents for disability benefits under the Social Security Act.

Because this instruction arises out of a lawsuit, it does not apply to claims of any persons who do not reside in the State of New York. However, this limitation does not lessen the extent to which court decisions are to be applied to claims of persons who reside in any other state. This limitation also should not be deemed to suggest that such decisions are not given or should not be given proper consideration in any other state.

[FR Doc. 92-22395 Filed 9-16-92; 8:45 am]

BILLING CODE 4190-29-M

Social Security Acquiescence Ruling 92-6(10)—Walker v. Secretary of Health and Human Services, 943 F.2d 1257 (10th Cir. 1991)—Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before Twelve Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 404.985(b), 416.1485(b) and 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 92-6(10)

EFFECTIVE DATE: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Darlynda Bogle, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-4237.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security

Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to cases at the disability hearing/reconsideration, Administrative Law Judge and Appeals Council levels within the Tenth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after September 17, 1992. If we made a determination or decision on your application for benefits between September 5, 1991, the date of the Court of Appeals' decision, and September 17, 1992, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Dated: July 9, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Acquiescence Ruling 92-6(10)

Walker v. *Secretary of Health and Human Services,* 943 F.2d 1257 (10th Cir. 1991)—Entitlement to Trial Work Period Before Approval of an Award for Benefits and Before Twelve Months Have Elapsed Since Onset of Disability—Titles II and XVI of the Social Security Act.

Issue: Does a person's return to substantial gainful activity (SGA) within 12 months of the onset date of his or her disability, and prior to an award of benefits, preclude an award of benefits and entitlement to a trial work period?

Statute/Regulation/Ruling Citation: Sections 222(c), 223, and 1614(a)(3) and (4) of the Social Security Act (42 U.S.C. §§ 422(c), 423, and 1382c(a)(3) and (4)); 20 CFR §§ 404.1505, 404.1520(b), 404.1592, 416.905, 416.920(b), 416.992; SSR 82-52

Circuit: Tenth (Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming).

Walker v. *Secretary of Health and Human Services,* 943 F.2d 1257 (10th Cir. 1991).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (*i.e.,* initial, reconsideration, Administrative Law Judge hearing and Appeals Council).

Description of Case: Billy Walker applied for disability insurance benefits and supplemental security income (SSI) on October 2, 1987, alleging disability due to degenerative disc disease and ulcers. His claim was denied initially and upon reconsideration. Mr. Walker then requested a hearing before an Administrative Law Judge (ALJ). While he was awaiting his hearing, Mr. Walker returned, in April 1988, to his work as a truck driver. He was still performing this job at the time of his hearing in September 1988.

The ALJ, in determining that Mr. Walker was not disabled, denied benefits at step one of the five-step sequential evaluation process. Specifically, the ALJ found that Mr. Walker had engaged in substantial gainful activity since April 1988, within twelve months of the date he claimed disability, by virtue of his work as a truck driver. The Appeals Council denied Mr. Walker's request for review and the U.S. District Court for the District of New Mexico affirmed the ALJ's decision.

On his appeal to the U.S. Court of Appeals for the Tenth Circuit, Mr. Walker argued that, despite his return to work in April 1988, he was still disabled as defined by the Social Security Act ("the Act"). He maintained that his work as a truck driver constituted a trial work period, which the ALJ should not have considered in determining his eligibility for benefits.

Holding: In vacating the district court's judgment and remanding the case to the Secretary, the U.S. Court of Appeals for the Tenth Circuit held that:

> * * * a fair reading of the Act indicates that an individual who suffers from an impairment that has lasted, or is expected to last, twelve months is entitled to disability insurance benefits, as well as a trial work period, after waiting five months. [1]

In reaching this conclusion, the court relied upon the Seventh Circuit's reasoning and decision in *McDonald* v. *Bowen,* 818 F.2d 559 (7th Cir. 1987), which held that a person could return to work after the five-month waiting period, yet before an award of benefits, and still be eligible for an award, since the return to work represents a trial work period and is not evidence of the person's work capabilities. [2]

The court directed the Secretary, on remand, to determine whether Mr. Walker was disabled for five consecutive months before he began work in April 1988, and, if so, to assess whether such work constituted a trial work period.

Statement As To How Walker Differs From Social Security Policy

Social Security Ruling (SSR) 82-52 contains a clear statement of Social Security policy on this subject.[3] The pertinent provision is as follows:

> When the [individual's] return to work demonstrating ability to engage in SGA occurs before approval of the award and prior to the lapse of the 12-month period after onset, the claim must be denied. When an individual returns to SGA during the waiting period and such work continues, the claim for benefits must be denied if the award has not been approved. If the award was previously approved, the claim must be reopened and revised to a denial.

The holding in Walker is inconsistent with this policy in that it directs the Secretary, on remand, to grant Mr. Walker a trial work period provided only that he establishes a consecutive five-month period of disability prior to his return to work in April 1988. This raises the possibility that Mr. Walker may receive a benefit award and a trial work period even if he returned to work within 12 months of the onset of his

[1] The Act provides that "[a] period of trial work * * * shall begin with the month in which [the individual] becomes entitled to disability insurance benefits." 42 U.S.C. 422(c)(3). A trial work period ends with the ninth month in any period of 60 consecutive months in which the individual renders services (although the nine months need not be consecutive), or, if earlier, with the month in which disability ceases. 42 U.S.C. § 422(c)(4)(A),(B).

[2] Under the Act, "any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period." 42 U.S.C. § 422(c)(2).

[3] The Social Security Administration has since issued SSR 91-7c, which supersedes SSR 82-52 only to the extent that SSR 82-52 discusses the former procedures used to determine disability in children. The issue in this AR does not relate to those former procedures and the cited policy statement remains in effect.

disability and before an award of benefits could be made.

Explanation of How SSA Will Apply the Decision Within the Circuit

This ruling applies only to cases in which the claimant resides in Colorado, Kansas, New Mexico, Oklahoma, Utah or Wyoming at the time of the determination or decision at any administrative level, *i.e.*, initial, reconsideration, Administrative Law Judge hearing or Appeals Council review.

A claim for title II disability insurance benefits, widow(er)'s insurance benefits based on disability, or child's insurance benefits based on disability in which the claimant returns to work within 12 months of the established onset date should be allowed and the claimant granted a trial work period if the following conditions are met:

- The claimant establishes that, at the time he/she returned to work and thereafter, the impairment was still expected to last for at least 12 consecutive months from the date of onset;
- The person returns to work after any necessary waiting period after the established onset date (but within the 12-month period following such onset date); and
- The return to work demonstrating ability to engage in substantial gainful activity occurs either before or after approval of the award.

A claim for title XVI benefits based on disability in which the claimant returns to work within 12 months of the established onset date should be allowed and the claimant granted section 1619 status [4] if the following conditions are met:

- The claimant establishes that, at the time he/she returned to work and thereafter, the impairment was still expected to last at least 12 consecutive months from the date of onset;
- The person returns to work in a month subsequent to the month of established onset (but within the 12-month period following such onset date); and
- The return to work demonstrating ability to engage in substantial gainful activity occurs either before or after approval of the award.

EFFECTIVE DATE: September 17, 1992.

[FR Doc. 92-22534 Filed 9-16-92; 8:45 am]

BILLING CODE 4190-29-M

[4] Pursuant to statutory amendments made by Public Law 99-643, effective July 1, 1987, the trial work provisions are no longer applicable to title XVI disability claims. Beginning July 1, 1987, a disabled individual, who was eligible to receive "regular" SSI benefits (section 1611) for a month and subsequently has earnings ordinarily considered to represent substantial gainful activity, will move directly to section 1619 status rather than be accorded a trial work period. This Ruling extends to such individuals, *i.e.*, claimants for title XVI benefits based on disability should be allowed and granted section 1619 status if the return to work is on or after July 1, 1987, and the same conditions are met.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-92-3502]

Office of Administration; Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 8, 1992.

John T. Murphy,

Director, Information Resources Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Operating Budget and Supporting Schedules.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: This schedule will ensure that Public Housing Authorities (PHAs) follow sound financial practices and that Federal Funds are used for eligible expenditures. PHAs will use the form as a financial summary and analysis of immediate and long-term operating programs and plans to provide control over operations and achieve objectives.

Form Number: HUD -52564, 52566, 52567, 52571 and 52573.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-52564	3,780		1		116.5		440,370
HUD-52566	3,780		1		1.0		3,780
HUD-52567	3,780		1		.75		2,835
HUD-52571	3,780		1		1.0		3,780

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-52573	3,780		1		.75		2,835

Total Estimated Burden Hours: 453,600.

Status: Reinstatement.

Contact: John T. Comerford, HUD, (202) 708-1872, Angela Antonelli, OMB, (202) 395-6880.

Dated: September 8, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Contract for Development A/E Services

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies and Indian Housing Authorities (PHA/IHA) use Forms HUD-51915 and HUD-51915.1 for contracting for professional architect/engineer (A/E) services to prepare the necessary documents for construction, rehabilitation and modernization of housing developments and to administer the construction work for PHAs/IHAs. PHAs/IHAs are required to submit Forms HUD-51915 and HUD-51915.1 to HUD for review and approval to assure that the necessary design work at appropriate fees are proposed.

Form Number: HUD -51915 and HUD-51915.1.

Respondents: State or Local Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-51915 and HUD-51915.1	1,240		1		3.5		4,340
Recordkeeping	1,240		1		.25		310

Total Estimated Burden Hours: 4,650.

Status: Reinstatement.

Contact: William C. Throson, HUD, (202) 708-4703, Angela Antonelli, OMB, (202) 395-6880.

Dated: September 8, 1992.

[FR Doc. 92-22411 Filed 9-16-92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. 92-3507]

Office of Administration; 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.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with 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: September 10, 1992

John T. Murphy,

Director, Information Resources, Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Management Documents for Multifamily Housing Projects.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The Management documents for Multifamily Housing projects are needed by HUD to determine the acceptability of proposed management agents, assure compliance with program requirements, provide leverage for removing poor managers and recover excessive management fees.

Form Number: HUD-9832, 9839A, 9839B, and 9839C.

Respondents: Individual or Households, Businesses or Other For-Profit, and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Initial profile	900		1		2		1,800
Updated profile	2,700		1		½		1,350
Staff and salaries	3,600		1		⅙		600

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Mgmt. certification	3,600		1		⅙		600

Total Estimated Burden Hours: 4,350.

Status: Extension.

Contact: James J. Tahash, HUD (202) 708-3944, Angela Antonelli, OMB, (202) 395-6880.

Dated: September 10, 1992.

Proposal: Schedule of Buydown Escrow Accounts.

Office: Government National Mortgage Association.

Description of the Need for the Information and its Proposed Use: GNMA provides a form for use by mortgage-backed securities issuers to advise GNMA of the name, address and account number for each escrow account established relating to the mortgages included in the buydown mortgage-backed securities pool. The submission of the form with the requested information is necessary to protect GNMA's interest in the pooled mortgages in the event of a default by the issuer. The data is used by GNMA's pool processing agent when reviewing the documentation submitted by approved mortgage-backed securities issuers to assure that the issuer has complied with applicable GNMA rules and regulations.

Form Number: HUD-11744.

Respondents: Businesses or Other For-Profit and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-11744	12		2		.25		6

Total Estimated Burden Hours: 6.

Status: Reinstatement.

Contact: Charles Clark, HUD, (202) 708-2234, Brenda Countee, HUD, (202) 708-2234, Angela Antonelli, OMB, (202) 395-6880.

Dated: September 10, 1992.

[FR Doc. 92-22423 Filed 9-16-92; 8:45 am]

BILLING CODE 7210-01-M

Office of the Assistant Secretary for Public And Indian Housing

[Docket Nos. N-92-3294; FR-3060-N-02; N-92-3364; FR-3159-N-02]

Public and Indian Housing Youth Sports Program Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards made under the Public and Indian Housing Youth Sports Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Julie Fagan, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1197 or 708-3502. A telecommunications device for hearing impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: This program is authorized by section 520 of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625). Program funds are to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing projects.

A Notice of Funding Availability (NOFA) announcing HUD's FY 1991 funding of $7,500,000 for the Youth Sports Program (YSP) was published in the **Federal Register** of October 28, 1991, (56 FR 55584). In a NOFA published in the **Federal Register** on December 23, 1991 (56 FR 66484), the Department announced the availability of $8,250,000 in funds for the FY 1992 YSP. This notice provides information concerning the recipients of awards under both of these NOFAs.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing details concerning the recipients of these awards, as follows:

FY 91 and FY 92 Funding Decisions Public and Indian Housing Youth Sports Program

Authoring Statute: Section 520, Public Law 101-625, November 28, 1990.

Region and PHA/IHA funding recipient	Amount approved
1—New Britain Housing Authority, 34 Marimac Road, New Britain, CT 06053-2699	$125,000
1—New London Housing Authority, 78 Walden Avenue, New London, CT 06320-0119	105,000
1—Lowell Housing Authority, P.O. Box 60, Lowell, MA 01853	125,000
1—Boston Housing Authority, 52 Chauncy Street, Boston, MA 02111-2302	125,000
1—Cambridge Housing Authority, 270 Green Street, Cambridge, MA 02139-3360	125,000
1—Fall River Housing Authority, P.O. Box 989, Fall River, MA 02722-0989	78,167
1—Lawrence Housing Authority, 353 Elm Street, Lawrence, MA 01842	125,000
1—Brockton Housing Authority, P.O. Box 340, Brockton, MA 02403	125,000
1—Gloucester Housing Authority, P.O. Box 1599, Gloucester, MA 01931-1599	25,000
1—Providence Housing Authority, 100 Broad Street, Providence, RI 02903	125,000
2—Jersey City Housing Authority, 400 US Highway 1, Jersey City, NJ 07306	125,000
2—Camden Housing Authority, 422 Dudley Street, Camden, NJ 8105	125,000

Region and PHA/IHA funding recipient	Amount approved
2—Yonkers Housing Authority, P.O. Box 35, Yonkers, NY 10710-0035	$125,000
2—New York City Housing Authority, 250 Broadway, New York, NY 10007	125,000
2—Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202-1637	125,000
2—Poughkeepsie Housing Authority, 221 Smith Street, Poughkeepsie, NY 12601-0632	43,954
2—City of Peekskill Housing Authority, 840 Main Street, Peekskill, NY 10566	125,000
3—Housing Opportunities of Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895	124,864
3—City of Rockville Maryland Housing Authority, 14 Moore Drive, Rockville, MD 20850-1230	84,272
3—Pittsburgh Housing Authority, 200 Ross Street, 9Fl, Pittsburgh, PA 15219-2068	124,610
3—Philadephia Housing Authority, 2012 Chestnut Street, Philadelphia, PA 19103	107,982
3—Allentown Housing Authority, 1339 Allen Street, Allentown, PA 18102-2143	124,680
3—Allegheny County Housing Authority, 341 Fourth Avenue, Pittsburgh, PA 15222	117,227
3—Harrisburg Housing Authority, 351 Chestnut Street, Harrisburg, PA 17105-9713	123,960
3—Reading Housing Authority, 400 Hancock Blvd., Reading, PA 19611	125,000
3—Montgomery County Housing Authority, 55 E. Marshall Str., Norristown, PA 19401-4866	125,000
3—Beaver County Housing Authority, 300 State Street, Beaver, PA 15009-1798	90,185
3—Carbondale Housing Authority, 77 N. Main Street, Carbondale, PA 18407-1931	125,000
3—City of Lancaster Housing Authority, 333 Church Street, Lancaster, PA 17602-4253	59,060
3—Lackawanna County Housing Authority, 2019 W. Pine Street, Dunmore, PA 18512-0079	121,088
3—Pittson Housing Authority, 500 Kennedy Blvd., Pittson, PA 18640-1798	47,103
3—Chester County Housing Authority, 222 N. Church Street, West Chester, PA 19380-2695	28,000
3—Shamokin Housing Authority, 1 E. Independence, Shamokin PA 17872-5861	14,760
3—Newport News Redevelopment Housing Authority, P.O. Box 77, Newport News, VA 23607-0077	125,000
3—Alexandria Redevelopment Housing Authority, 600 N. Fairfax Str., Alexandria, VA 22314-2094	60,000
3—Danville Redevelopment Housing Authority, P.O. Box 2669, Danville, VA 24541-0669	67,627
3—City of Roanoke Housing Authority, P.O. Box 6359, Roanoke, VA 24017-6359	120,630
4—Montgomery Housing Authority, 1020 Bell Street, Montgomery, AL 36197-3501	125,000
4—Auburn Housing Authority, P.O. Box 1912, Auburn, AL 36830	125,000
4—Opelika Housing Authority, P.O. Box 785, Opelika, AL 36801-0786	125,000
4—City of Jacksonville Housing Authority, 1300 Broad Street, Jacksonville, FL 32202-3901	125,000
4—St. Petersburg Housing Authority, P.O. Box 12849, St. Petersburg, FL 33733-2949	42,300
4—Tampa Housing Authority, P.O. Box 4766, Tampa, FL 33607-0000	125,000
4—Orlando Housing Authority, 300 Reeves Court, Orlando, FL 32801-3199	125,000
4—Dade County Housing Authority, P.O. Box 35020, Miami, FL 33125	125,000
4—Daytona Beach Housing Authority, 118 Cedar Street, Daytona Beach, FL 32014-4904	125,000
4—Key West Housing Authority, P.O. Box 2476, Key West, FL 33040-2476	125,000
4—Ft. Myers Housing Authority, 4224 Michigan Ave., Fort Myers, FL 33916	125,000
4—Clearwater Housing Authority, P.O. Box 960, Clearwater, FL 33517-0960	122,600
4—Savannah Housing Authority, P.O. Box 1179, Savannah, GA 31402-1179	125,000
4—Macon Housing Authority, P.O. Box 4928, Macon, GA 31208-4928	125,000
4—City of Tocca Housing Authority, P.O. Drawer "J", Tocca, GA 30577-0257	70,100
4—Covington Housing Authority, 2940 Madison Avenue, Covington, KY 41015	125,000
4—Lexington-Fayette Housing Authority, 635 Ballard Street, Lexington, KY 40508	125,000
4—Biloxi Housing Authority, P.O. Box 447, Biloxi, MS 39533	125,000
4—Holly Springs Housing Authority, P.O. Box 550, Holly Springs, MS 38635-0550	13,190
4—Forest Housing Authority, P.O. Box 677, Forest, MS 39074-0677	85,325
4—Wilmington Housing Authority, P.O. Box 899, Wilmington, NC 28402-0889	110,868
4—Greensboro Housing Authority, P.O. Box 21287, Greensboro, NC 27420-1287	125,000
4—Kingsport Housing Authority, P.O. Box 44, Kingsport, TN 37662-0044	125,000
4—Pulaski Housing Authority, 606 Washington Heigh, Pulaski, TN 38478	97,080
5—Poarch Creek Indian HA, Route 3 Box 243-A, Atmore, AL 36502	125,000
5—Seminole Tribal IHA, 3101 NW 63rd Avenue, Hollywood, Fl 33024	112,025
5—Chicago Housing Authority, 22 W. Madison Street, Chicago, IL 60602	125,000
5—Peoria Housing Authority. 814 W. Brotherson St., Peoria, IL 61606	125,000
5—Decatur Housing Authority, 1808 East Locust St., Decatur, IL 62521-1409	125,000
5—Rock Island City Housing Authority, 111 Twentieth Street, Rock Island, IL 61201-8827	125,000
5—Waukegan Housing Authority, 200 S. Utica Street, Waukegan, IL 60085	125,000
5—Bloomington Housing Authority, Wood Hill Towers, Bloomington, IL 61701-6768	125,000
5—Marion County Housing Authority, 719 E. Howard Street, Centralia, IL 62801	125,000
5—Elgin Housing Authority, 1845 Grandstand Pl., Elgin, IL 60123	6,686
5—Elkhart Housing Authority, 1396 Benham Avenue, Elkhart, IN 46516-2505	125,000
5—East Chicago Housing Authority, P.O. Box 498, East Chicago, IN 46312-0498	125,000
5—Ironwood Housing Commission, 515 E. Vaughn Street, Ironwood, MI 49938	73,987
5—Jackson Housing Commission, 301 Steward Avenue, Jackson, MI 49201	4,469
5—Sault Ste. Marie Tribal IHA, 2218 Shunk Road, Sault Ste. Marie, MI 49783	125,000
5—St. Paul Housing Authority, 413 Wacouta Street, St. Paul, MN 55101	119,000
5—Leech Lake Reservation IHA, Route 3 Box 100, Cass Lake, MN 56633-0100	125,000
5—White Earth Reservation IHA, P.O. Box 436, White Earth, MN 56591-0436	113,197
5—Fond du Lac Reservation IHA, 105 University Ave., Cloquet, MN 55720	125,000
5—Qualla Housing Authority IHA, P.O. Box 1749, Cherokee, NC 28719-1749	125,000
5—Cincinnati Metropolitan Housing Authority, 16 W. Central Pkwy, Cincinnati, OH 45210-1991	125,000
5—Lucas Metropolitan Housing Authority, P.O. Box 477, Toledo, OH 43692-0477	125,000
5—Oneida Housing Authority IHA, P.O. Box 68, Oneida, WI 54155-0068	125,000
5—Bad River IHA, P.O. Box 57, Odanah, WI 54861	125,000
5—Saint Croix IHA, P.O. Box 347, Hertel, WI 54845-0347	94,781
5—Menominee Tribal IHA, P.O. Box 476, Keshena, WI 54135-0476	95,834
6—North Little Rock Housing Authority, P.O. Box 516, North Little Rock AR 72115-0516	116,658
6—Little Rock Housing Authority, 1000 Wolfe Street, Little Rock, AR 72202-4614	125,000
6—West Memphis Housing Authority, 2820 Harrision St., West Memphis, AR 72301-6099	125,000
6—Kickapoo IHA, P.O. Box 111, Horton, KS 66439-0111	125,000
6—Monroe Housing Authority, P.O. Box 1194, Monroe, LA 71201-1194	125,000
6—Houma Housing Authority, 332 W. Park Avenue, Houma, LA 70364-4267	18,390

Region and PHA/IHA funding recipient	Amount approved
6—Haynesville Housing Authority, P.O. Box 751, Haynesville, LA 71038-0751	125,000
6—Oklahoma City Housing Authority, 1700 NE Fourth St., Oklahoma City, OK 73117	125,000
6—Cherokee Nation IHA, P.O. Box 1007, Tahlequah, OK 74464-1007	118,426
6—McAlester Housing Authority, P.O. Box 819, McAlester, OK 74501-0819	62,820
6—Sac & Fox Nation of OK IHA, P.O. Box 1252, Shawnee, OK 74801	125,000
6—Austin Housing Authority, P.O. Box 6159, Austin, TX 78762-6159	125,000
6—Fort Worth Housing Authority, P.O. Box 430, Fort Worth, TX 76101-0430	125,000
6—Galveston Housing Authority, 920 53rd Street, Galveston, TX 77550-1012	125,000
6—Kingsville Housing Authority, 1000 Brown Villa, Kingsville, TX 78363	124,597
6—Pearsall Housing Authority, 501 W. Medina, Pearsall, TX 78061	116,000
7—Kansas City Housing Authority, 1124 N. Ninth Street, Kansas, KS 66101-2197	125,000
7—St. Louis Housing Authority, 4100 Lindell Bl., St. Louis, MO 63108-2999	123,802
7—Kansas City Housing Authority, 299 Paseo, Kansas City, MO 64106-2608	37,800
7—Omaha Housing Authority, 540 27th Street, Omaha, NE 68105-1521	125,000
8—Denver Housing Authority, P.O. Box 4305, Denver, CO 80204	124,100
8—City of Pueblo Housing Authority, 1414 N. Santa Fe Ave, Pueblo, CO 81003	123,850
8—Southern Ute IHA, P.O. Box 447, Ignacio, CO 81137-0447	121,403
8—City of Boulder Housing Authority, 3120 Broadway Avenue, Boulder, CO 80304	122,119
8—City of Lakewood Housing Authority, 445 S. Allison Pkwy, Lakewood, CO 80226-3105	116,320
8—City of Aurora Housing Authority, 10745 E. Kentucky Av., Aurora, CO 80012	108,057
8—Billings Housing Authority, 2415 First Avenue, Billings, MT 59101	16,250
8—Chippewa Cree IHA, P.O. Box 615, Box Elder, MT 59521	125,000
8—Northern Cheyenne IHA, P.O. Box 327, Lame Deer, MT 59043-0327	121,079
8—Salish-Kootenai IHA, P.O. Box 38, Pablo, MT 59855-0038	125,000
8—Standing Rock IHA, P.O. Box 484, Fort Yates, ND 58538-0484	124,919
8—Sisseton-Wahpeton IHA, P.O. Box 687, Sisseton, SD 57262	62,500
8—City of Ogden Housing Authority, 2650 Washington Blvd, Ogden, UT 84401	120,000
8—Salt Lake City Housing Authority, 1800 SW Temple, Salt Lake City, UT 84115	124,921
8—City of Casper Housing Authority, 1985 East "A" Street, Casper, WY 82601	98,350
9—San Carlos Tribe IHA, P.O. Box 187, San Carlos, AZ 85550	125,000
9—Cocopah IHA, P.O. Box AF, Somerton, AZ 85350	39,471
9—Pascua Yaqui Housing Authority, 4720 W. Calle Tetaku, Tucson, AZ 85746	60,000
9—Los Angeles County Housing Authority, 4800 Brooklyn Avenue, Los Angeles, CA 90022-1399	124,000
9—Housing Authority City of Los Angeles, P.O. Box 17157, Los Angeles, CA 90017-1295	125,000
9—San Diego Housing Commission, 1625 Newton Street, San Diego, CA 92113	43,438
9—City of Santa Barbara Housing Authority, 808 Laguna Street, Santa Barbara, CA 93101-1590	124,500
9—Northern Circle Tribe IHA, 694 Pinoleville Dr., Ukiah, CA 95482	79,780
9—Washoe Indian Tribe IHA, 1588 Watasheamu Dr., Gardnerville, NV 89410	125,000
9—Fallon IHA, 8955 Mission Road, Fallon, NV 89406	48,322
9—Reno Sparks IHA, 15-A Reservation Rd., Reno, NV 89502	79,217
9—Te-Moak IHA, 504 Sunset Street, Elko, NV 89801	125,000
10—Interior Regional IHA, 628 27th Avenue, Fairbanks, AK 99701	125,000
10—Bristol Bay Housing Authority, P.O. Box 50, Dillingham, AK 99576	125,000
10—Coeur D'Alene IHA, P.O. Box 267, Plummer, ID 83851-0267	125,000
10—Nez Perce Tribal IHA, P.O. Box 188, Lapwai, ID 83540-0188	125,000
10—Housing Authority, City of Portland, 135 SW Ash, Portland, OR 97204	125,000
10—Lane County Housing Authority, 177 Day Island Road, Eugene, OR 97401	125,000
10—Siletz IHA, P.O. Box 549, Siletz, OR 97380-0549	23,740
10—City of Tacoma Housing Authority, 1728 44th Street, Tacoma, WA 98404-4699	125,000
10—Quinault IHA, P.O. Box 160, Taholah, WA 98587	125,000
10—Makah IHA, P.O. Box 888, Neah Bay, WA 98357-0888	125,000
10—Port Gamble Klallam IHA, P.O. Box 155, Kingston, WA 98346-0155	59,962
10—Quileute IHA, P.O. Box 160, Taholah, WA 98587-0160	110,327
10—Lower Elwha Tribe IHA, 1705 Stratton Road, Port Angeles, WA 98362-0155	116,500
10—Puyallup Tribe IHA, 2002 East 28th St. B, Tacoma, WA 98404	33,771

Dated: September 10, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-22422 Filed 9-16-92; 8:45 am]

BILLING CODE 4210-33-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-92-3506; FR-3332-N-01]

Mortgages Review Board Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales Registration, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1824. The Telecommunications Device for the Deaf (TDD) number is (202) 708-4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989)) requires that HUD "publish in the **Federal**

Register a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from May 1, 1992 through August 31, 1992.

1. Prime Mortgage Investors, Inc., Coral Gables, Florida

Action: Settlement Agreement that provides for indemnification to HUD in the amount of $125,754 for claim losses, agreement by the company not to submit future claims in connection with seven improperly originated loans, and voluntary exclusion of the company from HUD programs for a period of nine months.

Cause: A HUD monitoring review citing violations of HUD–FHA program requirements that included: failure to implement and maintain a Quality Control Plan for the origination of HUD–FHA insured mortgages; failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); submitting false information to HUD–FHA; failure to properly verify the income of self-employed mortgagors; processing, approving and closing loans prior to the borrower completing face-to-face interviews with mortgagors; and permitting a loan officer to act as a realtor on the same transaction.

2. First National Bank, San Diego, California

Action: Settlement Agreement that includes reimbursement to HUD in the amount of $250,000 for losses resulting from deficient loan servicing procedures, and voluntary withdrawal from HUD–FHA programs for a period of 18 months.

Cause: A HUD monitoring review citing violations of HUD–FHA loan servicing requirements that included: failure to implement a Quality Control Plan; failure to act promptly on delinquent accounts; noncompliance with the Assignment Program; failure to hold a preforeclosure review meeting prior to issuing Assignment Letters; failure to promptly secure properties known to be vacant/abandoned; failure to properly service Section 235 mortgages; and charging an unallowable fee for payoff information.

3. First Home Mortgage, Inc., Jonesboro, Arkansas

Action: Settlement Agreement that includes indemnification to HUD in the amount of $78,751 for claim losses in connection with seven improperly originated mortgages, agreement by the company not to submit future claims on 11 loans, and divestiture of ownership interest by the principals of the company.

Cause: A HUD monitoring review citing violations of HUD–FHA program requirements that included: failure to develop and implement a Quality Control Plan in accordance with HUD–FHA requirements; failure to disclose to mortgagors an identity of interest between the company and a settlement agent; failure to separate loan development, processing, and underwriting functions; failure to disclose and improperly processed sweat equity arrangements; failure to ensure that borrowed funds were not used for closing; failure to reduce the acquisition cost of properties by the amount of sellers' concessions; failure to report liabilities of mortgagors; failure to adequately verify the income of self-employed mortgagors; failure to verify that the income of mortgagors would continue for five years; and failure to verify sources of funds.

4. Stratford Mortgage Corporation, Richardson, Texas

Action: Proposed withdrawal of HUD mortgagee approval.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program loan origination requirements that included: failure to perform face-to-face interviews with mortgagors; failure to assure that borrowers signed a properly completed HUD Form 92900 application prior to loan approval by the company's underwriters; failure to assure that borrowers made the required minimum investment in the property; overinsured mortgages; false gift letters; inaccurate verifications of employment, deposit or rent; using a false Social Security number; permitting mortgagors to handcarry verifications of employment, deposit or rent; omitting mortgagor dependents; failure to verify the sale of mortgagor's previous residence; and failure to implement a Quality Control Plan.

5. Heritage Mortgage Company, Chicago, Illinois

Action: Withdrawal of HUD mortgagee approval.

Cause: Noncompliance by the company with the terms and conditions of a Settlement Agreement with the Department, and violations of HUD–FHA single family program loan origination requirements including the submission of mortgages in default for HUD–FHA mortgage insurance endorsement.

6. American Western Mortgage Company, Scottsdale, Arizona

Action: Settlement Agreement that includes indemnification for HUD's claim losses in the amount of $78,018; agreement by the company not to submit future claims and/or indemnify the Department in connection with 61 overinsured mortgages; and payment to the Department of $200,000 to settle any proposed administrative action against an affiliated building company.

Cause: A HUD Office of Inspector General Audit Report which cited violations of HUD–FHA single family loan origination requirements including: failure to consider sales inducements paid by a builder/seller in determining the mortgagors' HUD–FHA maximum insurable mortgage which resulted in overinsured mortgages; failure to verify mortgagors' employment and income information; and failure to implement a Quality Control Plan for the origination of HUD–FHA insured mortgages.

7. Saxon Equities Corporation, Levittown, New York

Action: Settlement Agreement that includes: corrective action by the company to bring it into compliance with HUD–FHA requirements; indemnification to HUD for future claim losses in connection with 10 improperly originated loans; and a buydown of an overinsured mortgage.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program requirements which included: failure to implement an acceptable Quality Control Plan; failure to report to HUD under the provisions of the Home Mortgage Disclosure Act (HMDA); payment to a mortgage broker for originating HUD–FHA loans; failure to verify the source and adequacy of funds to close; permitting unallowable secondary financing; falsified gift letter; falsified Verifications of Employment; failure to properly document and calculate the income of self-employed borrowers; closing overinsured loans; failure to conduct a face-to-face interview with a borrower; submitting incorrect HUD–1 Settlement Statements to HUD; charging borrowers unallowable fees; and failure to comply with the HUD–FHA guidelines for Direct Endorsement staff appraisers.

8. Dover Mortgage Company, Charlotte, North Carolina

Action: Settlement Agreement that provides for the buydown by the company of an overinsured mortgage to its proper loan amount.

Cause: A HUD monitoring review which cited a violation of HUD–FHA

single family program loan origination requirements.

9. Marble, George & McGinley, Inc., Orange, California

Action: Settlement Agreement which includes indemnification to HUD for claim losses in the amount of $144,799 in connection with eight improperly originated mortgages; corrective action by the company to assure compliance with HUD–FHA requirements; agreement not to submit future claims in connection with seven improperly originated mortgages; and refunds to mortgagors who were charged excessive fees.

Cause: A HUD monitoring review which cited violations of HUD–FHA single family program requirements that included: Failure to implement an adequate Quality Control Plan for the origination of HUD–FHA insured mortgages; failure to implement the Home Mortgage Disclosure Act (HMDA) reporting requirements; submission of false information to HUD in connection with HUD–FHA insured mortgage transactions; failure to verify the source of all funds used for downpayments and/or closing costs; failure to verify that income used for qualifying purposes would continue for at least a five year period of time; overinsured mortgage; collection of fees paid outside of closing twice or in excess of the amount stated in the contract; and failure to conduct a face-to-face interview with a borrower.

10. Reliance Mortgage Company, Dallas, Texas

Action: Withdrawal of HUD mortgage approval.

Cause: Violations of HUD–FHA requirements including: involvement of the company's president and another employee in HUD–FHA programs while under suspension and debarment by HUD; failure to timely submit mortgages for HUD–FHA mortgage insurance endorsement; and charging a fee for services not performed.

11. Mortgage Brokers Services, Inc., Seattle, Washington

Action: Settlement Agreement that includes implementation of corrective actions to assure compliance with HUD-FHA requirements; and indemnification to HUD for future claim losses in connection with two improperly originated mortgages.

Cause: A HUD monitoring review citing violation of HUD-FHA single family program requirements that included: Failure to maintain and implement an adequate Quality Control Plan for loan origination; failure to implement HUD's requirement to report under the Home Mortgage Disclosure Act (HMDA); permitting a false verification of employment form to be submitted to HUD; failure to ensure a borrower met HUD's minimum investment requirements; collection of unallowable loan origination fees.

12. Sun American Mortgage Corporation, Mesa, Arizona

Action: Settlement Agreement which includes indemnification to HUD in the amount of $43,916 for an improperly originated loan; reimbursement for two overinsured mortgages; and continued implementation of a Quality Control Plan for loan origination.

Cause: A HUD monitoring review citing violation of HUD-FHA single family program requirements which included: Overinsured mortgages; and submission of a false employment verification for a borrower.

13. Troy & Nichols, Inc., Monroe, Louisiana

Action: Settlement Agreement that includes indemnification to HUD in the amount of $201,769 for the Department's claim losses; and agreement not to submit future claims on three improperly originated mortgages.

Cause: A HUD monitoring review citing violation of HUD-FHA single family program requirements which included: Failure to conduct face-to-face interviews with mortgagors; failure to properly verify mortgagors' source of funds; failure to assure that mortgagors made the minimum required investment in the property; and submission of false information in connection with HUD-FHA insured mortgage transactions.

14. First Financial of London, Inc., Spring Hill, Florida

Action: Letter of Reprimand.

Cause: A HUD monitoring which cited violation of HUD-FHA requirements including: Failure to implement a Quality Control Plan for the origination of HUD-FHA insured mortgages; and failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

15. Southern State Mortgage Corporation, Goldsboro, North Carolina

Action: Letter of Reprimand.

Cause: A HUD monitoring review which cited violation of HUD-FHA single family program requirements including: Failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); and permitting the holder of a power of attorney to sign mortgagor affidavits and closing documents for the borrower.

Dated: September 10, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92–22412 Filed 9–16–92; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR120-6310-02 GPO 2-428]

Advisory Council Meeting

ACTION: Notice of meeting of the Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and 43 CFR part 1780, that a meeting of the Coos Bay District Advisory Council will be held on October 15, 1992 at 1 p.m. in the conference room of the Coos Bay District Office at 1300 Airport Lane, North Bend, Oregon.

The agenda will include continued discussion by the Advisory Council of the Draft Coos Bay District Resource Management Plan.

The Coos Bay District Advisory Council is composed of 10 individuals with expertise in a wide variety of program areas including renewable resources, recreation, environmental protection and transportation and Rights-of-way. The function of the Council is to provide the Coos Bay District Manager with advice on the management of district programs.

The meeting is open to the public and time will be provided for public comments. Individuals wishing to address the Council should notify Alan Hoffmeister, BLM Public Affairs Officer in the Coos Bay District Office, 1300 Airport Lane, North Bend, Oregon, 756–0100 by October 13, 1992.

Cary A. Osterhaus,

District Manager.

[FR Doc. 92–22501 Filed 9–16–92; 8:45 am]

BILLING CODE 4310-84-M

[NV-040-91-4320-10]

Ely District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Ely District Grazing Advisory Board meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Ely District Grazing Advisory Board will be held Wednesday, October 7, 1992. The

meeting will begin at 8 a.m. in the conference room of the Ely District Office, 702 North Industrial Way, Ely, Nevada. The agenda will include discussion of Fiscal Year 92 project accomplishments and Fiscal Year 93 planned projects. A field tour of rangeland improvement projects on the Ely District is also planned.

The meeting is open to the public, and members of the public may make statements beginning at 8:10 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 702 North Industrial Way, HC 33, Box 33500, Ely, Nevada 89301-9408 by October 6, 1992.

The tour is also open to the public; however, members of the public must provide their own transportation and lunch. Minutes of the meeting will be maintained in the Ely District Office and will be available for public inspection and reproduction during regular office hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Chris Mayer, (702) 289-4865.

Dated: September 1, 1992.

Timothy B. Reuwsaat,

Acting District Manager.

[FR Doc. 92-22409 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-HC-M

[NV-040-92-4130-02]

Ely District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Ely District Advisory Council meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 and 43 CFR part 1780, that the District Advisory Council for the Ely District, Nevada, will meet on October 15, 1992, at 9 a.m. at the Ely District Office, in the conference room, 702 North Industrial Way, Ely, Nevada.

The agenda is as follows:

9 a.m.—Business Meeting
9:30 a.m.—Public Comment Period
—Review of Magma Nevada Mining Co., Robinson Project
—Recreation Discussion

The meeting is open to the public, and members of the public may make statements before the Council. Persons wishing to make a statement to the Council should contact Chris Mayer at the Ely District Office at (702) 289-4865 no later than October 14, 1992.

ADDRESSES: Comments and suggestions should be sent to: Bureau of Land Management, HC 33, Box 33500, Ely, NV 89301-9408.

FOR FURTHER INFORMATION CONTACT: Chris Mayer, (702) 289-4865.

Dated: September 1, 1992.

Timothy B. Reuwsaat,

Acting District Manager.

[FR Doc. 92-22410 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-HC-M

[NM-060-4760-02- ADVB 612]

Roswell District Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Multiple Use Advisory Council Meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Roswell District Multiple Use Advisory Council.

DATE: Thursday, October 15, 1992, beginning at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Tony L. Ferguson, Associate District Manger, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, (505) 622-9042.

SUPPLEMENTARY INFORMATION: The proposed agenda will include presentations on the Rio Bonito Exchange, Environmental Protection Agency (EPA) Fines, Law Enforcement, Boots and Saddles, Cave/Karst Technical Report and Disposal of Produced Water. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Dated: September 9, 1992.

Leslie M. Cone,

District Manager.

[FR Doc. 92-22500 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-FB-M

[G-010-G2-0118-4920-13; NMNM 83247 and NMNM 83357]

Issuance of Exchange Conveyance Document of Public Land in Sandoval, McKinley, and San Juan Counties; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 79,726.53 acres of public land out of Federal ownership. This action also reconveys 21,464.77 acres of land to Federal ownership.

FOR FURTHER INFORMATION CONTACT: Farmington Resource Area Manager, 1235 La Plata Highway, Farmington, New Mexico 87401.

SUPPLEMENTARY INFORMATION: The United States issued exchange conveyance documents to the Navajo Tribe of Indians on December 19, 1991, for the surface estate in the following described land in Sandoval, McKinley, and San Juan Counties, New Mexico, pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) and the Chaco National Historic Park Act of December 19, 1980 (16 U.S.C. 410ii et seq.).

NMNM 83247

New Mexico Principal Meridian

T. 18 N., R. 3 W.,
sec. 21, SW¼;
sec. 28, NW¼;
sec. 29, SE¼
T. 19 N., R. 3 W.,
sec. 21, NW¼.
T. 17 N., R. 4 W.,
sec. 7, NE¼;
sec. 17, NW¼.
T. 18 N., R. 4 W.,
sec. 20, NW¼;
sec. 24, SE¼.
T. 19 N., R. 4 W.,
sec. 6, lots 1, 2, and S½NE¼;
sec. 7, lots 2, 3, and SE¼NW¼, and NE¼SW¼;
sec. 9, SE¼;
sec. 24, N½.
T. 18 N., R. 5 W.,
sec. 8, SW¼;
sec. 9, NW¼;
sec. 14, NE¼;
sec. 18, NE¼.
T. 19 N., R. 5 W.,
sec. 3, S½.
T. 20 N., R. 5 W.,
sec. 4, SW¼;
sec. 27, N½;
sec. 30, lots 3, 4, and E½SW¼;
sec. 34, NW¼,
sec. 36, N½SW¼ and S½NW¼.
T. 21 N., R. 5 W.,
sec. 8, NE¼;
sec. 9, NW¼.
T. 17 N., R. 6 W.,
sec. 11, NW¼;
sec. 23, NW¼;
sec. 25, NW¼;
sec. 27, SW¼;
sec. 32, lots 1, 2, 5, 6, and W½NE¼.
T. 19 N., R. 6 W.,
sec. 6, SE¼.
T. 22 N., R. 6 W.,
sec. 6, SE¼;
sec. 7, NE½.
T. 23 N., R. 6 W.,
sec. 21, N½SE¼NE¼.
T. 20 N., R. 7 W.,

sec. 2, SW¼;
sec. 6, lots 3, 4, 5, and SE¼NW¼.
T. 21 N., R. 7 W.,
sec. 32, NW¼.
T. 20 N., R. 8 W.,
sec. 12, E½.
T. 21 N., R. 8 W.,
sec. 22, SW¼.
sec. 34, lots 5 to 8, inclusive.
T. 23 N., R. 8 W.,
sec. 2, lots 1, 2, and S½NE¼;
sec. 5, lots 1, 2, and S½NE¼.
T. 22 N., R. 9 W.,
sec. 27, W½;
sec. 28, S½;
sec. 32, NE¼;
sec. 33, NW¼.
T. 24 N., R. 9 W.,
sec. 31, lots 3, 4, and E½SW¼.
T. 25 N., R. 9 W.,
sec. 29, SE¼.
T. 22 N., R. 10 W.,
sec. 17, SW¼;
sec. 19, lots 3, 4, and E½SW¼;
sec. 23, SE¼;
sec. 24, W½;
sec. 30, lots 1, 2, NE¼, and E½NW¼.
T. 25 N., R. 10 W.,
sec. 21, NE¼;
sec. 35, SE¼.
T. 15 N., R. 11 W.,
sec. 29, N½.
T. 18 N., R. 11 W.,
sec. 22, SW¼.
T. 22 N., R. 11 W.,
sec. 22, NE¼.
T. 24 N., R. 11 W.,
sec. 1, lots 5 to 8, inclusive.
T. 16 N., R. 12 W.,
sec. 26, SE¼.
T. 25 N., R. 12 W.,
sec. 24, NE¼.
T. 14 N., R. 13 W.,
sec. 20, SW¼.
T. 17 N., R. 13 W.,
sec. 28, N½SW¼.
T. 23 N., R. 13 W.,
sec. 28, SW¼.
T. 16 N., R. 15 W.,
sec. 14, SW¼.
T. 16 N., R. 17 W.,
sec. 14, NW¼.
T. 14 N., R. 18 W.,
sec. 9, S½;
sec. 26, SW¼.
T. 13 N., R. 19 W.,
sec. 2, SW¼.
Containing 12,263.64 acres.

NMNM 83357

T. 17 N., R. 5 W.,
sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
sec. 3, SW¼.
T. 17 N., R. 6 W.,
sec. 17, lots 1 to 4, inclusive, W½E½, and W½;
sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
sec. 29, lots 1 to 4, inclusive, W½E½, and W½;
sec. 31, lots 1 to 4, inclusive, E½, and E½W½.
T. 18 N., R. 6 W.,
sec. 19, NE¼;
sec. 21, SE¼;
sec. 25, SW¼.
T. 18 N., R. 7 W.,
sec. 13, N½;
sec. 17, SE¼.
T. 20 N., R. 7 W.,
sec. 5, S½;
sec. 11, NE¼ and SW¼;
sec. 19, lots 3, 4, and E½SW¼;
sec. 21, E½;
sec. 29, S½;
sec. 33, SW¼.
T. 17 N., R. 8 W.,
sec. 17, SW¼;
sec. 19, NE¼.
T. 18 N., R. 8 W.,
sec. 3, lots 3, 4, S½NW¼, and SW¼;
sec. 5, lots 1, 2, and S½NE¼;
sec. 7, lots 1, 2, E½NW¼, and SE¼;
sec. 9, NW¼ and S½.
T. 19 N., R. 8 W.,
sec. 19, E½;
sec. 21, S½SE¼;
sec. 29, N½;
secs. 33 and 35.
T. 20 N., R. 8 W.,
sec. 9;
sec. 11, W½;
sec. 13,
sec. 15, SE¼;
sec. 23;
sec. 25, E½;
sec. 27, N½.
T. 19 N., R. 9 W.,
sec. 3, SE¼;
secs. 11 and 13;
sec. 15, NE¼;
sec. 25;
sec. 35, SE¼.
T. 13 N., R. 11 W.,
sec. 11, N½.
T. 15 N., R. 11 W.,
sec. 1, lots 1 to 4, inclusive, S½N½, and SE¼;
sec. 3, lots 1 to 4, inclusive;
sec. 9, W¼;
sec. 19, lots 1 to 4, inclusive, and E½W½;
sec. 21;
sec. 25, S½;
sec. 29, S½;
sec. 31, E½.
T. 16 N., R. 11 W.,
sec. 1, lots 3, 4, and S½NW¼;
sec. 3, lots 1 to 4, inclusive, and S½N½;
sec. 11, NW¼;
sec. 13, SW¼;
sec. 21, SE¼;
sec. 23, NW¼;
sec. 25;
sec. 31, SE¼;
sec. 35, W½.
T. 17 N., R. 11 W.,
sec. 3, lots 1, 2, and S½NE¼;
secs. 11, 13 and 15;
sec. 19, lots 3, 4, and E½SW¼;
sec. 21, NW¼;
sec. 27, SE¼;
sec. 31, lots 1 to 4, inclusive, E½, and E½W½;
sec. 33, SE¼.
T. 18 N., R. 12 W.,
sec. 3, lots 1, 2, S½NE¼, and SE¼;
sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
secs. 9, 15, and 17;
sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
secs. 21, 27, and 29;
sec. 33, N½;
sec. 35.
T. 19 N., R. 12 W.,
sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
sec. 9, NW¼, and S½;
sec. 15, SW¼;
sec. 17;
sec. 19, lots 3, 4, and E½SW¼;
sec. 27, NE¼;
sec. 29, NW¼ and S½;
sec. 31, lots 1 to 4, inclusive, E½, and E½W½;
sec. 35, E½.
T. 17 N., R. 13 W.,
sec. 1, lots 3, 4, S½NW¼, and S½;
sec. 3, lots 1, 2, S½NE¼, and SE¼;
sec. 5, lots 3, 4, S½NW¼, and S½;
sec. 7, lots 1 to 4, inclusive, NE¼, and E½W½;
sec. 9, NW¼;
sec. 13, NE¼;
sec. 15, SE¼;
sec. 21, NW¼;
sec. 25, NE¼;
sec. 27, SE¼;
sec. 31, lots 1 to 4, inclusive, E½, and E½W½.
T. 19 N., R. 13 W.,
sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
sec. 11, N½ and SW¼;
sec. 13, lots 1 to 16, inclusive;
sec. 23, E½ and SW¼;
sec. 25, lots 1 to 16, inclusive;
sec. 27, S½;
sec. 35, lots 1 to 16, inclusive.
T. 21 N., R. 13 W.,
sec. 11, NW¼;
secs. 15, 27, and 33.
T. 22 N., R. 13 W.,
sec. 1, lots 3, 4, and S½NW¼;
sec. 3, SW¼;
sec. 11, S½;
sec. 13, NE¼, NE¼SW¼, and N½SE¼;
sec. 23, NE¼;
sec. 35.
T. 23 N., R. 13 W.,
sec. 27, NW¼;
sec. 31, lots 1 to 4, inclusive, and E½W½;
sec. 35, NW¼ and SE¼.
T. 13 N., R. 17 W.,
sec. 5, S½N½ and S½.
T. 15 N., R. 17 W.,
sec. 14, lots 2, 3, 4, and 6.
T. 12 N., R. 18 W.,
sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
sec. 3, lots 1, 2, S½NE¼, and SE¼;
sec. 11, N½ and SE¼;
sec. 13;
sec. 15, N½N½ and S½;
sec. 23;
sec. 25, N½ and N½S½;
sec. 27, E½ and NW¼;
sec. 35.
T. 14 N., R. 18 W.,
sec. 3, S½;

sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
sec. 9, N½;
sec. 13, SW¼;
sec. 15, N½ and N½S½;
sec. 17;
sec. 19, E½;
sec. 21, SE¼;
sec. 23, S½;
sec. 27, N½;
sec. 33, SW¼.
T. 11 N., R. 19 W.,
sec. 5, SW¼;
sec. 7, lots 1, 2, NE¼, and E½NW¼.
T. 14 N., R. 19 W.,
sec. 1, SE¼;
sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
sec. 11;
sec. 15, W½W½;
sec. 17, NE¼ and S½;
sec. 23;
sec. 25, SW¼;
sec. 27, NE¼.
T. 11 N., R. 20 W.,
sec. 1, lots 1, 2, S½NE¼, and SW¼;
sec. 5, SE¼;
sec. 9, NW¼ and SE¼;
sec. 11, N½.
T. 12 N., R. 20 W.,
sec. 33, SE¼.
T. 13 N., R. 20 W.,
sec. 5, lots 1, 2, and S½NE¼;
sec. 9, N½;
sec. 19, lots 1, 2, and E½NW¼;
sec. 23;
sec. 27, NE¼.
T. 14 N., R. 20 W.,
sec. 17;
sec. 19, lots 1 to 4, inclusive, E½, and E½W½;
sec. 21, N½SW¼.
T. 15 N., R. 20 W.,
sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
sec. 3, lots 1, 2, and S½NE¼;
sec. 5, S½.
T. 12 N., R. 21 W.,
sec. 11, E½.
T. 13 N., R. 21 W.,
sec. 1, SE¼;
sec. 3, lots 1 to 4, inclusive;
sec. 13, SE¼NE¼ and S½;
sec. 15, lots 2, 3, and 4.
T. 14 N., R. 21 W.,
sec. 35, NE¼NE¼, S½NE¼, SW¼NW¼, and S½.
T. 15 N., R. 21 W.,
sec. 11, S½;
sec. 13, NE¼;
sec. 15, lots 1 to 4, inclusive.

Containing 67,462.89 acres.

In exchange for the surface estate in the land described above, the Navajo Tribe conveyed to the United States the surface estate in the following described land located in McKinley and San Juan Counties, Nex Mexico:

New Mexico Principal Meridian

T. 19 N., R. 7 W.,
sec. 27, SE¼;
sec. 29;
sec. 31, lots 1 to 14, inclusive, NE¼, and E½NW¼;
sec. 33, lots 1 to 12, inclusive, and N½.
T. 21 N., R. 9 W.,
Portions of secs. 3 and 4.
T. 20 N., R. 10 W.,
secs. 3, 11 and 12, That portion lying northeasterly from the 6400 foot contour line;
T. 21 N., R. 10 W.,
sec. 4, lots 3, 4, S½N½, and S½;
sec. 5, lots 1, 3, E½SW¼, and SE¼;
sec. 9;
sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
secs. 33 and 34, That portion lying northeasterly from the 6400 foot contour line.
T. 19 N., R. 11 W.,
sec. 27, S½NW¼ and W½SW¼;
sec. 28, S½NE¼ and SE¼;
sec. 29, SW¼SE¼;
sec. 33, N½N½NE¼;
T. 20 N., R. 11 W.,
sec. 22, NE¼NE¼;
sec. 23, W½NW¼NW¼.
T. 21 N., R. 11 W.,
secs. 15, 21, 22, 23, and 25;
sec. 26, NE¼.
T. 20 N., R. 12 W.,
sec. 5, lots 3, 4, S½NW¼, SW¼, and W½SE¼;
sec. 6, lot 8;
sec. 8, SW¼;
sec. 17, NW¼NE¼ and N½NW¼.
T. 21 N., R. 12 W.,
sec. 24, NW¼;
sec. 25;
sec. 31, E½SE¼.
T. 24 N., R. 12 W.,
sec. 3, lots 8, 9, 16, and 17;
sec. 4, lots 5 to 20, inclusive;
sec. 5, lots 5, 6, 11 to 14, inclusive, 19 and 20;
sec. 8, lots 1, 2, and 7 to 16, inclusive;
sec. 9, lots 3 to 6, inclusive, 12 and 13;
sec. 17, lots 1 to 16, inclusive;
sec. 18, lots 5, 6, and 11 to 20, inclusive;
sec. 19, lots 5 to 19, inclusive;
sec. 20, lots 2 to 6, inclusive;
sec. 30, lots 6 to 11, inclusive, and 14 to 19, inclusive;
sec. 31, lots 6 to 11, inclusive; 14, 15, 16, 18, and 19.
T. 20 N., R. 13 W.,
sec. 7, lot 2, W½SW¼NE¼, and SE¼NW¼.
T. 24 N., R. 13 W.,
sec. 13, S½;
sec. 14, SE¼;
sec. 21, E½SE¼ and SW¼SE¼;
secs. 22 to 26;
sec. 27, E½ and NW¼;
sec. 28, N½;
sec. 35;
sec. 36, N½, SW¼, and N½SE¼.
T. 17 N., R. 18 W.,
sec. 33, SW¼SE¼SE¼.

Containing 21,464.77 acres.

The purpose of these exchanges were to enhance management potential and help block up land ownership. The public interest was served through the completion of these exchanges.

NMNM 83247 exchange was to acquire lands forming a link between the Bisti and De-Na-Zin Wilderness Area, increasing the ability of the Bureau's management of lands within the designated Chacra Mesa Area for the protection of numerous cultural sites, and to resolve unauthorized occupancy by members of the Navajo Tribe.

NMNM 83357 exchange was to acquire land within the Chaco Culture National Historic Park boundaries that will be managed by the National Park Service and acquire Chacoan outliers identified in Public Law 96–550 for protection. All of the land that the Tribe acquired had been withdrawn and administered by the Bureau of Indian Affairs for many years.

The values of the Federal public land and the non-Federal land in NMNM 83247 exchange are approximately equal. NMNM 83357 exchange was made on other than equal value as allowed by Public Law 96–550.

Dated: September 8, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92–22497 Filed 9–16–92; 8:45 am]

BILLING CODE 4310–FB–M

[WY–060–02–4212–14; W–101872]

Realty Action; Direct and Modified Competitive Sale of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, direct and modified competitive sale of public lands in Crook County.

SUMMARY: The following public surface estate has been determined to be suitable for disposal by direct and modified competitive sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, (90 STAT. 2750; 43 U.S.C. 1713). The Bureau of Land Management (BLM) is required to receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if the sale would not be consistent with FLPMA or other applicable law.

Sixth Principal Meridian

	Acres
Parcel Number 1: T. 56 N., R. 66 W., sec. 2, lot 5	1.37
Parcel Number 2: T. 57 N., R. 66 W., sec. 23, lot 9	21.04
Parcel Number 3: T. 56 N., R. 66 W., sec. 9 lot 5,6; sec. 16, lot 1	63.25

FOR FURTHER INFORMATION CONTACT: Floyd Ewing, Area Manager, Bureau of Land Management, Newcastle Resource Area, 1101 Washington Blvd., Newcastle, Wyoming 82701, 307-746-4453.

SUPPLEMENTARY INFORMATION: This sale is consistent with Bureau of Land Management policies and the Newcastle Management Framework Plan. The purpose of this sale is to dispose of three isolated parcels of public lands. The fair market values, planning document, and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Newcastle Resource Area, Newcastle, Wyoming.

Parcel 2 will be offered by direct sale to the adjoining landowner. The adjoining landowner will be required to submit proof of adjoining land ownership before a bid can be accepted.

Parcels 1 and 3 will be offered by modified competitive sale to the adjoining landowners. The apparent high bidder will be required to submit proof of adjoining land ownership before the high bid can be accepted.

The publication of this Notice of Realty Action in the Federal Register shall segregate the above public lands from appropriation under the public land laws, including the mining laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant if the Notice segregates the land from the use applied for the application. The segregative effect of this Notice will terminate upon issuance of a conveyance document, 270 days, or when a cancellation Notice is published, whichever occurs first. Sale Procedures:

1. All bidders must be U.S. citizens, 18 years of age or older, corporations authorized to own real estate in the State of Wyoming, a state, state instrumentality or political subdivision authorized to hold property, or an entity legally capable of conveying and holding land or interests in Wyoming.

2. Sealed bidding is the only acceptable method of bidding. All bids must be received in the Newcastle Resource Area Office by 11 a.m., November 25, 1992, at which time the sealed bid envelopes will be opened and the high bid announced. The high bidder will be notified in writing within 30 days whether or not the BLM can accept the bid. The sealed bid envelope must be marked on the front lower left-hand corner with the words "Public Land Sale, (W-101872 and the Parcel Number), Sale held November 25, 1992.

3. All sealed bids must be accompanied by a payment of not less than 10 percent of the total bid. Each bid and final payment must be accompanied by certified check, money order, bank draft, or cashier's check made payable to: Department of the Interior-BLM.

4. Failure to pay the remainder of the full bid price within 180 days of the sale will disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of the sale. If the apparent high bidder is disqualified, the next highest qualified bid will be honored or the land will be reoffered under competitive procedures. If two or more envelopes containing valid bids of the same amount are received, supplemental sealed bidding will be used to determine the high bid. Additional sealed bids will be submitted to resolve all ties.

5. If any parcels fail to sell, they will be reoffered for sale under competitive procedures. For reoffered land, bids must be received in the Newcastle Resource Area Office by 11 a.m. on the fourth Wednesday of each month beginning December 23, 1992. Reoffered land will remain available for sale until sold or until the sale action is cancelled or terminated. Reappraisals of the parcels will be made periodically to reflect the current fair market value. If the fair market value of a parcel changes, the land will remain open for competitive bidding according to the procedures and conditions of this notice.

Patent Terms and Conditions:

Any patent issued will be subject to all valid existing rights. Specific patent reservations include:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals will be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the BLM Newcastle Resource Area Office.

3. Any conveyance will be subject to the exiting grazing use of F.A. Bush, Inc. (GR49-8412). The rights of F.A. Bush, Inc. to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. GR49-8412 shall cease 2 years from the date of sale. If any persons other than F.A. Bush, Inc. are the successful bidders on the land being offered for sale, those persons shall be entitled to receive annual grazing fees from F.A. Bush, Inc. in an amount not to exceed that which would be authorized under the Federal grazing fee published in the Federal Register.

For a period of 45 days from the date of this notice published in the Federal Register, interested parties may submit comments to the BLM, District Manager, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become final.

Dated: September 9, 1992.

Mike Karbs,

District Manager.

[FR Doc. 92-22498 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-22-M

[CA-940-92-4730-12]

Filing of Plats of Survey; California

AGENCY: Bureau r f Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E-2845, Sacramento, CA 95825, 916-978-4775.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Humboldt Meridian, California

Tps. 10 N., Rs. 7 and 6 E.—Metes-and-bounds survey of Tract 46, (Group 1089) accepted July 30, 1992, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

Mount Diablo Meridian, California

T. 28 N., R. 17 E.—Dependent resurvey, survey, and metes-and-bounds survey, (Group 1102) accepted June 16, 1992, to meet certain administrative needs of the Department of the Army, Sierra Army Depot.

T. 16 N., R. 7 W.—Supplemental plat of W½ of sections 7 and 18, accepted July 9, 1992, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 39 N., R. 12 W.—Metes-and-bounds survey of Tract 46, (Group 1108) accepted July 10, 1992, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

San Bernardino Meridian, California

T. 4 S., R. 14 E.—Supplemental plat of sections 1 and 2, accepted June 10, 1992, to meet certain administrative needs of the BLM, California Desert District, Palm Springs/S. Coast Resource Area.

T. 4 S., R. 14 E.—Supplemental plat, accepted July 15, 1992, to meet certain administrative needs of the BLM, California Desert District, Palm Springs/S. Coast Resource Area.

T. 4 N., R. 2 E.—Corrective dependent resurvey of the section line between sections 17 and 18, accepted July 17, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 2 N., R. 7 W.—Metes-and-bounds survey of Lot 2 in Tract 37, accepted July 28, 1992, to meet certain administrative needs of the U.S. Forest Service, Angeles National Forest.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats will be placed in the open files in the BLM, California State Office, and will be available to the public as a matter of information. Copies of the survey plats and related field notes may be furnished to the public upon payment of the appropriate fee.

Dated: September 4, 1992.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 92-22496 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-92-4730-12]

Colorado: Filing of Plats of Survey

September 3, 1992.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., September 3, 1990.

The plat (in six sheets) representing the dependent resurvey of a portion of the Second Standard Parallel North (south boundary), T. 9 N., Rs. 96 and 97 W., portions of the Twelfth Guide Meridian West (east boundary), the south and west boundaries, subdivisional lines, and the boundaries of certain land claims and the subdivision of certain sections, T. 8 N., R. 97 W., Sixth Principal Meridian, Colorado, Group No. 834, was accepted July 23, 1992.

The plat representing the dependent resurvey of the subdivisional line between sections 25 and 36 and a metes-and-bounds survey of lot 39, in section 36, T. 2 S., R. 73 W., Sixth Principal Meridian, Colorado, Group No. 995, accepted July 28, 1992.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of a portion of the subdivision of section 9 and a metes-and-bounds survey in section 9, T. 5 S., R. 80 W., Sixth Principal Meridian, Colorado, Group No. 954, was accepted July 23, 1992.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The following plat will be immediately placed in the open files and will be available to the public as a matter of information. Copies of this plat may be furnished to the public upon payment of the appropriate fee. This plat will be regarded as officially filed as of 10:00 a.m. on October 19, 1992, as provided for in 43 CFR 1813.1-2 (BLM Manual) Section 2097—Opening Orders is required.

The plat representing the dependent resurvey of a portion of the state boundary between Colorado and Utah, from the 3½ mile post to the 9½ mile post, the Eighth Standard Parallel North (north boundary of T. 32 N., R.20 W.), and a portion of the north boundary and the survey of the subdivisional lines of Fractional T. 33 N., R. 20 W., New Mexico Principal Meridian, Colorado, Group No. 924, was accepted July 23, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 92-22408 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-JB-M

[ID-942-02-4730-12]

Idaho: Filing of Plate of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., September 8, 1992.

The plat representing the dependent resurvey of portions of Homestead Entry Survey No. 419 and the survey of tracts 37, 38, and 39 in unsurveyed T. 11 N., R. 15 E., Boise Meridian, Idaho, Group No. 831, was accepted, August 28, 1992.

This survey was executed to meet certain administrative needs of the USDA Forest Service, Region IV.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: September 8, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-22494 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-GG-M

[NM-920-4214-11; NMNM 0556981]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a portion of a withdrawal continue for an additional 20 years. The lands would remain closed to mining, but have been and will remain open to mineral leasing.

DATES: Comments should be received by December 16, 1992.

ADDRESSES: Comments should be sent to the New Mexico State Director, BLM, P.O. Box 27115, Santa Fe, New Mexico 87502-0115.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM, New Mexico State Office, 505-438-7594.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that portions of the withdrawal of land made by Public Land Order 4643 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988). The land is described as follows:

New Mexico Principal Meridian, Gila National Forest

Lake Roberts Recreation Area

T. 14 S., R. 13 W.,
Sec. 35, that portion lying outside the Gila Wilderness described as S½NW¼, and S½ (80 acres).

T. 15 S., R. 13 W.,
Sec. 1, lots 1 to 4, inclusive and S½NE¼;
Sec. 2, lots 1 and 2.

Scorpion Corral Recreation Area

T. 12 S., R. 14 W.,
Sec. 26, NW¼NE¼ and N½N½NW¼.

Forks Recreation Area

T. 13 S., R. 13 W.,
Sec. 8, W½NE¼ and E½NE¼NW¼.

Grapevine Recreation Area

T. 13 S., R. 13 W.,
Sec. 8, N½NW¼SE¼.

East Fork Recreation Area

T. 13 S., R. 13 W.,

Sec. 8, SE¼NE¼NE¼, NE¼SE¼NE¼, S½SE¼NE¼, and N½NE¼SE¼.

Black Mountain Administrative Site

T. 11 S., R. 13 W.,
Sec. 6, that portion lying outside the Gila Wilderness described as S½ of lot 15.

Catwalk Recreation Area (formerly Whitewater Forest Camp)

T. 11 S., R. 19 W.,
Approximately 403.997 acres in the following legal subdivision:
Sec. 4, lot 20, N½SW¼, N½SE¼SW¼, SE¼SE¼SW¼, and S½SE¼;
Sec. 5, lots 13 and 14, S½ of lot 15, N½ of lot 17, N½ of lot 18, and SE¼ of lot 17;
Sec. 6, SE¼ of lot 16, and N½ of lot 17.

Copperas Canyon—Cliff Dwelling Road

750 acres—that portion lying outside the Gila Wilderness and described as a strip of land 600 feet wide, 300 feet on each side of centerline of State Highway No. 527, through the following legal subdivisions:

T. 13 S., R. 13 W.,
Sec. 8, W½NE¼NW¼, S½NW¼SE¼ and S½SE¼;
Sec. 16, W½SW¼;
Sec. 17, NE¼ and E½SE¼;
Sec. 20, NE¼NE¼;
Sec. 21, W½;
Sec. 28, W½;
Sec. 32, SE¼SE¼;
Sec. 33, N½NW¼, SE¼NW¼, SW¼, and NW¼SE¼.

T. 14 S., R. 13 W.,
Sec. 4, lots 3 and 4, S½N½, SE¼SW¼, and W½SE¼;
Sec. 5, lot 1;
Sec. 8, SW¼SE¼ and E½SE¼;
Sec. 9, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 17, W½E½;
Sec. 20, NE¼, E½SW¼, and NW¼SE¼;
Sec. 29, W½NE¼, E½NW¼, and SW¼;
Sec. 32, N½NW¼NW¼.

T. 12 S., R. 14 W.,
Sec. 25, SW¼SW¼;
Sec. 26, NE¼SE¼;
Sec. 36, SE¼NE¼ and NE¼NW¼.

Gila River (West, Middle, and East Forks) Streamside Zones

91 acres—that portion lying outside the Gila Wilderness and described as a strip of land 300 feet on each side of the stream through the following legal subdivisions:

T. 12 S., R. 13 W.,
Sec. 31, lot 1;
Sec. 32, S½SW¼.

T. 13 S., R. 13 W.,
Sec. 4, E½SW¼;
Sec. 8, SW¼NE¼NE¼, NW¼SE¼NE¼, E½SW¼, and S½NE¼SE¼;
Sec. 17, W½W½NE¼, S½NW¼, and SW¼;
Sec. 20, lot 1.

T. 12 S., R. 14 W.,
Sec. 25, SW¼NW¼.

The areas described aggregate approximately 2,421.867 acres in Grant and Catron Counties.

The withdrawal is essential for protection of substantial capital improvements on the sites. The withdrawal currently segregates the lands from mining but not from mineral leasing. The Forest Service requests no changes in the purpose or segregative effect of the withdrawal.

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 withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

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 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.

Dated: September 8, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92-22495 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-FB-M

[OR-943-4214-11; GP2-440; OR-1070(WASH), et al.]

Proposed Continuation of Withdrawals; Washington; Correction

A Secretarial Order date in FR Doc. 92-17444 published on page 33005-6, in the issue of Friday, July 24, 1992, is hereby corrected as follows:

On page 33006, the date in "7. OR-22463(WASH), Secretarial Order dated December 22, 1905" is corrected to read "December 27, 1909".

Dated: September 9, 1992.

Catherine H. Crawford,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92-22499 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Review of the Florida Panther Captive Management and Health Protocol

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Under provisions of U.S. Fish and Wildlife Service policy on continued environmental review of Florida panther recovery activities, this is to advise the public that review of the Florida panther Captive Management and Health Protocol has been carried out through the Florida Panther Technical Advisory Council.

ADDRESSES: Please send correspondence concerning this notice to the Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan, Florida Panther Coordinator, U.S. Fish and Wildlife Service, 117 Newins-Ziegler Hall, University of Florida, Gainesville, Florida 32611-0307, telephone 904/392-1861.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service (Service) issued a "Statement of Policy on Continued Environmental Review" (Policy) of Florida panther recovery activities on February 5, 1992 (**Federal Register**, April 22, 1992, 14733-14735). This Policy establishes a peer review process through the Florida Panther Technical Advisory Council (Council).

This Service requested Council review of the Florida panther Captive Management and Health Protocol on February 27, 1992. Results of the Council's review were received by the Service on April 20, 1992. The Council made two suggestions for modification. First, the words "should" and "will" be replaced with "shall" as noted throughout the document. Second, clarification is needed under management strategies for the two categories of captive panthers.

The Service has accepted both suggestions and the Florida panther Captive Management and Health Protocol will be updated to reflect these changes. All documents involved in this review are available for public inspection, by appointment, during normal business hours at the above address.

Author

The primary author of this notice is Dennis B. Jordan, U.S. Fish and Wildlife Service, 117 Newins-Ziegler Hall, University of Florida, Gainesville, Florida 32611-0307, telephone 904/392-1861.

Authority: The authority for this action is the Endangered Species Act (16 U.S.C. 1531-1544).

Dated: September 8, 1992.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 92-22321 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATES: October 16, 1992 at 1:30 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Allentown City Hall, 435 Hamilton Street, 5th Floor Conference Room, Allentown, PA.

FOR FURTHER INFORMATION CONTACT: Millie Alvarez, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 East Church Street, room P-208, Bethlehem, PA 18018 (215) 861-9345.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100-692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

Joseph W. Gorrell,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-22420 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area (GGNRA) Advisory Commission will be held at 7:30 p.m. (PDT) on Thursday, October 1, 1992, at Building 201, Fort Mason, San Francisco, California. The Advisory Commission was established by Public Law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Dr. Howard Cogswell
Brig. Gen. John Crowley, USA (ret)
Mr. Margot Patterson Doss
Mr. Neil D. Eisenberg
Mr. Jerry Friedman
Mr. Steve Jeong
Ms. Daphne Greene
Ms. Gimmy Park Li
Mr. Gary Pinkston
Mr. Merritt Robinson
Mr. R.H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

The main agenda item at the public meeting will be a presentation of the GGNRA Natural Resource Management Plan. The Natural Resource Management Plan identifies GGNRA's natural resources and their condition. It lays a foundation to preserve and restore, where necessary, the natural native California habitats, and ecosystems on which they depend. It identifies the pressures existing from the ever-growing metropolitan population adjacent to the park's natural areas, and it provides strategies for protecting the natural systems and resources. The plan revises the previous GGNRA Natural Resource Management Plan of 1982.

A second agenda item will be a presentation of the GGNRA Fire Management Plan and Environmental Assessment. These documents were made available to the public in March 1992. The Fire Management Plan is an addendum to the Natural Resource Management Plan. The National Park Service Wildland Fire Management Guideline requires that all areas with vegetation capable of sustaining fire will develop a fire management plan. The plan revises the previous GGNRA Fire Management Plan of 1985. Following the presentation there will be comments of the Marin and San Mateo Committees and the Advisory Commission of the GGNRA Fire Management Plan.

The third agenda item at this meeting will be a presentation about the GGNRA research program. A major source of GGNRA park research activities are grants from Earthwatch, a Massachusetts private organization which recruits and organizes volunteers to team up with scientists around the world who need labor and capital to support their projects. The grants help support GGNRA's natural resource inventory and monitoring program.

The fourth agenda item at this meeting will be a presentation on the wetlands restoration project at Bolinas Lagoon by the California Department of Transportation (CALTRANS) as mitigation to the National Park Service for the Highway 1 slide repair project which impacted GGNRA in Marin County.

The meeting will also contain a Superintendent's Report.

This meeting is opened to all environmental, neighborhood, and community groups and others interested in being involved in the planning process for the Golden Gate National Recreation Area.

Copies of the GGNRA Natural Resource Management Plan and the GGNRA Fire Management Plan and Environmental Assessment can be obtained by writing to Superintendent, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript will be available after October 23, 1992. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: September 11, 1992.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 92-22525 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-70-M

Mississippi River Corridor Study Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES & TIME: October 14, 1992, 3:30 p.m. to 5 p.m. October 15, 1992, 8 a.m. until business completed but no later than 12 p.m. October 16.

ADDRESSES: Executive Inn, One Executive Boulevard, Paducah, Kentucky.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Region, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: David N. Given, Associate Regional Director, Planning and Resources Preservation, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221-3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101-398, September 28, 1990.

Dated: September 11, 1992.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 92-22524 Filed 9-16-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 402)]

CSX Transportation Co., Inc.; Abandonment; Between Woodlawn and Walmar, in Jefferson, Washington, Clinton, and St. Clair Counties, IL; Findings

The Commission has found that the public convenience and necessity permit CSX Transportation Company, Inc. to abandon a 30.27-mile segment of its Woodlawn-Walmar line, between Venedy (milepost H448.6) and Walmar (milepost H478.87), in Washington, Clinton and St. Clair Counties, IL.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant and the railroad no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "The Section of Legal Counsel, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are continued in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: September 1, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22532 Filed 9-16-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 371X)]

CSX Transportation, Inc.; Abandonment Exemption; Polk County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903 et seq. the abandonment by CSX Transportation, Inc., of 4.09 miles of its Valrico Subdivision between mileposts AYC-864.65 and AYC-868.74 in Ridgewood, Polk County, FL, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 17, 1992. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 28, 1992, petitions to stay must be filed by October 2, 1992, and petitions for reconsideration must be filed by October 12, 1992. Requests for a public use condition must be filed by October 7, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 371X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610, [TDD for hearing impaired: (202 927-5721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359.

[Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: September 9, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22529 Filed 9-16-92; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[Docket No. AB-55 (Sub-No. 436X)]

CSX Transportation, Inc.; Abandonment Exemption; in Perry County, KY

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon 2.86 miles of its line of railroad between milepost VE-245.40, V.S. 215+39, near Bulan, and milepost VE-248.26, V.S. 372+42, at Hardburly, in Perry County, KY.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service over the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial

revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on October 17, 1992, unless stayed or a formal expression of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 [3] must be filed by September 28, 1992. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 7, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to CSXT's representative: Charles M. Rosenberger, Senior Counsel, 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report that addresses the abandonment's effects, if any, on the environment and historic resources. SEE will issue an environmental assessment (EA) by September 22, 1992. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 10, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22531 Filed 9-16-92; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be issued routinely where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Energy and Environment (SEE), cannot be made before the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See Exempt. of Rail Abandonment—offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB-375X]

Lake Erie, Franklin and Clarion Railroad Co.; Abandonment Exemption; in Clarion and Jefferson Counties, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Lake Erie, Franklin and Clarion Railroad Company (LEF&C) of its entire 15-mile rail line in Clarion and Jefferson Counties, PA, extending between milepost 0.0 in Clarion and milepost 15.0 in Summerville. Since LEF&C is abandoning its entire line, the Commission is not imposing labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 2, 1992. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) and requests for a public use condition must be filed by September 27, 1992, petitions to stay must be filed by September 22, 1992, and petitions to reopen must be filed by September 28, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-375X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative:

Richard A. Allen, 888 Seventeenth Street, NW., Suite 600, Washington, DC 20006-3959.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927-5610, [TDD for hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927-5721.]

Decided: September 9, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22528 Filed 9-16-92; 8:45 am]

BILLING CODE 7035-01-M

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[Ex Parte No. 388 (Sub-No. 22)]

Intrastate Rail Rate Authority; New Mexico

AGENCY: Interstate Commerce Commission.

ACTION: Extension of provisional recertification.

SUMMARY: By decision served March 13, 1990, the Commission granted 180-day provisional recertification for New Mexico, through its State Corporation Commission, to regulate intrastate rail rates, practices, and procedures pending filing of its application for recertification pursuant to *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680 (1989). By decisions served September 13, 1990, March 18, 1991, September 17, 1991, and March 18, 1992, the Commission extended the provisional recertification for another 180 days. Pursuant to a request from the State, the Commission grants another extension so that New Mexico can complete modifications of its procedures and prepare an application for recertification.

DATES: New Mexico's provisional recertification is extended for 180 days from September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610, [TDD for hearing impaired: (202) 927-5721].

Decided: September 11, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22530 Filed 9-16-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

AVX Corp., et al.; Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 4, 1992, a proposed consent decree in *United States of America* v. *AVX Corporation, et al.*, Civil Action No. 83-3882-Y, was lodged with the United States District Court for the District of Massachusetts. This case concerns claims by the United States and the Commonwealth of

Massachusetts for past and future cleanup costs, for injunctive relief, and for natural resource damages at the New Bedford Harbor Superfund site (the Site) in southeastern Massachusetts. The United States' claims are under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), section 7003 of the Resource Conservation and Recovery Act, section 504 of the Clean Water Act, and the Rivers and Harbors Act. The Commonwealth has similar claims under section 107 of the CERCLA and state law.

The proposed consent decree resolves these claims against the last two defendants named in the lawsuit. The consent decree requires the settling defendants, Federal Pacific Electric Company and Cornell Dubilier Electronic, Inc. to pay a total of $21 million, plus accrued interest from June 1992, towards the costs incurred by the federal and state governments for investigation and cleanup of PCB contamination in New Bedford Harbor and for natural resource damages. Of this amount, $1 million, plus accrued interest, will be paid to the Environmental Protection Agency's (EPA) Superfund for past cleanup costs, $10 million, plus accrued interest, will be paid to the National Oceanic and Atmospheric Administration (NOAA), which is the lead federal natural resource trustee at this site, and the Massachusetts Secretary of Environmental Affairs, who is the designated state natural resource trustee, for natural resource damages, and the remaining $10 million will be allocated between future cleanup cost and natural resource restoration based upon the extent of cleanup selected for the lower portion of New Bedford Harbor. Most of this damages amount will be placed in a fund in the Registry of the U.S. District Court and will be used jointly by NOAA, the Department of the Interior, and the state trustee to restore, replace, or acquire the equivalent of natural resources that have been injured by the PCB contamination in New Bedford Harbor.

The Department of Justice will receive comments on the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *AVX Corporation*, D.J. Ref. 90-11-2-32.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 J.W. McCormack Post Office/Courthouse, Boston, Massachusetts 02109 and at the Region I office of the Environmental Protection Agency, 2203 JFK Federal Building, Boston, Massachusetts 02203. Copies of the consent decree may also be examined at the Consent Decree Library, 601 Pennsylvania, NW., Washington, DC 20004 (202-347-2072). Copies of the proposed consent decree may be obtained in person or by mail from the Consent Library at the above address. In requesting a copy, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 92-22405 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Dexter Corp.; Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 3, 1992, a proposed Consent Decree in *United States* v. *Dexter Corporation*, Civil No. H89-393 (AHN), was lodged with the United States District Court for the District of Connecticut resolving the matter. The proposed Consent Decree concerns violations by Dexter Corporation of the Clean Water Act ("CWA"), 33 U.S.C. 1251 *et seq.*, and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.*, at Dexter's facilities located in Windsor Locks, Connecticut. The CWA violations alleged in the amended complaint include discharges in excess of National Pollutant Discharge Elimination System permit limits, discharging pollutants without a permit, bypassing the company's treatment system and failing to comply with reporting requirements. The RCRA violations include generator violations, operation of a treatment, storage or disposal facility ("TSD") facility without a permit, violation of TSD requirements, and land ban violations. The State of Connecticut is a Plaintiff-Intervernor with respect to CWA claims and is participating in the settlement.

Under the terms of the Consent Decree, the defendant will pay a total civil penalty of $9 million, of which $5.6 million will be paid to the United States and $3.6 million to the State of Connecticut. In addition, Dexter will undertake significant injunctive relief to come into compliance with the CWA, including installation of equipment to achieve compliance with effluent limits. Dexter will demonstrate compliance with the RCRA provisions at issue, characterize and close numerous areas pursuant to EPA-approved plans, and conduct a RCRA Facilities Assessment. In addition, Dexter will hire an independent firm to conduct a multi-media environmental compliance audit at the Windsor Locks facilities. The audit will also examine management systems and waste minimization systems.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Dexer Corporation*, D.J. Ref. 90-5-1-1-3338.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20044, (202) 347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $17.75 (25 cents per page reproduction cost for the Consent Decree excluding Appendices) made payable to Consent Degree Library.

Roger Clegg,

Deputy Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-22402 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Krilich; Lodging Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Krilich*, (N.D. Ill.) was lodged with the United States District Court for the Northern District of Illinois on or about August 6, 1992. This Consent Decree concerns a Complaint filed by the United States against Robert R. Krilich, *et al.* pursuant to Section 309 of the Clean Water Act, 33 U.S.C. 1319, to obtain injunctive relief and impose civil penalties upon the Defendants for discharges of dredged or fill material in

violation of CWA section 301(a), 33 U.S.C. 1311(a), and for subsequent violation of an EPA Administrative Order issued pursuant to CWA section 309(a), 33 U.S.C. 1319(a).

The consent decree prohibits additional illegal discharges by the Defendants, requires either restoration of, or mitigation for, wetland areas buried under the fill, and provides for payment of a civil penalty in the amount of $185,000.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Michael D. Rowe, Esq., 10th Street & Constitution Ave., room 7115-Main Bldg., Washington, DC 20530 and refer to *United States* v. *Krilich*, DOJ. Ref. No. 90-5-2-1-3405.

The proposed Consent Decree may be examined at the Clerk's office, United States District Court, 219 South Dearborn Street, Chicago, Ill. 60604, and at the following additional locations: (1) The United States Department of Justice, Environmental Defense Section, 9th & Pennsylvania Ave., NW., Washington, DC 20026 (Contact Michael Cole (202) 514-5452); and (2) the Villa Park Public Library, 305 South Ardmore Avenue, Villa Park, Illinois 60181 (Contact Ms. Marilyn Ryan, Assistant Administrator (708) 834-1164).

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-22406 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 2, 1992, a proposed Consent Decree in *United States and State of Ohio* v. *City of Portsmouth, Ohio,* Civil Action No. C-1-91-398, was lodged with the United States District Court for the Southern District of Ohio, Western Division. The United States filed this action against the defendant, City of Portsmouth, Ohio, in response to violations by the City of Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), and of the National Pollutant Discharge Elimination System ("NPDES") permits for its two wastewater treatment plants. The proposed Consent Decree requires the defendant to pay a civil penalty of $65,000.00, complete a number of corrective actions so that it can achieve and maintain compliance with the Clean Water Act and its NPDES permits, and comply in the future with the Clean Water Act and its NPDES permits.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States and State of Ohio* v. *City of Portsmouth, Ohio,* D.J. Ref. 90-5-1-1-3655.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Ohio, 220 U.S. Post Office and Courthouse, Fifth and Walnut Streets, Cincinnati, Ohio 45202; at the Region V Office of the United States Environmental Protection Agency, Water Division, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044.

Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, [(202) 347-2072]. In requesting a copy, please enclose a check in the amount of $6.25 (25 cents per page for reproduction cost).

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-22399 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

United Technologie Automotive; Lodging of Consent Decree

In accordance with section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 6922, and Departmental policy, 28 CFR 50.7, notice is hereby given that on September 4, 1992, the United States Department of Justice, by the authority of the Attorney General and acting at the request of and on behalf of the Administrator of the United States Environmental Protection Agency, lodged a Consent Decree in *United States* v. *United Technologies Automotive, Inc.*, Civil Action No. C2-92-795, with the United States District Court for the Southern District of Ohio. The Consent Decree addresses the hazardous substance contamination at the Zanesville municipal well field site in the City of Zanesville, Muskingum County, Ohio. The Consent Decree requires the Settling Defendant, United Technologies Automotive, Inc., to implement the remedial action selected and achieve cleanup standards set forth in the Record of Decision and the Scope of Work for the Zanesville site. In addition, the Consent Decree requires the Settling Defendant to reimburse the United States for $305,724 in past response costs incurred by the United States Environmental Protection Agency at the Zanesville site.

The Department of Justice will receive written comments relating to the Consent Decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *United Technologies Automotive, Inc.*, DOJ Reference No. 90-11-2-788.

The Consent Decree may be examined at the Office of the United States Attorney, Two Nationwide Plaza, 280 N. High Street, 4th Floor, Columbus, Ohio 43215; Region V Office of Regional Counsel, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; or at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Washington, DC 20004 (202-347-2072). A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20044. In requesting a copy, please enclose a check for $45.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-22401 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Action Brought Under the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a partial consent decree in *United States* versus *Washington Department of Transportation, et al.*, Civil Action No. C92-1351R, was lodged with the United States District Court for the Western District of Washington on August 26, 1992. As to one defendant, McDonald's Corporation, this Consent Decree settles an action filed by the United States pursuant to section 113 of the Clean Air Act, 42 U.S.C. 7413, and

section 309(b) of the Clean Water Act, 33 U.S.C. 1319(b).

The United States Department of Justice brought this action on behalf of the U.S. Environmental Protection Agency, to recover civil penalties from and obtain injunctive relief against defendants Washington Department of Transportation, McDonald's Corporation and James M. Pirie Construction Co., Inc., for alleged violations of the Clean Air Act, the National Emission Standards for Hazardous Air Pollutants for asbestos ("the asbestos NEHAP") promulgated thereunder, and the Clean Water Act during the 1987 renovation and demolition of the old Crabpot restaurant on the Coleman Dock, Pier 52, in downtown Seattle, Washington. In this settlement, McDonald's Corporation will pay the United States a civil penalty of $150,000. Also, any future demolition and renovation operations conducted at its facilities will be subject to an absestos program set out in the consent decree, as well as to the inspection, notification, and work practice requirements of the asbestos NESHAP.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to the United States versus Washington Department of Transportation, et al., DOJ number 90-5-2-1-1686.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Washington, 800 Fifth Avenue Plaza, Seattle, Washington 98104, and at the U.S. Environmental Protection Agency, Office of the Regional Counsel, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the proposed Consent Decree may also be obtained from the Consent Decree Library, 601 Pennsylvania Avenue, Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed Consent Decree may be obtained by mail or in person from the Consent Decree Library. When requesting a copy of the Consent Decree, please enclose a check in the amount of $3.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division

[FR Doc. 92-22493 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree in United States v. World Color Press, Inc. Under the Clean Air Act

In accordance with the policy of the Department of Justice established in 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *World Color Press, Inc.*, Civil Action No. 91-4039, was lodged with the United States District Court for the Southern District of Illinois on September 1, 1992. This action was brought on February 27, 1991 to address violations of the "Prevention of Significant Deterioration" ("PSD") provisions of the Clean Air Act, 42 U.S.C. § 165(a), that have occurred at World Color Press's three web offset printing plants located in Salem, Sparta and Mt. Vernon, Illinois. The Consent Decree requires World Color, in accordance with the current PSD permits for its Salem and Sparta plants, to install and properly operate and maintain afterburner systems at its Salem and Sparta plants to reduce volatile organic compound emissions from those plants. World Color's Mt. Vernon plant ceased operating in July 1991. The Decree also requires World Color to pay a civil penalty of $500,000 for the violations alleged in the Complaint.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *United States* v. *World Color Press, Inc.*, DJ Ref. #90-5-2-1-1467.

The proposed consent decree may be examined at the Office of the United States Attorney for the Southern District of Illinois, 9 Executive Drive, Suite 300, Fairview Heights, Illinois 62208; the Region V Office of the U.S. Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $7.50 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 92-22403 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1006 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on July 13, 1992, Stanford Seed Company, 340 South Muddy Creek Road, Denver, Pennsylvania 17517, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 19, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for

registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: September 9, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-22426 Filed 9-16-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Glass Ceiling Commission; Open Meeting

SUMMARY: Pursuant to title II of the Civil Rights Act of 1991 (Pub. L. 102-166) and section 9 of the Federal Advisory Committee Act (FACA) (Pub. L. 92-462, 5 U.S.C. app. II) a Notice of Establishment for the Glass Ceiling Commission was published in the **Federal Register** on March 30, 1992 (57 FR 10776). Pursuant to section 10(a) of FACA, this is to announce the first meeting of the Commission which is to take place on Friday, October 2, 1992. The purpose of the Commission is to, among other things, focus greater attention to the importance of eliminating artificial barriers to the advancement of women and minorities to management and decisionmaking positions in business. The Commission has the practical task of: (a) Conducting basic research into the practices, policies and manner in which management and decisionmaking positions in business are filled; (b) conducting comparative research of businesses and industries in which women and minorities are promoted to management and decisionmaking positions, and businesses and industries in which women and minorities are not promoted to such positions; and (c) recommending measures designed to enhance opportunities for and the elimination of artificial barriers to the advancement of women and minorities to management and decisionmaking positions.

TIME AND PLACE: The meeting will be held on Friday, October 2, 1992 from 10 a.m. to noon in the Great Hall of the Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

AGENDA: The agenda for the meeting is as follows:

(a) Introduction of Commission Members;

(b) Opening Statement by Secretary of Labor Martin;

(c) Discussion of Procedures to be followed in conducting Commission business;

(d) Discussion of Commission objectives including, to the extent practicable, delineation of specific tasks and projected time frames for achieving such objectives; and

(e) Ancillary considerations attendant to commencing Commission activities.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seating will be available to the public on a first-come, first-serve basis—seats will be reserved for the media. Handicapped individuals wishing to attend should contact the Commission to obtain appropriate accommodations. Individuals or organizations wishing to submit written statements should send ten (10) copies to Mrs. Tish Leonard, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW., room S-2508-A, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mrs. Tish Leonard, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW., room S-2508-A, Washington, DC 20210, (202) 523-8271.

Signed at Washington, DC this 14th day of September, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-22514 Filed 9-16-92; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Inland Steel Co. et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of August 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,270; Inland Steel Co., East Chicago, IN

TA-W-27,401; Mayville Metal Products, Mayville, WI

TA-W-27,297; Mercer Rubber Co., Hamilton Square, NJ

TA-W-27,097; Foamex, Corry, PA

TA-W-27,276; NRM Corp., Columbiana, OH

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-27,539; Mid Plains Div. of Total Petroleum, Inc., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-27,443; United Technologies Automotive, Troy, MO

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,464; Newfield Publications, Inc., Columbus, OH

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-27,338; Arco Alaska, Inc., Anchorage, AK

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,371; Yamato Lock Inspection Systems, Inc., (formerly Barkley & Dexter Laboratories, Inc., Fitchburg, MA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,271; Trim-Line, Inc., Penndel, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-27,292; Webco Industries, Inc., Oil City Tube Div., Oil City, PA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-27,482; Elk Brank Mfg. Co., Inc., Hopkinsville, KY

A certification was issued covering all workers separated on or after June 30, 1991 and before January 1, 1992.

TA-W-27,402; Kinney Shoe Corp., Fairfield, PA

A certificate was issued covering all workers separated on or after June 9, 1991.

TA-W-27,452; H & H Star Energy, Inc., Houston, TX

A certification was issued covering all workers separated on or after June 22, 1991.

TA-W-27,365; Keystone Franklin, Inc., Ft. Washington, PA

A certification was issued covering all workers separated on or after May 31, 1991.

TA-W-27,463; Clint Hurt & Associates, Inc., Midland, TX

A certification was issued covering all workers separated on or after June 4, 1991.

I hereby certify that the aforementioned determinations were issued during the month of August 1992. Copies of these determinations are available for inspection in Room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 9, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-22511 Filed 9-16-92; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Lewis Bolt & Nut Co. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 28, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 28, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 31st day of August 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Lewis Bolt & Nut Co. (IUE)	Minneapolis, MN	08/31/92	08/12/92	27,715	Bolts and nuts.
Harmony Drilling Co., Inc. (Co.)	Big Spring, TX	08/31/92	08/17/92	27,716	Oil and gas.
BC Tong Service, Inc. (Co.)	Wickett, TX	08/31/92	08/14/92	27,717	Oil and gas services.
Tomkins Industries, Lau Div. (AIW)	Cleveland, OH	08/31/92	08/05/92	27,718	Blower wheels for air conditioners.
Osborn Manufacturing (wkrs)	Henderson, KY	08/31/92	08/18/92	27,719	Industrial brushes.
Miller Energy, Inc., (Co.)	Kalamazoo, MI	08/31/92	08/05/92	27,720	Oil and gas.
Gougler Industries, Inc. (UAW)	Kent, OH	08/31/92	08/12/92	27,721	Air tools.
Ozark Cutting (Co.)	Hermann, MO	08/31/92	08/12/92	27,722	Cut Izod Lacoste alligator.
Norwood Shoe Corp. (wkrs)	DeSota, MO	08/31/92	08/18/92	27,723	Women's shoes.
Prestolite Electric, Inc. (wkrs)	Cleveland, OH	08/31/92	08/25/92	27,724	Heavy-duty alternators.
Pride Refinery, Inc. (Co.)	Abilene, TX	08/31/92	08/17/92	27,725	Refined petroleum.
Fruehauf Trailer Operations (USWA)	Uniontown, PA	08/31/92	08/17/92	27,726	Dump trailers.
Brown Shoe Company (UFCW)	Savannah, TN	08/31/92	08/12/92	27,727	Women's shoes.
Brown Shoe Co. (UFCW)	Union City, TN	08/31/92	08/13/92	27,728	Women's and childrens shoes.
Maidenform, Inc. (ILGWU)	Bayonne, NJ	08/31/92	08/20/92	27,729	Women's intimate apparel.
Maidenform, Inc. (ILGWU)	Bayonne, NJ	08/31/92	08/20/92	27,730	Women's intimate apparel.
Maidenform, Inc. (ILGWU)	Edison, NJ	08/31/92	08/20/92	27,731	Women's intimate apparel.
JFP Energy, Inc. (Co.)	Houston, TX	08/31/92	08/19/92	27,732	Oil and gas drilling.
Presidio Exploration, Inc. (wkrs)	Englewood, CO	08/31/92	08/18/92	27,733	Oil, gas.
Presidio Exploration, Inc. (wkrs)	Dallas, TX	08/31/92	08/18/92	27,734	Oil and gas.
Total Minatome Corp. (Co.)	Houston, TX	08/31/92	08/19/92	27,735	Oil and gas.
AMP, Incorporated (wkrs)	Valley Forge, PA	08/31/92	08/05/92	27,736	Sales, office workers.
Fender Musical Instruments (wkrs)	Chula Vista, CA	08/31/92	08/19/92	27,737	Guitar strings.
Downeast Manufacturing (wkrs)	Livermore Falls, ME	08/31/92	08/14/92	27,738	Shoes.
Rocky Mount Undergarment (wkrs)	Rocky Mount, NC	08/31/92	08/18/92	27,739	Ladies' and children's undergarments.
Martin Automatic Fishing Reel Co. (wkrs)	Mohawk, NY	08/31/92	08/13/92	27,740	Fishing fly reels.
J-TRAC, Inc. (wkrs)	Mansfield, OH	08/31/92	08/12/92	27,741	Warehouse, distribution.
TIMCO Services, Inc. (Co.)	Lafayette, LA	08/31/92	08/17/92	27,742	Oil field services.
Hercules, Inc. (Co.)	Kenvil, NJ	08/31/92	08/05/92	27,743	Smokeless propellant.
Chevron USA Products Co. (IAM)	Port Arthur, TX	08/31/92	08/17/92	27,744	Petrochemical products.
Dole Packaged Foods Co. (ILWU)	Lunai, HI	08/31/92	07/17/92	27,745	Fresh pineapple.
Hein-Werner Corp. (IAMAW)	Waukegha, WI	08/31/92	08/07/92	27,746	Hydraulic jacks, pumps.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
William Brooks Shoe Co. (ACTWU)	Nelsonville, OH	08/31/92	08/19/92	27,747	Men's & women's footwear.
Sandra Sportswear, Inc. (ILGWU)	Weaver, AL	08/31/92	08/18/92	27,748	Ladies' skirts.
Otis Engineering Corp. (Co.)	Dallas, TX	08/31/92	08/25/92	27,749	Oilfield services.
Otis Engineering Corp. (Co.)	Anchorage, AK	08/31/92	08/25/92	27,750	Oilfield services.
Otis Engineering Corp. (Co.)	Fort Smith, AR	08/31/92	08/25/92	27,751	Oilfield services.
Otis Engineering Corp. (Co.)	Bakersfield, CA	08/31/92	08/25/92	27,752	Oilfield services.
Otis Engineering Corp. (Co.)	Denver, CO	08/31/92	08/25/92	27,753	Oilfield services.
Otis Engineering Corp. (Co.)	Jay, FL	08/31/92	08/25/92	27,754	Oilfield services.
Otis Engineering Corp. (Co.)	Saint Elmo, IL	08/31/92	08/25/92	27,755	Oilfield services.
Otis Engineering Corp. (Co.)	Belle Chasse, LA	08/31/92	08/25/92	27,756	Oilfield services.
Otis Engineering Corp. (Co.)	Kalkaska, MI	08/31/92	08/25/92	27,757	Oilfield services.
Otis Engineering Corp. (Co.)	Laurel, MS	08/31/92	08/25/92	27,758	Oilfield services.
Otis Engineering Corp. (Co.)	Farmington, NM	08/31/92	08/25/92	27,759	Oilfield services.
Otis Engineering Corp. (Co.)	Williston, ND	08/31/92	08/25/92	27,760	Oilfield services.
Otis Engineering Corp. (Co.)	Elk City, IN	08/31/92	08/25/92	27,761	Oilfield services.
Otis Engineering Corp. (Co.)	Carrollton, TX	08/31/92	08/25/92	27,762	Oilfield services.
Otis Engineering Corp. (Co.)	Vernal, UT	08/31/92	08/25/92	27,763	Oilfield services.
Otis Engineering Corp. (Co.)	Casper, WY	08/31/92	08/25/92	27,764	Oilfield services.
Marathon Oil Co. (Co.)	Midland, TX	08/31/92	08/02/92	27,765	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Oklahoma City, OK	08/31/92	08/02/92	27,766	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Findlay, OH	08/31/92	08/02/92	27,767	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Ruston, LA	08/31/92	08/02/92	27,768	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Brigdeport, IL	08/31/92	08/02/92	27,769	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Lafayette, LA	08/31/92	08/02/92	27,770	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Lindsey, OK	08/31/92	08/02/92	27,771	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Medicine Lodge, KS	08/31/92	08/02/92	27,772	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Shreveport, LA	08/31/92	08/02/92	27,773	Oil, gas NGL's.
Marathon Oil Co. (Co.)	Anchorage, AK	08/31/92	08/02/92	27,774	Oil, gas NGL's.

[FR Doc. 92-22510 Filed 9-16-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27, 074 Mid-Continent Division Houston, TX, et. al.]

Noble Drilling (U.S.), Inc; Amended Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 29, 1992 applicable to all workers of the Mid-Continent Division and the Gulf Coast Division of Noble Drilling (U.S.), Inc. located in Houston, Texas. The notice was published in the Federal Register on June 12, 1992 (57 FR 25081).

At the request of the State Agency, the Department is amending the subject certification to properly reflect the correct location of the Gulf Coast Marine Division. The correct location for the Gulf Coast Marine Division of Noble Drilling should be the State of Louisiana. The amended notice applicable to TA-W-27,074 is hereby issued as follows:

"All workers of Noble Drilling (U.S.), Inc., Mid-Continent Division, Houston, Texas and Gulf Coast Marine Division operating in the State of Louisiana who became totally or partially separated from employment on or after February 27, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C., this 9th day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-22512 Filed 9-16-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,988]

Signetics Co., Orem, Utah; Revised Determination on Reconsideration

On July 10, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Signetics Company in Orem, Utah. The notice was published in the **Federal Register** on July 24, 1992 (57 FR 33015).

Investigation findings show that the workers fabricate and assemble bipolar integrated circuits. The major share of the workers are involved in fabrication and the remaining portion are in assembly. Workers are not separately identifiable by operation.

Other findings show that production and employment declined in 1991 compared in 1990. The plant is scheduled to close in December 1992.

On reconsideration, new findings were obtained showing that assembly operations are being transferred to a company facility in Bangkok, Thailand and the remaining fabrication operations are being transferred to Caen, France and to a company plant in Albuquerque, New Mexico.

Company imports of fabricated parts and bipolar circuits have arrived at Signetics headquarters in Sunnyvale, California for distribution into the U.S. market.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that Signetics Company in Orem, Utah were adversely affected by increased imports of articles like or directly competitive with the bipolar circuits produced at the Signetics Company in Orem, Utah. In accordance with the provisions of the Act, I make the following revised determination for workers of the Signetics Company in Orem, Utah.

"All workers of Signetics Company in Orem, Utah who became totally or partially separated from employment on or after February 24, 1991 are eligible to apply for adjustment assistance under Section 223 of the trade Act of 1974."

Signed at Washington, DC, this 4th day of September 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-22513 Filed 9-16-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before November 2, 1992. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Distruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1-AFU-92-30). Records relating to uniforms worn by civilian employees.

2. Department of the Navy, Naval Supply Systems Command (N1-347-92-1). Routine administrative correspondence files.

3. Department of the Navy (N1-NU-92-13). Dependents dental treatment records.

4. Department of the Navy, Board of Decorations and Medals (N1-NU-92-14). Case files of individual and unit awards and Routine correspondence concerning medals and awards.

5. Department of Energy, Lawrence Berkeley Laboratory (N1-434-92-5). Personnel radiation exposure dose records (film badges).

6. Department of State, Bureau of European Affairs (N1-59-92-7). Routine, facilitative, and duplicative records.

7. Department of State, Information Services (N1-59-92-21). Routine and facilitative records of the Office of User Services.

8. Department of State (N1-59-92-26). Routine and facilitative records of the Bureau of Educational and Cultural Affairs and the Special Assistant for Mutual Security Coordination.

9. Federal Communications Commission, Office of Legislative Affairs (N1-173-92-2). Reduction in retention period for legislative files.

10. Federal Deposit Insurance Corporation (N1-34-92-1). Reduction in retention period for excepted service applications.

Dated: September 9, 1992.

Claudine J. Weiher,

Acting, Archivist of the United States.

[FR Doc. 92-22407 Filed 9-16-92; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL COMMISSION ON AMERICA'S URBAN FAMILIES

Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the National Commission on America's Urban Families will hold a meeting in Washington, DC, on Tuesday, September 29 and Wednesday, September 30, 1992 at the Department of Health & Human Services, 330 Independence Avenue SW., room 5051, Washington, DC 20201. The purpose of the meeting is to discuss the Commission's ongoing work. For the exact time please contact the Commission two days prior to the event at 202-690-6462.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 200 Independence Avenue SW., room 305-F, Washington, DC 20201.

Anna Kondratas,

Executive Director.

[FR Doc. 92-22580 Filed 9-16-92; 8:45 am]

BILLING CODE 4150-04-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/786-0282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation

and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. Date: October 5, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions applications in History, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
2. Date: October 9, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions applications in Literature, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
3. Date: October 13, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 315
   Program: This meeting will review Editions applications in Philosophy, Religion, History of Science, and Musicological Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
4. Date: October 15–16, 1992.
   Time: 8:30 a.m. to 5 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Humanities Projects in Media program, for projects beginning after April 1, 1993.
5. Date: October 19, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 430
   Program: This meeting will review applications in Translations in Literature and Folklore, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
6. Date: October 22–23, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 415
   Program: This meeting will review applications submitted to Humanities Projects in Media program, for projects beginning April 1, 1993.
7. Date: October 23, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 430
   Program: This meeting will review Translations applications in Asian Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
8. Date: October 23, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: M–07
   Program: This meeting will review applications submitted to Humanities Projects in Libraries and Archives program, submitted to the Division of Public Programs, for projects beginning after April 1, 1993.
9. Date: October 26, 1992
   Time: 8:30 a.m. to 5 p.m.
   Room: 430
   Program: This meeting will review Translations applications in American, African, and Near Eastern Studies, submitted to the Division of Research Programs, for projects beginning after April 1, 1993.
10. Date: October 26, 1992
    Time: 9 a.m. to 5:30 p.m.
    Room: M–07
    Program: This meeting will review applications submitted to Public Humanities Project program, submitted to the Division of Public Programs, for projects beginning after April 1, 1993.
11. Date: October 29–30, 1992
    Time: 8:30 a.m. to 5 p.m.
    Room: 415
    Program: This meeting will review applications submitted to Humanities Projects in Media, for projects beginning after April 1, 1993.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 92–22520 Filed 9–16–92; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewal

The Assistant Director for Geosciences has determined that the renewal of the DOE/USGS/NSF Council for Continental Scientific Drilling is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Authority for this Council expires October 1, 1994, unless it is renewed.

Dated : September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22482 Filed 9–16–92; 8:45am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Thursday, Friday, and Saturday, October 22, 23, and 24, 1992; 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G Street NW., Washington, DC 20550, room 1243.

Type of Meeting: Closed.

Contact Person: Marcia Steinberg, Program Director for Biochemistry, room 325, Division of Molecular and Cellular Biosciences, National Science Foundation, 1800 G St. NW., Washington, DC 20550, room 325. Telephone: (202) 357–7945.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22508 Filed 9–16–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Monday, Tuesday and Wednesday, October 19, 20 and 21, 1992, 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G Street, NW., Washington, DC 20550, room 1242.

Type of Meeting: Closed.

Contact Persons: Arthur Kowalsky or Kamal Shukla, Program Directors for Biophysics, room 325, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-7777.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Biophysics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-22507 Filed 9-16-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Biochemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Thursday, Friday, and Saturday, October 15, 16, and 17, 1992; 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1110 Vermont Avenue, NW. Washington, DC room 500 B.

Type of Meeting: Closed.

Contact Person: Robert Uffen, Program Director for Cellular Biochemistry, Room 325, Division of Molecular and Cellular Biosciences, National Science Foundation, 1800 G St. NW., Washington, DC 20550, room 325. Telephone: (202) 357-7945.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-22505 Filed 9-16-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: October 21-23, 1992; 8:30 a.m. to 5 p.m.

Place: Inn by the Sea, Sanddollar Conference Room, 7830 Fay Avenue, La Jolla, CA.

Type of Meeting: Closed.

Contact Person: Dr. Judith Plesset, Program Director, Division of Integrative Biology and Neuroscience, room 321, National Science Foundation, 1800 G Street NW., Washington, DC. Telephone (202) 357-7989.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Developmental Biology research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-22509 Filed 9-16-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Earth Sciences; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meetings.

Date and Time: October 5-6 1992; 8:30 a.m. 5 p.m.

Place: Room 1243, National Science Foundation, 1800 G St., NW., Washington, DC.

Contact Person: Dr. Daniel F. Weill, Program Director, Division of Earth Sciences, rm. 602, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-7807.

Agenda: To review and evaluate Instrumentation and Facilities proposals as part of the selection process for awards.

Date and Time: October 16, 1992; 8 a.m. to 6 p.m.

Place: Room 523, National Science Foundation, 1800 G St., NW., Washington, DC.

Contact Person: Dr. Ian D. MacGregor, Section Head, Division of Earth Sciences, rm. 602, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-9591.

Agenda: To review and evaluate hydrologic science proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-22503 Filed 9-16-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: October 9, 1992; 8 a.m. to 6 p.m.

Place: Room 408, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. John Maccini, Program Director, Division of Earth Sciences, room 602, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-7866.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Geologic Record of Global Change proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-22485 Filed 9-16-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science

Foundation announces the following meeting.

Date and Time: October 14–16, 1992; 9 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550, room 1242.

Type of Meeting: closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Division of Earth Sciences, room 602, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357–7721.

Purpose of Meeting: to provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22486 Filed 9–16–92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 8, 1992; 8 p.m. to 9 p.m.; October 9, 1992; 8:30 a.m. to 5 p.m.

Place: Massachusetts Institute of Technology, Department of Physics, Cambridge MA.

Type of Meeting: Closed.

Contact Person: Dr. Ralph P. Hudson, Division of Materials Research, room 408, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9787.

Purpose of Meeting: To provide advice and recommendations concerning support for research on Spin-Polarized Hydrogen.

Agenda: Site visit, presentation, and discussion of research.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22483 Filed 9–16–92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mechanical and Structural Systems.

Date and Time: October 6–7; 9 a.m. to 5 p.m.

Place: 1110 Vermont Avenue, NW., room 500 B&C, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Devendra Garg, Program Director, 1800 G Street, NW., room 1108, Washington, DC 20550, Telephone: (202) 357–9542.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to Mechanical and Structural Systems.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 522b.(c) (4), and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22502 Filed 9–16–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Neural Mechanisms of Behavior; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Date & Time: October 21–23, 1992, 9 a.m.–5 p.m.

Place: Vacation Village, Laguna Beach, California.

Contact Person: Kathie L. Olsen, Program Director for Neuroendocrinology, rm. 321, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–7040.

Agenda: To review and evaluate Neuroendocrinology proposals as part of the selection process for awards.

Date & Time: November 12–13, 1992, 9 a.m.-5 p.m.

Place: Rm 500D, 1100 Vermont Avenue, Washington, DC.

Contact Person: Donald Edwards, Program Director for Cognitive Computational and Theoretical Neurobiology, rm. 321, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–7040.

Agenda: To review and evaluate Neural Mechanisms of Behavior and Cognitive Computational and Theoretical Neurobiology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22506 Filed 9–16–92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiological Processes; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 22–23, 1992; 8:30 a.m. to 5 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Machi Dilworth, Program Director, Division of Biological Instrumentation and Resources, rm. 321, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7987.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate cellular biochemistry and metabolism research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22487 Filed 9–16–92; 8:45 am]

BILLING CODE 7555-01-M

Division of Environmental Biology; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463,

as amended), the National Science Foundation (NSF) announces the following meetings.

Name: Advisory Panel for Population Biology and Physiological Ecology.

Date & Time: October 10–13, 1992, 8 a.m.–5 p.m.

Place: Room 1243, National Science Foundation, Washington, DC.

Contact Person: Dr. Conrad A. Istock, Program Director, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9728.

Agenda: To review and evaluate Population Biology proposals as part of the selection process for awards.

Name: Advisory Panel for Ecosystem Studies.

Date & Time: October 15 & 16, 1992, 8 a.m.–5 p.m.

Place: Room 500D, 1100 Vermont Ave., Washington, DC.

Contact Person: Dr. Richard Dame, Program Director, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9734.

Agenda: To review and evaluate Ecosystem proposals as part of the selection process for awards.

Name: Advisory Panel for Ecology.

Date & Time: October 15 & 16, 1992, 8 a.m.–5 p.m.

Place: Room 500A, 1100 Vermont Ave. Washington, DC.

Contact Person: Dr. Laurel Fox, Program Director, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone (202) 357–9734.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name: Advisory Panel for Systematic Biology.

Date & Time: October 18–20, 1992, 8 a.m.–5 p.m.

Place: Room 500D, 1100 Vermont Ave. Washington, DC.

Contact Person: Dr. Rodney Honeycutt, Program Director, National Science Foundation 1800 St. NW., Washington, DC. 20550. Telephone: (202) 357–9588.

Agenda: To review and evaluate Systematic Biology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed 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 exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22504 Filed 9–16–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 7–8, 1992; 8:30 a.m. to 5 p.m.

Place: NSF Conference Center, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Open.

Contact Person: Dr. Carolyn Shettle, Director, Personnel Program, Division of Science Resources Studies, Rm. L–609, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 634–4664.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning the design of the surveys constituting the Scientific and Technical Personnel Data System (STPDS).

Agenda: To review and evaluate plans for the 1993 STPDS surveys.

Dated: September 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–22484 Filed 9–16–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275–OLA–2 and 50–323–OLA–2 ASLBP No. 92–669–03–OLA–2]

Pacific Gas & Electric Co., (Construction Period Recovery); Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Pacific Gas & Electric Co.

Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 Facility Operating License Nos. DPR–80 and DPR–82

This Board is being established pursuant to a notice published by the Commission on July 22, 1992, in the Federal Register (57 FR 32571 and 32575) entitled, "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed amendment would extend the expiration date of the Operating License for Unit 1 from April 23, 2008 to September 22, 2021, and the expiration date for the Unit 2 license from December 9, 2010 to April 26, 2025.

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All correspondence, documents and other materials shall be filed with the judges in accordance with 10 CFR 2.701 (1980).

Issued at Bethesda, Maryland, this 10th day of September 1992.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 92–22541 Filed 9–16–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Power Authority; Correction

On September 3, 1992, the Federal Register published an Environmental Assessment and Finding of No Significant Impact, (57 FR 40481) Document 92-21215:

In the title "Long Island Power Company" should read "Long Island Power Authority."

First paragraph, line four, "Facility Operating" should read "*Possession Only.*"

First paragraph, line five, "Long Island Power Company" should read "Long Island Power Authority."

Second paragraph, line five, "February 29, 1993, should read "February 29, 1992."

Dated at Rockville, Maryland, this 10th day of September 1992.

For the Nuclear Regulatory Commission

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–22544 Filed 9–16–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 46th meeting on Tuesday, September 22, 1992, 1 p.m. until 6 p.m., in room P-422 and Friday, September 25, 1992, 8:30 a.m. until 5 p.m., in room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion of item F that may be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6). The agenda for the subject meeting shall be as follows:

A. Prepare the next four-month plan of ACNW activities.

B. Discuss with EPA representatives results of the EPA's Science Advisory Board's recent consideration of C-14 release limits from a high-level waste repository.

C. Continue to prepare a response to a supplemental request from Chairman Selin made on April 24, 1992, on a systems analysis approach to reviewing the overall high-level waste program.

D. Discussion with and progress report by the NRC's Division of Low-Level Waste Management on the Site Decommissioning Management Plan (SDMP) list. Generic objectives and examples will be considered.

E. Review a proposed regulatory guide on 10 CFR part 20, ALARA criteria for material licensees.

F. Discuss proposed NRC regulations and their impact on the outside financial interests of members and their immediate families.

G. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, 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 Committee, its consultants, and staff. Use of still, motion picture, and television cameras during this meeting may be limited to select portions of the meeting as determined by the ACNW Chairman. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92-463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACNW Executive Director, Mr. Raymond F. Fraley (telephone 301-492-8049), between 8 a.m. and 4:30 p.m. EST.

Dated: September 11, 1992

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-22540 Filed 9-16-92; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 to Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Reactors," provides guidance on methods acceptable to the NRC staff for complying with the Commission's regulations for emergency response plans and preparedness at nuclear power reactors.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 512-2249 or (202) 512-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 25th day of August 1992.

For the Nuclear Regulatory Commission.

C.J. Heltemes, Jr.,

Deputy Director for Generic Issues and Rulemaking, Office of Nuclear Regulatory Research.

[FR Doc. 92-22547 Filed 9-16-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of The State of New York, (James A. FitzPatrick Nuclear Power Plant); Exemption

I.

The Power Authority of the State of New York (PASNY/licensee) is the holder of Facility Operating License No. DPR-59, which authorizes operation of the James A. FitzPatrick Nuclear Power Plant (the facility). The license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a boiling water reactor located at the licensee's site in Oswego County, New York.

II.

On November 19, 1980, the Commission published a revised § 50.48 and a new appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and appendix R became effective on February 17, 1981.

By letter dated June 26, 1992, as revised by letter dated July 31, 1992, the licensee requested six exemptions from 10 CFR part 50, appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," as a result of a recent reassessment of the Fire Protection Program at the James A. FitzPatrick Nuclear Power Plant. Specifically, the licensee is requesting exemptions from 10 CFR part 50, appendix R, sections III.L.1.b, III.L.2.b., III.G.2, III.G.3, III.L, III.J and III.G.1. The exemption requests are divided into three exemption categories: revised, new, and temporary. The revised exemptions are necessary to include additional fire areas and/or equipment. The new exemption results from the new 1992 10 CFR part 50, appendix R, reanalysis for FitzPatrick. The temporary exemptions are necessary to permit plant startup before modifications to bring the plant into compliance with appendix R can be completed.

The Commission may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a): (1) Are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR part 50 indicates the special circumstances which must be present for the Commission to consider granting an exemption.

III.

III.A Alternate Shutdown With Control Room Evacuation—(Revised)

III.A.1 Description

The licensee requests a revised exemption from the requirements of 10 CFR part 50, appendix R, sections III.L.1.b and III.L.2.b, as they apply to the James A. FitzPatrick Nuclear Power Plant, so that the reactor coolant level be permitted to drop below the top of the core during use of alternative safe shutdown procedures which includes the possibility of Control Room evacuation following a fire in any of five fire zones: (1) Control Room; (2) Relay Room; (3) Cable Spreading Room; (4) North Cable Tunnel; and (5) Battery Room Corridor.

This exemption would extend the current exemption that allows the use of alternate shutdown with Control Room evacuation to two additional fire areas: (1) Fire Area ID (North Cable Tunnel) and (2) Fire Area XVI (Battery Room Corridor). The result of this request is to treat a fire in these two areas in the same fashion as the current exemption treats a fire in Fire Area VII (Control Room, Relay Room, and Cable Spreading Room).

III.A.2 Evaluation

By letter dated April 26, 1983, the NRC approved the use of the Automatic Depressurization System (ADS) in conjunction with the Residual Heat Removal (RHR) system in the Low Pressure Coolant Injection (LPCI) mode of operation for achieving remote reactor shutdown for a fire in Fire Area VII (Control Room, Relay Room, and Cable Spreading Room).

By letter dated September 15, 1986, the NRC approved an exemption from the requirements of 10 CFR part 50, appendix R, sections III.L.1.b and III.L.2.b, so that the reactor coolant level be permitted to drop below the top of the core during the use of alternate safe shutdown following a postulated fire which renders the Control Room uninhabitable. The associated exemption request was based on an analysis which determined the amount of time available for operator action before ADS initiation was necessary. Assuming the loss of all high pressure makeup coincident with reactor scram and isolation, this analysis justified an increase in the operator response time from 10 to 30 minutes. This increase in operator action time would result in a temporary uncovery of the top of the core for a maximum duration of 150 seconds.

The proposed exemption would extend the current exemption that allows the use of alternate shutdown with Control Room evacuation to two additional fire areas: (1) Fire Area ID (North Cable Tunnel) and (2) Fire Area XVI (Battery Room Corridor).

The NRC staff has reviewed the licensee's request for exemption dated June 26, 1992, and the staff's safety evaluation associated with the exemption dated September 15, 1986. Based on this review, the staff has determined that the proposed revised exemption does not pose a threat to the fuel cladding integrity. Furthermore, the staff has determined that an operator action time of 30 minutes will not compromise the ability of the suppression pool to condense steam in a stable condition during steam discharge via safety/relief valves, or compromise the integrity of the suppression pool. The NRC staff finds that our original conclusions for Fire Area VII (Control Room, Relay Room, and Cable Spreading Room) are valid for the two new areas; i.e., Fire Area ID (North Cable Tunnel) and Fire Area XVI (Battery Room Corridor). Therefore, the NRC staff finds that the revised exemption is acceptable.

III.B Torus Room—(Revised)

III.B.1 Description

The licensee requests a revised exemption from the requirements of 10 CFR part 50, appendix R, sections III.G.2, III.G.3, and III.L, as they apply to the James A. FitzPatrick Nuclear Power Plant, with respect to the separation of redundant safe shutdown circuits in that they are not in accordance with section III.G.2 and alternate shutdown capability has not been provided in accordance with sections III.G.3 and III.L in the Torus Room (Fire Area XV).

This exemption would revise the current exemption to more accurately reflect the equipment in the Torus Room. It would also provide a revised technical basis for the exemption to reflect the new area description.

III. B.2 Evaluation

On July 1, 1983, the NRC approved an exemption from the provisions of sections III.G.2, III.G.3, and III.L of 10 CFR part 50, appendix R, to the extent that separation and/or fire protection of redundant shutdown divisions or the installation of an alternate shutdown capability is required for the Torus Room. The licensee justified the exemption request by stating that: the area contains only the suppression pool and is a controlled access area bounded on all sides by 3-hours fire-rated masonry construction; there are no combustible materials and no significant fire hazards in the area; and the shutdown-related components in the area consist only for the RHR suction valves of both divisions which were disabled in the open position. This description of the Torus Room did not accurately reflect the Torus Room and the equipment in the Torus Room.

The proposed revised exemption is from the requirement of 10 CFR part 50, appendix R, sections III.G.2, III.G.3, and III.L, with respect to the separation of redundant safe shutdown circuits in that they are not in accordance with section III.G.2 and alternate shutdown capability has not been provided in accordance with sections III.G.3 and III.L in the Torus Room (Fire Area XV). This exemption request revises the July

1, 1983, exemption to more accurately reflect the equipment in the Torus Room and the unsealed penetrations of this room.

The Torus Room (Fire Area XV) is located in the Reactor Building and is bound on all sides by masonry construction. The floor and more than half of the walls of the Torus Room are below grade, adjacent to the exterior and thus not an issue since fire propagation from the exterior is not a concern. The walls that separate the Torus Room from the crescent areas (Fire Areas XVII and XVIII) are 3-feet thick reinforced concrete. The ceiling that separates the Torus Room from Reactor Building elevation 272' (Fire Areas IX and X) is 2-foot thick reinforced concrete. The Torus Room is essentially devoid of exposed combustibles.

The licensee has identified unsealed penetrations in the stated walls and ceiling. The licensee has evaluated the subject walls and ceiling and has determined that they are adequate fire area boundaries for the Torus Room. Specifically, a fire is not expected to damage circuits and/or equipment in the Torus Room via the unrated and/or unsealed openings. Furthermore, in the unlikely event that such a fire did cause damage in the Torus Room, the damage would not cause loss of redundant safe shutdown capability.

The Torus Room contains the torus, valves, pipes, non-combustible insulation, instrument tubes, and cables installed in conduits. In the subject exemption dated July 1, 1983, the description of the Torus Room stated that shutdown-related components in the area consist only of the RHR pump suction valves for both division. In the revised exemption request dated June 26, 1992, as revised on July 31, 1992, the licensee identified other shutdown system components located in the Torus Room. However, the licensee's evaluation concluded that even with the additional shutdown system components in the Torus Room, adequate safe shutdown capability remains available in the event of a fire.

The NRC staff has reviewed the licensee's request for exemption dated June 26, 1992, as revised on July 31, 1992, and the staff's safety evaluation associated with the exemption dated July 1, 1983. Based on this review, the staff has determined that our original conclusion for the Torus Room (Fire Area XV) remains valid given the new description of the area. Specifically, we conclude that the modifications required to achieve compliance with sections III.G.2, III.G.3, and III.L of 10 CFR part 50, appendix R, would not significantly enhance the level of safety above that provided by the existing fire protection. Therefore, the NRC staff finds that the revised exemption is acceptable.

III.C Outdoor 8-Hour Appendix R Lighting—(New)

III.C.1 Description

The licensee requests an exemption from the requirements of 10 CFR part 50, appendix R, section III.J, as they apply to the James A. FitzPatrick Nuclear Power Plant, which mandate permanently installed 8-hour appendix R lighting in outdoor areas. The requested exemption is to use general outdoor lights, outdoor security lights, vehicle headlights and/or flashlights for exterior access and egress routes not only for the fire areas listed in this exemption request, but for any fire area where exterior access and egress routes may be used.

A fire in Fire Area ID, VII, IX, X, XI, XV, XVII, or XVIII requires operator actions in the Containment Atmosphere Dilution (CAD) housing which is reached via exterior access and egress routes. A fire in Fire Area IV, VII, or XVI requires the transport of equipment from the warehouse to the plant. Operator actions take place inside buildings or next to doors where interior 8-hour Appendix R lighting is available.

III.C.2 Evaluation

The licensee requests an exemption from the requirements of 10 CFR part 50, appendix R, section III.J, that mandate permanently installed 8-hour appendix R lighting in outdoor areas. The requested exemption is to use general outdoor lights, outdoor security lights, vehicle headlights and/or flashlights for exterior access and egress routes not only for the fire areas listed in this exemption request, but for any fire area where exterior access and egress routes may be used.

The fire areas and fire zones affected are:

Fire area	Fire zone	Area description
ID	CT-4	North Cable Tunnel el. 278'.
IV	BR-3	Battery Room 3 el. 272'.
	BR-4	Battery Room 4 el. 272'.
VII	CR-1	Control Room el. 300'.
	RR-1	Relay Room el. 284'.
	CS-1	Cable Spreading Room el. 272'.
IX	SB-1	Standby Gas Filter Room el. 272'.
	RB-1A	Reactor Building East Side el. 272'. Southeast Quadrant el. 300', and entire Floor on el. 326', el. 344', and el. 369'.
X	RB-1B	Reactor Building East Side el. 272' and Southwest Quadrant el. 300'.
XI	CT-3	South Cable Tunnel el. 286'.
XV	SU-1	Torus Room.
XVI	BR-5	Battery Room Corridor el. 272'.
XVII	RB-1E	Reactor Building East Crescent Area el. 227'.
XVIII	RB-1W	Reactor Building West Crescent Area el. 227'.
YARD	CAD-1	West End of Containment Air Dilution Building.
	CAD-2	East End of Containment Air Dilution Building.
	CST-V	Condensate Storage Tank Concrete Vault.
	MH-2	Manhole No. 2 Located East of Reactor Building and South of Auxiliary Boiler Room.

The licensee's technical justification for this proposed new exemption states that for locations inside buildings where access, egress, and operator actions are required for appendix R safe shutdown, 8-hour appendix R lighting has been or will be installed prior to startup from the current refueling outage. Only the outdoor areas that provide access/egress for many of these indoor areas do not have 8-hour battery powered emergency lights as required by section III.J of 10 CFR part 50, appendix R. However, lighting is provided by general outdoor lights, outdoor security lights, vehicle headlights and/or flashlights.

The NRC staff has reviewed the licensee's technical justification and bases supporting this exemption request. The staff concludes that adequate lighting will be provided for all outdoor locations that serve as access/egress routes to and from areas required for operator actions during fires. Therefore, the NRC staff finds that this new exemption is acceptable.

III.D Pump Room Ventilation—(Temporary)

III.D.1 Description

The licensee requests a temporary exemption from the requirements of 10 CFR part 50, appendix R, section III.G.1, as they apply to the James A. Fitzpatrick Nuclear Power Plant, with respect to the ventilation systems in the Emergency Service Water (ESW) and Residual Heat Removal Service Water (RHRSW) Pump Rooms (Fire Areas XII and XIII) being free of fire damage. The exemption is needed until the modifications can be completed to assure that one division of RHRSW and ESW pumps and either the electric-driven fire pump or diesel-driven fire pump and their associated ventilation systems will be available in the event of a fire in Fire Areas IB or II. The modifications are scheduled to be completed prior to startup form the

Reload 11/Cycle 12 refueling outage which is currently scheduled to begin in October 1993. Interim compensatory actions will be implemented until the modifications are completed.

III.D.2 Evaluation

The RHRSW A Pump and C Pump, the ESW A Pump, and the Electric Fire Pump are located in the North Safety Related Pump Room (Fire Area XIII). The RHRSW B Pump and D Pump as well as the ESW B Pump are located in the South Safety Related Pump Room (Fire Area XII). The Diesel Fire Pump is located in the West Diesel Fire Pump Room (Fire Area IB). These rooms are separate compartments in the Screenwell House. Air to cool these compartments is drawn and exhausted through openings in the Screenwell House. Control Panels for the exhaust fans serving these compartments are located in the Screenwell House approximately 10 feet apart.

A fire in the Screenwell House (Fire Area IB/Fire Zone SH-13) could damage the Control Panels which could deenergize the exhaust fans. Additionally, the fire could close the dampers in the room air intakes. A fire in the East Cable Tunnel (Fire Area II/ Fire Zone CT-2) could damage cables which could denergize the exhaust fans. The loss of cooling to these compartments when the pumps are operating could cause the pumps to overheat and fail.

The licensee is in the process of developing modifications that will assure that ventilation is available to one division of RHRSW and ESW and either the electric- or diesel-driven fire pump in the event of a fire in the Screenwell House or in the East Cable tunnel. However, it is anticipated that the modifications will be extensive and, due to the procurement of long lead time equipment, will require approximately 18 months to complete. The licensee has proposed interim compensatory actions until the above stated modifications are complete. These interim compensatory actions are as follows:

(a) Close fire doors 76FDR-SP-255-2 and 76FDR-SP-255-4 to assure separation between the North and South Safety Related Pump Rooms and the East Cable tunnel.

(b) Close fire damper 73FD-1F to assure separation between the North Safety Related Pump Room and the West Diesel Fire Pump Room.

(c) ETLs associated with four fire dampers (73-FD-1A, 73-FD-1B, 73-FD-1C, and 73-FD-1D) will be replaced with 165 degree F fusible links (closure of the dampers is annunciated in the Control Room).

(d) Modify the fire detection circuitry to assure that two fans (73FN-3A and 73FN-3B) will not stop in the event of detection activation. The existing logic circuitry turns these fans off if the associated thermal detector in the area is activated.

(e) Combustible free zones will be established around Control Panels 73HV-11B and 73HV-11A and around fire dampers 73FD-1A, 73FD-1B, 73FD-1C, and 73FD-1D.

(f) Portable smoke ejectors will be readily available to ventilate the North Safety Related Pump Room in the unlikely event of a fire. The operations staff and the plant fire brigade will be instructed on the purpose of these ejectors.

(g) Establish a 1-hour roving fire watch who will be instructed to assure that the combustible free zones are maintained.

The NRC staff has reviewed the licensee's technical justification, bases, and interim compensatory actions supporting this temporary exemption request. The staff has determined that early detection is assured by thermal fire detection, area smoke detection, and high area temperature detection, all of which alarm in the Control Room. Furthermore, early detection capability is augmented by the stated fire watch, who also serves to manage combustible material levels. The staff concludes that the interim compensatory actions, in addition to the current level of fire protection and detection, provide an equivalent level of protection as that provided by strict compliance with 10 CFR part 50, appendix R, section III.G.1. Furthermore, the exemption provides only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the NRC staff finds that this temporary exemption is acceptable.

III.E Cable Tunnel Suppression Systems—(Temporary)

III.E.1 Description

The licensee requests a temporary exemption from the requirements of 10 CFR part 50, appendix R, sections III.G.2 and III.G.3, as they apply to the James A. FitzPatrick Nuclear Power Plant, with respect to a full area suppression system being required in the West Cable Tunnel (Fire Area IC) to protect redundant circuits that are installed in this area. The exemption is needed until modifications can be completed to provide fire suppression adequate for the hazards present. Interim compensatory actions will be implemented until the modifications are completed.

In addition, a full area suppression system is being installed in the East Cable Tunnel (Fire Area II). The inoperability of the existing suppression system is governed by the requirements of Branch Technical Position (BTP) 9.5-1, appendix A, and the Technical Specifications.

III.E.2 Evaluation

On January 15, 1992, the licensee declared the automatic fire suppression systems in the East and West Cable Tunnels inoperable. The systems were declared inoperable after a review of the hydraulic design calculations indicated that the spray systems did not provide adequate coverage. Although the existing systems have been declared inoperable, they are still available, and provide a level of protection. The licensee has developed modifications to the cable tunnel suppression systems. The installation of the new systems will be done in series so that at least one tunnel has an available suppression system. The modifications will be completed no later than July 31, 1993.

Early detection of a fire in either tunnel is provided by an existing automatic ionization smoke detection system. This system provides indication of a fire to operators in the Control Room. Fire suppression capabilities include portable carbon dioxide fire extinguishers installed throughout each tunnel and backup manual fire suppression available with installed hose stations throughout each tunnel as well as hose stations in adjacent areas. In addition to the stated fire detection and suppression capabilities, the licensee will implement interim compensatory actions until fire suppression systems capable of providing coverage adequate for the East and West Cable tunnels can be installed. These compensatory actions are a continuous fire watch that will be posted in each tunnel and daily walkdowns to assure that transient combustibles in each tunnel are held to an absolute minimum.

The NRC staff has reviewed the licensee's technical justification, bases, and interim compensatory actions supporting this temporary exemption request. The staff concludes that the interim compensatory actions, in addition to the current level of fire protection and detection, provide an equivalent level of protection as that provided by strict compliance with 10 CFR part 50, appendix R, sections III.G.2 and III.G.3. Furthermore, the exemption provides only temporary relief from the

applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the NRC staff finds that this temporary exemption is acceptable.

III.F Piping Penetrations—(Temporary)

III.F.1 Description

The licensee requests a temporary exemption from the requirements of 10 CFR part 50, appendix R, section III.G.2, as they apply to the James A. FitzPatrick Nuclear Power Plant with respect to 3-hour-rated fire barrier penetration seals. The exemption is needed until concerns associated with bondstrand, greenthread, and PVC (polyvinyl chloride) piping penetrations can be resolved and modifications can be completed to assure separation by a 3-hour-rated fire barrier. Interim compensatory actions will be implemented until the modifications are completed. The modifications are scheduled to be completed by November 30, 1992.

III.F.2 Evaluation

During a recent fire barrier penetration seal baseline inspection, the licensee identified several fire barrier penetrations that have penetrating items of bondstrand, greenthread, or PVC piping. In accordance with the requirements of FitzPatrick Technical Specification Section 3.12.F, "Fire Barrier Penetration Seals," the licensee declared the penetrations inoperable because of a lack of qualifying tests and the potential of the piping to degrade the existing 3-hour-rated fire barrier penetration seals. Subsequently, the licensee identified additional bondstrand, greenthread, and PVC piping penetrations and declared them inoperable. Preliminary testing of typical bondstrand, greenthread, and PVC piping penetration configurations has revealed that the ability of penetration seals of closed (or non-vented) piping systems to meet the requirements for a 3-hour-rated fire barrier penetration seal is highly probable. However, the ability of penetration seals of open (or vented) piping systems to meet the requirements for a 3-hour-rated fire barrier penetration seal is questionable.

The licensee proposes to implement hourly fire watch patrols in each of the fire areas where bondstrand, greenthread, or PVC piping systems penetrate 3-hour-rated fire barriers. This compensatory action will be taken in conjunction with existing fire protection features which include automatic suppression and/or detection systems, manual hose stations and portable fire extinguishers, and the trained on-site fire brigade.

The NRC staff has reviewed the licensee's technical justification, bases, and interim compensatory actions supporting this temporary exemption request. The staff concludes that the interim compensatory actions, in addition to the current level of fire protection and detection, provide an equivalent level of protection as that provided by strict compliance with 10 CFR part 50, appendix R, section III.G.2. Furthermore, the exemption provides only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the NRC staff finds that this temporary exemption is acceptable.

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that the exemptions as described in section III: (1) are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances.

Accordingly, the Commission hereby grants the exemptions from the requirements of sections III.L.1.b, III.L.2.b, III.G.2, III.G.3, III.L, III.J, and III.G.1. as described in section III.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions would have no significant effect on the quality of the human environment (57 FR 40701).

These exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 10th day of September.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-22545 Filed 9-16-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31170; File No. SR-MCC-92-06]

Self-Regulatory Organizations; Midwest Clearing Corp. Filing of Proposed Rule Change To Reduce the Time Frames for Processing Dividend Settlement Service Claims

September 10, 1922.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 15, 1992, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, III below, which Items have been prepared mainly by MCC, a self-regulatory organization ("SRO"). The Commission is published this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposal amends Article V, Rule 7, section 4 of MCC's Rules to shorten the time frames in which a Claim Form must be delivered by a participant who has filed a claim against another participant for dividends or bond interest. Specifically, the proposed rule change reduces the time frames for delivering the applicable Claim Form from ten business days to five business days and from twenty business days to ten business days for items aged six months or more.

II. SRO'S Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO 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 SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to expedite the settlement of claims for dividends or bond interest by shortening the time frame in which the Corporation requires delivery of Claim Forms by participants who are filing such claims against other participants. Under the Dividend Settlement Service ("DSS"), MCC will continue to process and settle the claims for dividends and registered bond interest. Before participants submit claims against other participants under the DSS, they must deliver to MCC a Notice of Intent which must include either documents which establish the basis for a claim or a written explanation of the basis for the claim.

[1] 15 U.S.C. 78s(b)(1) (1988).

The current rules require the claiming participant to deliver two copies of a Claim Form to the participant against whom the claim is made and to do so within ten business days after delivering the Notice of Intent. Where the Notice of Intent is delivered six months or more after the record date of the dividend or interest claimed, the Claim Form must be delivered within twenty business days after the delivery of the Notice of Intent. Both the Notice of Intent and Claim Form are delivered through the facilities of MCC.

Once MCC receives the Notice of Intent and Claim Form, MCC distributes the Claim Form to the participant against whom the claim is made on the same day the Claim Form is received. MCC's rules require such participant to respond to the Claim Form by a Charge Date which appears on the Claim Form.

A participant who receives a Claim Form may honor it or file an "Intent Rejection" with MCC. If an Intent Rejection is filed, the participants may settle the matter between themselves or may submit the matter to arbitration. Failure to respond to a Claim Form will result in MCC debiting the account of the participant who failed to respond and crediting the account of the claiming participant. The proposed rule change, by shortening the time limits for the delivery of Claim Forms, will help participants resolve claims and disputes regarding dividends and interest claims more quickly.

MCC states that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act [2] in that it provides for the prompt, accurate, and efficient clearance and settlement of securities transactions.

B. SRO's Statement on Burden on Competition.

MCC believes that the proposed rule change will impose no burden on completion.

C. SRO'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 thirty-five days of the date of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for such finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of MCC. All submissions should refer to File No. SR-MCC-92-06 and should be submitted by October 8, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 92-22429 Filed 9-16-92; 8:45 am]

BILLING CODE 8010-01-M

[2] 15 U.S.C. 78q-1 (1988).

[3] 17 CFR 200.30√3(A)(12) (1991).

[Release No. 34-31169; File No. SR-OCC-92-13]

Self-Regulatory Organizations; The Options Clearing Corporation; Proposed Rule Change Relating to the Valuation Rate Applied to Deposits of Valued Securities

September 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on May 4, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-OCC-92-13) as described in Items I, II, and III below, which Items have been prepared by OCC, a self-regulatory organization ("SRO"). On June 8, 1992, OCC filed an amendment, which also is described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend the rate at which OCC values Clearing Member deposits of valued securities for margin purposes.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO 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 SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to amend the rate used to value debt and equity issues deposited for margin purposes pursuant to OCC Rule 604(d)(1).[2] Currently, OCC values on a daily basis deposits of equity and debt issues at the previous maximum loan value (*i.e.*, 50%) permitted under the provisions of Regulation U of the Board of Governors of the Federal Reserve System ("FRB").[3] The proposed amendments will permit OCC to value deposits of these forms of margin at 70% of their current market value or at such lower rate as determined by OCC's Membership/Margin Committee.[4] OCC will similarly amend Rule 705 which relates to the forms of margin that may be deposited in cross-margin accounts.[5]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] OCC Rule 604(d)(1) sets forth the requirements for the use of equity and debt issues as forms of margin.

[3] 12 CFR 221 (1991).

[4] The Membership/Margin Committee is a committee of six OCC Board members that reviews membership applications and makes margin policy. Telephone conversation between Jean Cawley, Staff Counsel, OCC, and Thomas C. Etter, Jr., Attorney, Division of Market Regulation, Commission (May 7, 1992).

[5] With this rule filing, OCC proposes to amend Rule 705 to provide that common stock may be deposited as margin in cross-margin accounts only if mutually acceptable to OCC and the Participating Commodities Clearing Organization ("CCO"). If so accepted, such deposits would be valued in accordance with the cross-margin agreement between OCC and the Participating CCO. This amendment is intended to preserve OCC's and the Participating CCO's rights to determine whether they will accept common stock as a form of margin

Continued

OCC also proposes in its June 8, 1992 amendment to this filing to delete Interpretations and Policies ("I&P") .09 to Rule 604. I&P .09 provides that for margin purposes equity and debt issues shall not be valued in excess of 50% of their current market value.[6]

(1) Background

In 1975, OCC proposed to institute a program through which OCC would accept deposits of common stocks as clearing margin collateral [*i.e.*, "valued securities program" under Rule 604(d)]. Stocks so deposited would have been valued at no more than 70% of current market value. The novelty of the program, however, resulted in extensive regulatory review by the staffs of the FRB and the Commission. Through this process, several significant changes were made to the valued securities program as initially proposed.[7] First, OCC was permitted to accept deposits of stock for margin purposes provided that such stock meet certain financial standards. As is the case today, in order to be eligible for deposit a stock was required to (i) have a-market price of greater than $10 a share and (ii) be either traded on a national securities exchange or designated as a National Market System Security. Second, in adopting Rule 604(d), OCC agreed to value such deposits at no more than the then maximum loan value prescribed by the FRB in Regulation U and agreed not to change such valuation without the consent of the FRB. The maximum loan value under Regulation U was and currently is 50% of current market value.

(2) OCC's Valued Securities Program

OCC has accepted deposits of common stock as clearing margin since 1985 and, accordingly, has gained substantial experience in operating what is a mature, well-defined program. The valued securities program has been successful in reducing OCC's reliance on letters of credit by expanding acceptable forms of margin deposits. It also has enhanced the efficiency of Clearing Member capital allocation.[8]

OCC states that, from the program's commencement, Clearing Members have requested that deposits of stock be valued at 70% of current market value, but OCC was unable to accommodate their requests because of its agreement with the FRB's staff. OCC, however, states that it has now been advised by the FRB's staff that favorable consideration might be given to a proposal to increase the valuation rate applied to deposits of debt and equity issues. OCC, therefore, proposes to value deposits of stocks and bonds for margin purposes at 70% of their current market value or at such lesser value as OCC's Membership/Margin Committee may prescribe from time to time with respect to such stocks or bonds.

OCC believes that the proposed valuation rate is prudent and establishes an appropriately safe level of protection for OCC as it is consistent with subsections (c)(2)(vi) (F), (G), (H), and (J) of Securities Exchange Act Rule 15c3-1 applicable to nonconvertible debt securities, convertible debt securities, preferred stock, and common stock.[9] As necessary, OCC's Membership/Margin Committee has the authority to prescribe a lower valuation rate from time to time. Rule 604(d)(1) further precludes the deposit of any issue that is suspended from trading by its primary market or is subject to special margin requirements imposed by that market. In OCC's view, these provisions, coupled with the threshold eligibility standards, create sufficient safeguards for its protection. OCC also believes that this proposal will further reduce its reliance on letters of credit.

OCC believes that the proposed rule change is consistent with section 17A of the Act [10] because it reduces costs to persons facilitating transactions by and acting on behalf of public investors without adversely affecting OCC's ability to safeguard funds and securities in its custody or control or for which it is responsible.

B. SRO's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participant or Others

Written comments were not solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety 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 SRO 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 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 OCC. All submissions should refer to File Number SR-OCC-92-13 and should be submitted by October 8, 1992.

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collateral and provides a means for OCC and the Participating CCO to value these deposits without OCC's needing to further amend Rule 705.

[6] OCC notes in its proposal that I&P .09 to Rule 604 was approved by the Commission in Securities Exchange Act Release No. 29576 (August 16, 1991), 56 FR 41873 (File No. SR-OCC-88-03) but was never added to OCC's rulebook. As a result, a later I&P to Rule 604, which was approved by the Commission, was numbered and entered into OCC's rulebook as I&P .09. Securities Exchange Act Release No. 29920 (November 15, 1991), 56 FR 58105 (File No. SR-OCC-91-04). Thus, there are currently two I&P .09s to Rule 604. OCC states that the proposed amendment, among other things, will correct this situation.

[7] In connection with a comprehensive revision to Regulation T in 1983, the FRB adopted § 220.14(b) [12 CFR 220.14(b)] which exempted the deposit of margin securities with a registered options clearing agency from Regulation T's provisions. [Regulation T; Credit by Brokers and Dealers, FRB Docket No. R-0500 (March 7, 1984), 49 FR 9559]. With this amendment, OCC understood that the deposit of such securities with a registered options clearing agency would also be exempt under Regulation G. In 1991, the FRB adopted an amendment to § 207.1(b)(2) of Regulation G [12 CFR 207.1(b)(2)] to specifically provide for this exemption. [Amendments to Margin Regulations To Accommodate Deposit Requirements of Regulated Clearing Agencies, FRB Docket No. R-0732 (September 4, 1991), 56 FR 46109].

[8] Since margin securities are the major source of collateral for letters of credit, OCC's valued securities program was designed to eliminate an intermediate step, which involved the deposit of margin securities at a bank in return for a letter of credit, taken by Clearing Members.

[9] Uniform Net Capital Rule, 17 CFR 240.15c3-1 (1991).

[10] 15 U.S.C. 78q-1 (1988).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22430 Filed 9-16-92; 8:45 am]

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[Release No. 34-31173; International Series Release No. 454; File No. SR-OCC-92-18]

Self-Regulatory Organizations; The Options Clearing Corp.; Filing of a Proposed Rule Change Relating to Agreement for Services with International Clearing Systems, Inc.

September 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 21, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit OCC to enter into an Agreement for Services with its wholly-owned subsidiary, International Clearing Systems, Inc. ("ICSI") whereby OCC would provide administrative and operational services related to the netting of foreign exchange transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC 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

On October 12, 1988, the Commission issued an Order [2] approving a proposed rule change of OCC, authorizing OCC to invest excess funds in a wholly-owned subsidiary, ICSI, to develop data processing and communications services for foreign currency exchange transactions and related collateral and settlement obligations. As contemplated by the Order, OCC has established and invested funds in ICSI to provide ICSI with the operational capability to provide data processing and other support services to clearing houses or banking entities that process, clear, and settle foreign currency transactions. ICSI is a separate corporate entity from OCC.

In accordance with the terms of the Commission's Order, OCC has agreed to submit the appropriate documents establishing the parameters of any OCC/ICSI service agreement to the Commission for review under section 19 of the Act.[3] OCC intends to perform facilities management services for ICSI as contemplated by the services agreement. The services are largely administrative in nature. OCC, in its sole discretion will determine which of its facilities and personnel, and what percentage of their time, will be devoted to the affairs of ICSI.

After ICSI is operational, it is intended to be self-supporting and obtain revenues by charging fees to its users. Because OCC and ICSI are structured as separate corporations, OCC will not be legally responsible for ICSI's future debts and liabilities. OCC has taken appropriate measures to ensure that its involvement with ICSI does not adversely affect OCC's ability to conduct its clearance and settlement activities or to satisfy its statutory obligations under section 17A of the Act.[4]

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act [5] because the operation of ICSI may also provide OCC and its members with indirect benefits. ICSI is designed to recover its costs and make a profit, so it may provide OCC with a return on its investment that could be used to fulfill its responsibilities under section 17A of the Act.[6] Moreover, existing OCC members are expected to use ICSI to more efficiently handle their foreign currency trade operations.

B. Self-Regulatory Organization's Statement on the Burden on Competition

OCC does not believe that the proposed rule change would impose 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 were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if its funds 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 for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to File No. SR-OCC-92-18 and should be submitted by October 8, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22428 Filed 9-16-92; 8:45 am]

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[11] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Release No. 26171 (March 2, 1988), 53 FR 7616 [File No. SR-OCC-87-20].

[3] 15 U.S.C. 78s (1988).

[4] 15 U.S.C. 78q-1 (1988).

[5] *Id.*

[6] *Id.*

[Release No. 34-31172; File No. SR-PSE-92-25]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Notice of Filing of and Order Granting Accelerated Approval to Proposed Rule Change Extending the Effectiveness of the PSE's Ten-Up Pilot Program

September 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), on July 27, 1992, filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to extend the Exchange's Trading Crowd Firm Disseminated Market Quote ("ten-up Rule") pilot program through November 13, 1992.[3] The text of the proposed rule change is available at the Compliance Department of the PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. 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 May 1990, the Commission approved the Exchange's ten-up Rule on a one-year pilot basis.[4] The Exchange subsequently obtained Commission approval to extend the ten-up pilot program through August 14, 1992.[5] The PSE is now requesting a three-month extension of the pilot program through November 13, 1992, in order to complete its evaluation of the effectiveness of the program. In particular, the PSE states that the extension of the ten-up pilot program will enable the Exchange: (1) To complete its evaluation of the program and its effect on the public and member and member organizations and (2) to continue the benefits to the public resulting from the implementation of the ten-up Rule during the evaluation process. Upon completion of its evaluation, the PSE represents that it will submit a proposal requesting permanent approval of the rule.

The PSE believes 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 promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a 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.

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 approval pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of sections 6, 11(b), and 11A thereunder, in that it will result in improved quality of PSE options markets and better market maker performances. The ten-up rule provides public customers with the assurance of order execution to a minimum depth of ten contracts at the best disseminated bid or offer. This results in better executions of small customer orders by ensuring greater depth to the PSE's options markets.[6]

The Commission notes, as it has in prior orders extending the ten-up rule, that the Exchange, before seeking permanent approval of the rule, is expected to study the operation of the ten-up rule and its effect, if any, on the PSE's options markets. Specifically, the Exchange should study the effect of the ten-up rule on the speed of execution of trades, its impact on average bid/ask spreads and any increase or decrease in market depth. The Commission also expects that the Exchange will provide a report to the Commission on its findings on these matters, along with any violations of the ten-up rule and any complaints about its operation, prior to filing a proposal for permanent approval of the ten-up rule. The Commission expects the evaluation to be submitted no later than October 1, 1992.

Specifically, before requesting permanent approval of the pilot program the PSE must submit by October 1, 1992, a pilot program report that addresses: (1) Whether there have been any complaints regarding the operation of the pilot; (2) whether the PSE has taken any disciplinary action against any member due to the operation of the pilot; (3) the extent to which the pilot has been used on the PSE; and (4) the impact of the pilot on bid/ask spreads, depth and liquidity of in PSE options markets.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because of the importance that the Ten-Up pilot program continue uninterrupted. A three-month extension of the pilot also will provide the PSE with additional time to study the effectiveness of the ten-up rule in improving the quality of PSE options markets and market maker performance. The PSE's study would be a significant factor in the Commission's analysis of any future PSE filing for permanent approval of the ten-up rule. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 6 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.,

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] The Exchange's ten-up Rule requires PSE trading crowds to provide a depth of ten contracts for all non-broker/dealer customer orders, at the disseminated market quote at the time such orders are announced or displayed at a trading post. See Securities Exchange Act Release No. 28021 (May 16, 1990), 55 FR 21131 (Ten-Up Approval Order).

[4] *Id.*

[5] See Securities Exchange Act Release Nos. 29325 (June 17, 1991), 56 FR 29300 (First Extension); 29909 (November 6, 1991), 56 FR 57914 (Second Extension); 30418 (February 26, 1992), 57 FR 7832 (Third Extension); and 30841 (June 19, 1992), 57 FR 29111 (Fourth Extension).

[6] *See supra* note 3.

Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-92-25 and should be submitted by October 8, 1992.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR-PSE-92-25) is approved until November 13, 1992, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22432 Filed 9-16-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31171; International Series Release No. 452; File No. SR-PHLX-91-41]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Agent/Principal Trading Restrictions During Foreign Currency Option Trading Sessions

September 10, 1992.

On October 16, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide that the expansion of foreign currency option trading hours corresponding to a late night/early morning trading session is separate and distinct from the day and evening trading sessions for purposes of the Exchange's agent/principal trading restrictions imposed on Registered Options Traders ("ROTs"). The agent/principal trading prohibition provides that, with respect to an option on the same underlying interest, a ROT cannot act as a floor broker and trade for his own proprietary account during the same trading session.

The proposed rule change was published in Securities Exchange Act Release No. 30417 (February 26, 1992), 57 FR 7835. No comments were received on the proposed rule change. This order approves the proposal.

The Exchange proposes to amend Commentary .16 to PHLX Rule 1014 in order to address the expansion of the Exchange's foreign currency options trading hours to include a late night/early morning trading session and clarify the application of the prohibition contained in PHLX Rule 1014(e) regarding the agent/principal trading restriction imposed on ROTs during the same trading session. Specifically, the PHLX proposal would delete reference to the specific time periods that constitute foreign currency options trading sessions and provide that the trading sessions established by the PHLX's Board of Governors shall be considered separate sessions for purposes of the prohibitions contained in PHLX Rule 1014(e). Currently, Commentary .16 to PHLX Rule 1014 separates trading sessions on the Foreign Currency Options Floor into a daytime session from 8 a.m. to 2:30 p.m. and an evening session from 7 p.m. to 11 p.m.[3]

Under PHLX Rule 1014(e), with respect to options on the same underlying security, a ROT is prohibited from acting as a market maker and as a floor broker who executes off-floor orders during the same trading session. The purpose of this provision is to avoid the possibility that a market maker may trade ahead of a customer order or otherwise take advantage of a customer account in conducting proprietary trading activities. Currently, the daytime trading sessions during the hours of 8 a.m. and 2:30 p.m. are considered separate and distinct from the evening trading sessions during the hours of 7:00 p.m. and 11:00 p.m. The proposed rule change is designed to reflect the addition of the late night/early morning trading session so that there are now three segments of the trading day for foreign currency options: (1) the late night/early morning session from 12:30 a.m. to 8:00 a.m. (EDT); (2) the day session from 8:00 a.m. to 2:30 p.m. EDT; and (3) the night session from 6:00 p.m. to 10:00 p.m. EDT.[4] Under the proposal, the restrictions in Rule 1014(e) will apply to each trading segment separately. Accordingly, the proposal will permit a ROT to act as a floor broker or a market maker during different trading sessions on a particular day without running afoul of the restriction in PHLX Rule 1014(e).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) and the rules and regulations thereunder. The Commission believes that treating each trading session as separate and distinct from each other for purposes of the agent/principal trading restrictions contained in PHLX Rule 1014(e) is reasonable and consistent with the manner in which the PHLX treats these trading sessions. Specifically, the Commission notes that the Exchange ceases trading and commences a new trading rotation for foreign currency options at 8 a.m. (EDT), thereby segregating the trading day into three distinct "trading sessions" noted above. Moreover, the Commission does not believe that limiting the dual trading prohibition to each distinct foreign currency options trading session will compromise the investor protection concerns underlying the existence of the trading restriction. Under the PHLX proposal, ROTs will still be prohibited from engaging in dual trading during each trading session thereby, ensuring, among other things, that ROTs will not be able to trade in their proprietary account on the basis of information gleaned from customer orders to the disadvantage of customer orders.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-PHLX-91-41) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22431 Filed 9-16-92; 8:45 am]

BILLING CODE 8010-01-M

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[7] 15 U.S.C. 78s(b)(2) (1982).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] The PHLX expanded its foreign currency options trading hours on September 20, 1990, in order to coincide with the afternoon business hours in Japan and the Far East. The foreign currency options trading hours on the Exchange are 18 hours in duration lasting from 7 p.m. to 11 p.m. (EDT) and 12:30 a.m. to 2:30 p.m. (EDT). See Securities Exchange Act Release No. 28470 (September 25, 1990), 55 FR 40253.

[4] *See* Securities Exchange Act Release No. 30417 (February 26, 1992), 57 FR 7835.

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1990).

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Concord, will hold a public meeting at 10 a.m. on Tuesday, September 22, 1992, in the Stewart Nelson Plaza building, Suite 202, 143 N. Main Street, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. William K. Phillips, District Director, U.S. Small Business Administration, P.O. Box 1257, Stewart Nelson Plaza, 143 N. Main Street, Concord, New Hampshire 03302-1257, (603) 225-1400.

Dated: September 3, 1992.

Caroline J. Beeson,

Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-22573 Filed 9-16-92; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 99/00-0070]

Green Mountain Capital, L.P.; Application for License to Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (Section 107.102 (1992)) by Green Mountain Capital, L.P., Elmore Mountain Road, Stowe, Vermont 05672, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*).

The proposed officers and partners are:

Name	Title	Percentage of ownership
Ian M. Sweatman, Elmore Mountain Rd., Stowe, Vermont 05672.	General Manager & General Partner.	¾ of 1
Wayne G. Granquist, Elmore Mountain Rd., Stowe, Vermont 05672.	General Partner	2.44
Charles F. Kireker III, Elmore Mountain Rd., Stowe, Vermont 05672.	General Partner	2.44

Initially, there will be seventeen (17) other investors, each of whom will own no more than a 10 percent interest.

The Applicant will begin operations with a capitalization of $3,153,061, and will be a source of equity capital and long-term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Federal Regulations.

Notice is hereby given that any person may, not later than thirty (30) days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Burlington, Vermont area.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: September 4, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-22572 Filed 9-16-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Benson County, ND

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Benson County, North Dakota.

FOR FURTHER INFORMATION CONTACT: George A. Jensen, Division Administrator, Federal Highway Administration, 1471 Interstate Loop, Bismarck, ND 58501. Telephone number is (701) 250-4204 (FTS 783-4204).

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Dakota Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal for improvements to ND Highway 57. The proposed improvement would involve reconstruction of the existing highway from the intersection of US 281, west of Fort Totten, to a point approximately 1.6 miles south of the junction with ND Highway 20. The 1.6 miles was previously improved as a part of another project in 1982. The grade raise across Fort Totten Bay will not be included in the project as it was also improved in 1982. The entire project is approximately 11.7 miles long.

Improvements to the corridor are considered necessary to eliminate existing geometric deficiencies and provide for the existing and projected traffic demand. The "No Action" alternate is also under consideration.

Letters soliciting views and comments on the proposed project were sent to various federal, state, and local agencies. The project is located on the Devils Lake Sioux Indian Reservation and crosses a portion of Sullys Hill National Game Preserve. Coordination with the Tribal Council, residents of the Reservation, and U.S. Fish and Wildlife Service has occurred and will continue throughout the project development. The Draft EIS will be available for public and agency review and comment. A public hearing will be held to discuss alternates and impacts of the proposed action. Public notice will be given for the time and place of the public hearing. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Wayne A. McCollam,

Assistant Division Administrator, Federal Highway Administration.

[FR Doc. 92-22488 Filed 9-16-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Covington County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Covington County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, suite 200, Montgomery, Alabama 36117, Telephone: (205) 223-7370, Mr. Perry Hand, Director, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone (205) 242-6311.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the State of Alabama Highway Department, will prepare and circulate for comment an Environmental Impact Statement (EIS) for Alabama Highway Project NHF-128(8)&(9) Covington County, Alabama. This is a proposed 8 mile Eastern Bypass of the city of Opp from a point on U.S. Route 331 south of Opp to a point on U.S. Route 331 north of Opp.

There is presently no bypass for the city of Opp. The main north/south traffic artery through Opp is U.S. Route 331. There is considerable traffic congestion on this route through Opp. In addition, there is a three block jog in the alignment downtown which creates a hazard and congestion with large trucks negotiating the turns. A bypass will significantly reduce the congestion and allow large log trucks, etc. to bypass the downtown area.

Alternatives under consideration and to be discussed in the Environmental Impact Statement include: (1) No Action; (2) Postponing the Action; (3) Reduced Facility; (4) Improving the Existing Facility; (5) Alternate Locations for the Build Alternative; (6) Alternate Design Features.

Early coordination letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have expressed or are known to have an interest in the proposal. A scoping meeting has been held and a public involvement meeting will be held later. In addition, a corridor location public hearing will be held after circulation of the Draft Environmental Impact Statement. The Draft EIS will be available for public and agency review and comment prior to and at the corridor location hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Joe D. Wilkerson,

Division Administrator, Federal Highway Administration, Montgomery, Alabama.

[FR Doc. 92-22490 Filed 9-16-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Montgomery County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Montgomery County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117, Telephone: (205) 223-7370, Mr. Perry Hand, Director, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone (205) 242-6311.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with State of Alabama Highway Department, will prepare and circulate for comment an Environmental Impact Statement (EIS) for Alabama Highway Project DPI-0035(001) Montgomery County, Alabama. This is a proposed approximately 18 mile outer lop bypassing the city of Montgomery on the southside beginning on U.S. Route 80 west Montgomery and extending south and east to Interstate 85 east of Montgomery. The proposal is a multi-lane controlled access facility.

The existing Montgomery Southern Bypass has become extremely congested. According to estimated traffic projection this congestion will significantly intensify in the future. It is not practical to up-grade and improve the existing facility due to the right-of-way constraints and the heavy development along each side. Another limited access bypass south of this existing facility will reduce this congestion and provide an additional vital link between I-65 U.S.-80 south and west of Montgomery to I-85 east of Montgomery.

Alternatives under consideration and to be discussed in the Environmental Impact Statement include: (1) No action; (2) Postponing the Action; (3) Reduced Facility; (4) Improving the Existing Facility; (5) Alternate Locations for the Build Alternative; (6) Alternate Design Features.

Early coordination letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizen who have expressed or are known to have an interest in the proposal. A scoping meeting will be held and a public involvement meeting will be held later. In addition, a corridor location public hearing will be held after circulation of the Draft Environmental Impact Statement. The Draft EIS will be available for public and agency review and comment prior to and at the corridor location hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Joe D. Wilkerson,

Division Administrator, Federal Highway Administration, Montgomery, Alabama.

[FR Doc. 92-22491 Filed 9-16-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Talladega County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Talladega County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117, Telephone: (205) 223-7370, Mr. Perry Hand, Director, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone (205) 242-6311.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the State of Alabama Highway Department, will prepare and circulate for comment an Environmental Impact Statement (EIS) for the Alabama Highway Project

STPAA-PE92(3) Talladega County, Alabama. This is a proposed approximately 10 mile west and north State Route 21 Bypass of the city of Talladega from the south end of the existing two-lane west bypass extending northeast to State Route 77 where existing two-lane west bypass terminates and continuing northeast and around Talladega to a point tying back to existing State Route 21 approximately 2.5 miles northeast of Talladega.

Present State Route 21 traverses through the center of downtown Talladega. With the exception of the 3 mile section of the two-lane west bypass to State Route 77, there is no bypass for the city of Talladega. The existing State Route 21 through Talladega is an antiquated congested facility with a narrow roadway and bridges and a none block jog in the alignment. This jog in alignment along with the narrow roadway and bridges creates a hazardous condition with large trucks. A bypass will reduce downtown congestion and allow large trucks, through traffic, etc. to bypass the downtown area.

Alternatives under consideration and to be discussed in the Environmental Impact Statement include: (1) No Action; (2) postponing the Action; (3) Reduced Facility; (4) Improving the Existing Facility; (5) Alternate Locations for the Build Alternative; (6) Alternate Design Features.

Early coordination letters describing the proposed action and soliciting comments have been sent to appropriate federal, state and local agencies, and to private organizations and citizens who have expressed or are known to have an interest in the proposal. A scoping meeting has been held and a public involvement meeting will be held later. In addition, a corridor location public hearing will be held after circulation of the Draft Environmental Impact Statement. The Draft EIS will be available for public and agency review and comment prior to and at the corridor location hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Joe D. Wilkerson,

Division Administrator, Federal Highway Administration, Montgomery, Alabama.

[FR Doc. 92-22492 Filed 9-16-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Tuscaloosa County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Tuscaloosa County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Boulevard, Suite 200, Montgomery, Alabama 36117, Telephone: (205) 223-7370, Mr. Perry Hand, Director, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone (205) 242-6311.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the State of Alabama Highway Department, will prepare and circulate for comment an Environmental Impact Statement (EIS) for Alabama Highway Project DPI-0080(001) Tuscaloosa County, Alabama. This is a proposed approximately 18 mile Northern Bypass of the cities of Northport and Tuscaloosa from Interstate 59 east of Tuscaloosa and extending north and west around Tuscaloosa and Northport to U.S. Route 82 west of Northport. The proposal is a limited access multi-lane facility.

Present U.S. Route 82 originally traversed the northern outer limits of Tuscaloosa and Northport, however, these cities have expanded far beyond the present U.S. 82 location. This route has become severely congested and there has been a significant increase in development. Also, the Black Warrior River runs generally east and west through the center of the cities with only two existing highway crossings in the immediate area. A bypass around the fringe of the existing development will significantly reduce congestion on U.S.-82 and other transportation arteries in Tuscaloosa and Northport. Also, the bypass will provide an additional river crossing.

Alternatives under consideration and to be discussed in the Environmental Impact Statement include: (1) No Action; (2) Postponing the Action; (3) Reduced Facility; (4) Improving the Existing Facility; (5) Alternate Locations for the Build Alternative; (6) Alternate Design Features.

Early coordination letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed or are known to have an interest in the proposal. A scoping meeting has been held and a public involvement meeting will be held later. In addition, a corridor location public hearing will be held after circulation of the Draft Environmental Impact Statement. The Draft EIS will be available for public and agency review and comment prior to and at the corridor location hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Joe D. Wilkerson,

Division Administrator, Federal Highway Administration, Montgomery, Alabama.

[FR Doc. 92-22489 Filed 9-16-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 10, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission (s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0015.

Form Number: IRS Form 706 and Related Schedules.

Type of Review: Revision.

Title: United States Estate (and Generation-Skipping Transfer) Tax Return.

Description: Form 706 is used by executors to report and compute the Federal Estate Tax imposed by Internal Revenue Code (IRC) section 2001, the Federal Generation-Skipping Transfer (GST) tax imposed by IRC section 2601, and the additional Estate Tax imposed by Code section 4980a. IRS uses the information to enforce these taxes and

to verify that the tax has been properly computed.

Respondents: Individuals or households, Businesses of other for profit.

Estimated Number of Repondents/ Recordkeepers: 65,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/schedule	Recordkeeping	Learning about the form or the law	Preparing the form	Copying assembling and sending, the form to the IRS
706	2 hr., 11 min	1 hr., 9 min	3 hr., 26 min	49 min.
Sch. A	20 min	16 min	10 min	20 min.
Sch. A1	46 min	25 min	59 min	49 min.
Sch. B	20 min	10 min	11 min	20 min.
Sch. C	13 min	2 min	8 min	20 min.
Sch. D	7 min	6 min	8 min	20 min.
Sch. E	40 min	7 min	24 min	20 min.
Sch. F	33 min	6 min	21 min	20 min.
Sch. G	26 min	18 min	11 min	14 min.
Sch. H	26 min	6 min	10 min	14 min.
Sch. I	26 min	25 min	11 min	20 min.
Sch. J	26 min	5 min	16 min	20 min.
Sch. K	26 min	9 min	10 min	20 min.
Sch. L	13 min	5 min	10 min	20 min.
Sch. M	13 min	31 min	25 min	20 min.
Sch. O	20 min	9 min	16 min	17 min.
Sch. P	7 min	14 min	18 min	14 min.
Sch. Q	7 min	10 min	11 min	14 min.
Sch. Q Wksht	7 min	10 min	59 min	20 min.
Sch. R	20 min	34 min	1 hr., 1 min	49 min.
Sch. R-1	7 min	29 min	24 min	20 min.
Sch. S	26 min	22 min	37 min	25 min.
Continuation	20 min	3 min	7 min	20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,437,065 hours.

OMB Number: 1545-0409.

Form Number: IRS Forms 211 and 211SP.

Type of Review: Revision.

Title: Application for Reward for Original Information (211) Solictud de Recompensa por Informacion Original (Spanish Version) (211SP).

Description: Forms 211 and 211SP are the official application forms used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by Internal Revenue Code (IRC) 7623. The data is used to determine and pay awards to those persons that voluntarily submit information.

Respondents: Individuals or households.

Estimated Number of Respondents: 11,200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,800 hours.

OMB Number: 1545-0534.

Form Number: IRS Form 5303.

Type of Review: Revision.

Title: Application for Determination for Collectively Bargained Plan.

Description: IRS uses Form 5303 to get information needed about the finances and operation of employee benefit plans set up by employers under a collective bargaining agreement. The information obtained on Form 5303 is used to make a determination on whether the plan meets the requirements to qualify under section 401(a) and whether the related trust qualifies for exemption under section 501(a) of the Code.

Respondents: State or local government, Businesses or other for profit.

Estimated Burden of Respondents/ Recordkeepers: 2,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	31 hours, 34 minutes.
Learning about the law or the form.	5 hours, 50 minutes.
Preparing the form	10 hours, 20 minutes.
Copying, assembling and sending the form to the IRS.	1 hour, 4 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 122,050 hours.

Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 92-22421 Filed 9-16-92; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

[No. 92-397]

Valuation of Purchased Mortgage Servicing Rights

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Request for comment.

SUMMARY: The Office of Thrift Supervision (OTS) proposes to issue a thrift bulletin on the valuation of purchased mortgage servicing rights (PMSR). This bulletin will provide guidance for thrifts to determine, in a manner acceptable to the OTS, the market value of PMSR and what OTS considers to be an independent PMSR appraiser. The proposed bulletin is being published here in order to obtain a wide range of public comments.

DATES: Comments must be received on or before October 19, 1992.

ADDRESSES: Send comments to Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 92-397.

These submissions may be hand delivered to 1700 G Street, NW. from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7753 or (202) 906-7755. Submissions must be received by 5 p.m. on the day they are due in order to be considered by the OTS. Late-filed, misaddressed or misidentified submissions will not be considered. Comments will be available for inspection at 1776 G Street, NW., Street Level.

FOR FURTHER INFORMATION CONTACT: Clarke Sanders, Project Manager, 202-906-5654, Michael Scott, Program Manager, Policy 202-906-5748; or Timothy Stier, Deputy Chief Accountant, Policy, 202-906-5699; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

The OTS requires the valuation of PMSR to comply with the 90% of fair market value limitation for inclusion in regulatory capital that is contained in The Financial Institutions Reform and Recovery Act of 1989 (FIRREA). Additionally, the OTS Capital Rule limits PMSR included in regulatory capital to the lower of 90% of fair market value, 90% of cost, or 100% of the unamortized book value. The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) also limits PMSR for inclusion in regulatory capital to no more than 90% of its market value.

PMSR are not homogeneous assets and do not have publicly reported sales prices. Thus, the determination of 90% of the market value of PMSR is not as simple as the valuation of a stock or bond. Instead, PMSR values must be estimated using a discounted cash flow technique. This technique calculates the net servicing income after the deduction of all expenses for the expected life of the mortgages and then discounts that future income by a market yield to determine the present value. The proposed bulletin provides guidelines for the present value calculation of PMSR in order to be included in regulatory capital.

The notice of proposed rulemaking for "Regulatory Capital: Intangible Assets" was published in the **Federal Register** on April 13, 1992, 57 FR 12761 (April 13, 1992). The proposed rule would require an annual independent valuation of PMSR. The proposed bulletin also provides guidelines on what OTS considers to be an independent PMSR Appraiser.

Request for Comment

While OTS is interested in receiving comments on all aspects of the proposed Thrift Bulletin, comment is specifically invited on the following issues:

(1) Whether thrifts not deemed to be "problem" institutions and with 25% or less of core capital invested in PMSR should be excused from the independent appraisal requirement, and, if so, is 25% of core capital or below an appropriate cutoff level?

(2) Whether the discount rate used for PMSR book value should be required to be at least as high as that used at purchase?

(3) Whether the PMSR book value amortization should be limited to 15 years?

(4) Whether PMSR brokers currently working with a savings association or brokers that have previously been involved in the sale to the association of more than 10% of its current PMSR portfolio, should be allowed to appraise that association's PMSR if the appraisal is done through a separate division or affiliated corporation? and

(5) Whether independent appraisers should be required to verify on-site the accuracy of a thrift's PMSR computer records?

Consistency With Intangibles Regulation

The proposed Thrift Bulletin is entirely consistent with the pending interagency Intangibles Regulation as of the date the Thrift Bulletin was released for publication and comment. Subsequent changes in the final Intangibles Regulation will be incorporated into the final Thrift Bulletin when it is issued, so that both the regulation and the bulletin will be consistent as of their effective dates.

Paperwork Reduction Act

The proposed Thrift Bulletin provides guidelines for the valuation of PMSR and the collection of supporting data for information which is currently required by the quarterly Thrift Financial Report. The reporting and recordkeeping guidelines discussed are already approved under OMB Control Number 1550-0023, Thrift Financial Report.

The proposed text of the bulletin reads as follows:

The Valuation of Purchase Mortgage Servicing Rights

This Thrift Bulletin provides guidance on the valuation of purchased mortgage servicing rights (PMSR). The valuation of PMSR is mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), and by the regulatory capital requirements of the Office of Thrift Supervision (OTS). The fair market value of PMSR must be determined annually through an independent valuation and quarterly through either internal or independent valuations.

Introduction

Mortgage servicing rights are the contractual rights to collect mortgage payments, maintain escrow accounts for the payment of taxes and insurance, and provide other services on behalf of the owner of the mortgages (investor) in exchange for a servicing fee and related float and ancillary income. PMSR are mortgage servicing rights that have been purchased or acquired in a purchase business transaction. (The valuation of excess or retained mortgage servicing assets is covered in Thrift Bulletin 43.)

FIRREA and FDICIA limit the inclusion of PMSR in the regulatory capital of savings associations to no more than 90% of the fair market value of the readily marketable purchased mortgage servicing rights determined at least quarterly. The OTS Capital Rule limits PMSR for inclusion in regulatory capital to the lower of (1) 90% of original cost, (2) 90% of current fair market value, or (3) 100% of the remaining unamortized book value. The pending "Regulatory Capital: Intangible Assets" rule further limits PMSR for inclusion in regulatory capital as follows:

1. Book Value

To be included in regulatory capital, PMSR book value must not exceed the present value of the estimated net future servicing income, discounted at a rate no less than the expected rate at acquisition.

2. Fair Market Value

The fair market value of PMSR must be determined annually through an independent (*i.e.*, third party) valuation and quarterly through either internal or independent valuations.

3. Core Capital Limits

Any PMSR that exceed 50% of the core capital of a savings association must be deducted for regulatory capital purposes. The 50% limit is calculated before the PMSR regulatory capital deduction.

4. Grandfathering

PMSR purchased, or under contract to be purchased, on or before February 9, 1990 are not subject to the core capital limitation. If grandfathered PMSR exceeded the core capital limit at the

time of the grandfather cut-off date, any PMSR acquired after that date are not grandfathered. All PMSR, regardless of the purchase date, are subject to the 90% of cost of fair market value "haircuts" and the appraisal requirements.

Valuation Guidelines

A "fair market" valuation of PMSR is required at least quarterly by FIRREA and FDICIA. The estimated fair market value of PMSR should be based on the prices currently being paid for servicing rights that are similar to those being valued. Other values of PMSR such as book value and the economic value to the savings association owning the rights (where it differs from fair market value) are impermissible values for PMSR that are included in regulatory capital.

The estimated fair market value of a portfolio of PMSR is defined as the price that the portfolio would reasonably be expected to sell for in the current market between an informed buyer and a willing seller. The estimated value should be based on the assumption that the PMSR would be marketed in portfolios of a size and compositional structure that will bring the highest price, with the seller providing the customary representations and warranties, but no recourse or other reserve provisions. The total of any necessary reserve accounts, holdbacks, or VA "no-bid" recourse agreements, etc. should be deducted from the final value of the PMSR.

Since actual PMSR trade data is unavailable, estimates of the market value of PMSR should be determined through a present value, or discounted cash flow analysis. Under this methodology, market value is determined by estimating the amount and timing of future cash flows associated with the servicing rights, and discounting those cash flows using market discount rates.

The fair market value of PMSR is the present value of the expected income from the portfolio less the present value of the projected expenses. The income stream includes servicing fees, float income from payments and escrow accounts, and ancillary income. The expenses include general servicing costs, foreclosure costs, and interest expenses for funds advanced.

The following guidelines should be followed in estimating the fair market value of PMSR. Departures from these guidelines may result in the exclusion of PMSR from an association's regulatory capital.

1. Servicing Costs

General servicing costs include normal expenses such as data processing expenses, personnel expenses, occupancy expense, expenses to service foreclosures and REOs, expenses related to the maintenance of escrow accounts (including the payment of taxes and insurance), and any interest expenses from advances on mortgage securities. Foreclosure costs should be shown separately in the valuation report. The costs of amortizing the purchase costs are excluded.

Long-term servicing cost projections used in valuations should be comparable to those used by most market participants to value similar types of PMSR as reported by PMSR brokers. Cost estimates should be documented and should represent a reasonable mid-range of the current market estimates of cost rather than the high or low end of a range. The servicing costs of the savings association owning the rights are not appropriate for determining market values.

2. Prepayment Estimates

The prepayment assumptions used to estimate market value should be based on long-term consensus or average prepayment estimates for mortgages with characteristics similar to those being serviced. In general, the prepayment estimates should represent the average prepayment estimates for geographically dispersed pools of mortgages made by the major mortgage market participants (*i.e.*, "national prepayment estimates"). National prepayment estimates for fixed-rate mortgages can be obtained from various reporting services.

When national prepayment estimates are not available for unusual types of mortgages, when prepayment rates deviate significantly from the actual experience of a particular pool, or when the PMSR being valued are concentrated in particular geographic regions that traditionally have different prepayment speeds, prepayment estimates may be adjusted to show a correlation to relevant historical data. Such historical data should come from recognized mortgage dealers, the federal secondary market agencies, or the association's own experience. If the association uses its own historical prepayment experience to estimate future prepayments, that experience should be for similar types of mortgages, should cover a period of at least three years, and should be carefully documented. In all cases the association will be responsible for defending any prepayment estimates that deviate from the national averages.

Prepayment rates should be expressed in terms of a "CPR" (constant prepayment rate) or "PSA," a standard prepayment measure developed by the Public Securities Association. The use of the average life method or any measure other than CPR or PSA is not acceptable. Exceptions to this rule should be made for non-standard mortgages such as multifamily and ballon payment mortgages where a different method of measuring prepayments may be justified. All prepayment estimates used in valuations should be supported with documentation.

3. Discount Rates

The discount rates used to value each segment of a portfolio should correspond to the rates currently demanded by investors for similar types of PMSR. In selecting a similar discount rate for PMSR valuations, consideration should be given to such factors as mortgage type, investor, market demand, insuring agency, conformance to agency requirements, geographic location, interest on escrow requirements, delinquency and foreclosure rates, tax services, and other generally accepted market factors. The discount rates used by the association when the PMSR were purchased, the interest rate of the underlying mortgages, and the yield on interest only strips should not be used to estimate market value.

4. Projected Interest Rates

The interest rates used to project interest income from escrow, principal and interest, and prepayment float, and to project expenses for escrow and investor advances, should be consistent with consensus market expectations that are reflected in the Treasury yield curve.

5. Escrow and Other Float

The assumptions made as to the average yearly balance of escrow accounts per mortgage, the number of days of principal and interest float, and the number of days of prepayment float should all be shown separately in the valuation report. They should be based on the past experience of the portfolio of PMSR being valued and the remittance requirements of the investors.

6. Delinquency and Foreclosure Rates

Projected delinquency and foreclosure rates should be based on the actual experience of the portfolio of PMSR. when mortgages are less than 24 months old, the valuation should be based on

the national and state averages of delinquency and foreclosure rate published by the Mortgage Bankers Association (MBA) for similar mortgages.

7. Foreclosure Costs

Foreclosure costs should be shown separately in the valuation report. They should be the actual anticipated costs and should reflect the differences in costs among types of mortgages (FHA, VA, or conventional) and, if material, their location, since states have different foreclosure laws. The VA portion of GNMA servicing should be shown as a separate segment of the GNMA portfolio.

8. Growth of Escrows

The rate used to estimate the growth of escrow accounts should be based on realistic long-term projections and not short-term experience. We will allow any reasonable rate of growth for escrows as long as it is documented and supported by market practice.

9. Ancillary Income

Ancillary income is generated by such items as late charges, insurance premiums, and assumption and payoff fees. Ancillary income should be shown separately in the valuation report. The average annual ancillary income per mortgage should be based on the actual performance of the portfolio without inflation. For PMSR portfolios less than 24 months old, industry averages of ancillary income as reported by the MBA should be used.

10. Debt Leveraging

Borrowing to finance the purchase of PMSR, or debt leveraging, increases the internal rate of return for savings associations by lowering the investment needed to produce the same PMSR earnings. Debt leveraging, however, is not relevant to the calculation of the market value of PMSR.

11. ARMs, GPARMs, Recourse, etc

Relative to fixed-rate 1–4 family residential mortgages, the servicing and foreclosure costs as well as discount rates and prepayment estimates are generally higher for ARMs, Graduated Payment ARMs (GPARMs), negative amortization mortgages, second mortgages, multifamily mortgages, mortgages not conforming to agency guidelines, wrap-around mortgages, and recourse servicing. Some types of PMSR, such as non-conforming GPARMs, are not readily marketable, and therefore, may have little appraised value. Each type of PMSR should be valued individually.

12. Transfer Costs.

Transfer costs are the buyers' expenses of conducting due diligence on servicing portfolios prior to purchase and of transferring that servicing to the new servicer. These items are normally included in the market bids of buyers, and therefore, should be included in the determination of market value. The costs used should reflect the current market conditions as reported by PMSR brokers and not the association's actual costs. Sales expenses, including brokers commissions, should not be included in transfer costs.

13. Portfolios Segregation/Stratification

Portfolios of PMSR should be segregated, at a minimum, by mortgage type (fixed-rate or ARM, and conventional, FHA, VA, etc.), mortgage term (15 and 30 years), investor (FNMA, GNMA, FHLMC, private, etc.), recourse and non-recourse, and coupon interest rate ranges. The stratification of pools by interest rate ranges should encompass no more than a 50 basis point range except for small percentages of the portfolio.

14. Aggregate Portfolio Valuation

PMSR should be valued in the aggregate, not on an individual mortgage or pool basis. PMSR valuations can avoid the 90 percent of cost limitation of the OTS Capital rule for each purchase by using the aggregate valuation method. Thus, PMSR with minimal or no accounting cost basis may be included in valuations at 90 percent of its total fair market value up to the limits of 90 percent of cost of the total portfolio or 100 percent of the total remaining unamortized book value. (Retained or excess servicing assets and mortgage servicing rights on the association's originated portfolio are not includable with PMSR.)

15. Market Value of Hedging

The value of any financial instruments that are used to hedge PMSR should not be included in the market value of PMSR.

16. Market Value of Insurance

FNMA and FHLMC recourse servicing that includes recourse loss insurance or prepayment insurance for PMSR may be included in the determination of market value. The OTS permits the value of such policies (i.e., conversion of recourse PMSR to non-recourse) to be included in the value of PMSR, provided the cost of the insurance policy is deducted from the servicing fee or added to the per mortgage servicing cost of the PMSR portfolio. OTS reserves the right to disregard this type of insurance if concerns exist about the insurance firm's ability to meet its financial obligations.

17. Split PMSR

PMSR whose ownership is shared by two or more parties in violation of servicing contracts should not be included in the appraised value or regulatory capital of either the buyer or seller. (FNMA and FHLMC servicing contracts contain prohibitions against splitting the ownership of servicing.) If allowed under the servicing contract, split ownership servicing must always leave the servicer a minimum spread of no less than the GAAP "normal" servicing fee for OTS to allow its inclusion in regulatory capital. Servicing owned by two or more affiliated companies should have formal servicing agreements in place that specifically allow the split ownership of servicing and that provide for at least a normal servicing fee in order to be counted in regulatory capital.

18. Contents of PMSR Valuation Reports

Valuation reports should be a self contained product which identifies the portfolio being valued and provides all data used in the calculation of each segment's value. Valuations should explain the methodology used and state that its purpose is to estimate the current fair market value in compliance with these guidelines. Valuations should be supported with adequate documentation, should contain a statement of the appraiser's independence, and should be signed and dated by the appraiser. Finally, the valuation should conform with the Principles of Appraisal Practice and Code of Ethics by the American Society of Appraisers (ASA) and so state.

19. Appraiser Due Diligence

Independent appraisers are not required to perform on-site verifications to back up the association's PMSR computer tapes that are sent for valuation. Appraisers should, however, investigate any significant discrepancies or inconsistencies where there is a reasonable basis to doubt the accuracy of the information supplied by the association. Appraisers must not knowingly prepare or sign a false or misleading appraisal.

20. OTS MVPE Model

The servicing values from the OTS Market Value of Portfolio Equity Model should not be used as the fair market value of PMSR. The OTS model estimates the value of all mortgage servicing, including off-balance sheet

retained servicing which is not allowed to be treated as regulatory capital. Also, the value of the escrow and principal and interest float are included with deposits in the model and not with servicing values.

21. Appraiser Qualifications

PMSR appraisers should be experienced experts in valuing mortgage servicing rights. The qualifications and experience of the appraiser should be described in each valuation report.

22. Independence of Appraisers

Independent PMSR appraisers must comply with the ASA Principles of Appraisal Practice and Code of Ethics. These principles preclude appraisers from basing their appraisals fees on the amount of the appraisal value or related business, such as brokerage services performed for the association. Free appraisals or substantially reduced price appraisals offered by firms because the provide other services for the association are also not acceptable. Appraisers that have a past, current, or a planned future interest in the PMSR being appraised, or its financing or sale, either as principal, agent, or broker, will not be considered independent.

Separate valuation divisions or affiliated corporations of PMSR brokers or financiers currently used or who were used in the past to purchase, sell, or finance parts of the PMSR portfolio being appraised, generally will not be considered independent appraisers. However, a part relationship that involved the purchase or financing of 10 percent or less of the current dollar amount of the PMSR portfolio will not disqualify a broker or financier from PMSR valuations if there is not a current or planned future interest in the PMSR being appraised.

Consultants who are not brokers and brokers acting only as consultants or appraisers generally will be considered independent appraisers as long as they did not advise or assist the association on the purchase of more than 10 percent of the PMSR being appraised. Brokers having an association on their mailing list of potential PMSR buyers is not considered a planned future interest in that association's PMSR. Thus, the mailing list inclusion, by itself, would not disqualify a broker from PMSR appraisals involving that association. Actual purchase, sale, or financing negotiations involving the portfolio being appraised, however, would disqualify a PMSR broker or financier.

23. PMSR Not Included in Capital

PMSR that is not included in regulatory capital does not have to be valued either annually or quarterly. However, all PMSR that is included in regulatory capital should be valued each quarter to comply with FIRREA and FDICIA.

Dated: September 8, 1992.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 92-22341 Filed 9-16-92; 8:45 am]

BILLING CODE 6720-01-M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Thrift Depositor Protection Oversight Board; Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of Meeting.

DATE: Thursday, October 1, 1992, 3 to 4 p.m.

ADDRESS: Federal Deposit Insurance Corporation, Board Room 6010, 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bonnie Limbach, Director, Corporate Communications, 1777 F Street, NW., Washington, DC 20232, (202) 786-9672.

SUPPLEMENTARY INFORMATION:

Discussion Agenda

- RTC Operations Report
- National Housing Advisory Board Activities

Closed session to follow.

September 11, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92-22427 Filed 9-16-92; 8:45 am]

BILLING CODE 2222-01-M

UNITED STATES INFORMATION AGENCY

Programs of Student Exchange with the Baltic Countries, the Newly Independent States and Central and Eastern Europe

AGENCY: United States Information Agency.

ACTION: Notice, request for proposals.

SUMMARY: The United States Information Agency (USIA) invites applications from U.S. educational, cultural, and other not-for-profit institutions to conduct exchanges of college students with Albania, Armenia, Azerbaijan, Belarus, Bosnia-Hercegovina, Bulgaria, Croatia, the Czech and Slovak Federal Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Serbia and Montenegro, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. These exchanges represent part of the activities of the President's University Student Exchange (the 1000-1000 Student Exchange) and the Samantha Smith Memorial Exchange Program and are subject to the availability of funding for Fiscal Year 1993.

Support is offered for three categories of exchange programs: CATEGORY A; President's University Student Exchange (the 1000-1000 Student Exchange Program) with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; CATEGORY B: Samantha Smith Memorial Exchange with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and, CATEGORY C: Samantha Smith Memorial Exchange with East and Central Europe (Albania, Bosnia-Hercegovina, Bulgaria, Croatia, the Czech and Slovak Federal Republic, Hungary, Macedonia, Poland, Romania, Serbia and Montenegro, and Slovenia). Each category has separate conditions and requirements, which are stated in this announcement. Institutions may compete in one, two or three of the categories, but must submit a separate proposal and budget for each category. Institutions applying under any or all categories must follow the requirements stipulated in this RFP, the application guidelines, and any additional material specific to a given category. Failure to do so may result in a proposal being deemed technically ineligible. Programs and projects must conform with all Agency requirements and guidelines, and are subject to final review by a USIA contracting officer. Proposals must be for study programs for which academic credit is given. While programs may include internships, the focus of projects should be classroom work or research.

DATES: Deadline for proposals: November 4, 1992. All copies of proposals for Categories A, B and C must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Wednesday, November 4, 1992. Faxed documents will not be accepted, nor will documents postmarked on November 4, 1992, but received at a later date. It is the responsibility of each grant applicant to ensure that its proposals are received by the

appropriate deadline. No funds may be expended until the grant agreement is signed with USIA's Office of Contracts.

ADDRESSES: The original and 14 complete copies of the application, including required forms, should be addressed as follows:

U.S. Information Agency
Reference: _____;
(Program Title)
Category _____
Office of Grants Management
E/XE Room 357
301 4th Street, SW.,
Washington, DC 20547

FOR FURTHER INFORMATION: Interested U.S. organizations should write or call: Mr. Ted Kniker or Ms. Effie Wingate, U.S. Information Agency, 301 4th Street, SW., European Branch, Academic Exchanges Division, E/AEE room 208, Washington, DC 20547; telephone (202) 205–0525, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, formats, guidelines for preparing proposals, and for other technical information.

SUPPLEMENTARY INFORMATION: Overall authority for these exchanges is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256 (Fulbright-Hays Act). The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and other countries of the world." Pursuant to the Bureau of Educational and Cultural Affairs authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life. Programs shall also "maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement."

Category A: President's University Student Exchange (the 1000–1000 Student Exchange Program) with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan

Grant funding under this category is intended to enhance and expand the scope of U.S. academic exchanges with undergraduate and graduate students from Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. For academic year 1993–94 the intention is to exchange 500 students in each direction. Priority will be given to applications from international exchange organizations and consortia of universities that have a demonstrated ability to exchange students from multiple countries in the former USSR. Preference will be given to applications from single institutions for programs outside Russia. For projects in Russia, preference will be given to applications involving multiple foreign partner institutions. Both existing and new projects are eligible.

Participants must be citizens either of the U.S. or of the host country. Undergraduate students are defined as students who have not received their baccalaureates prior to participation in this program. Graduate students for this program should be studying at the equivalent of the Master's degree level. Doctoral candidates are not eligible. Students in all academic fields are eligible; students of agriculture are especially encouraged to apply (please note special conditions for agriculture programs below). Projects that include graduate students must delineate between the number of graduate and undergraduate participants, separately describe the academic programs, and include for each a separate line item in the budget. All projects must include undergraduate students.

Language Qualifications: Students should have sufficient fluency in the instructional language of the host country to be able to pursue university study in that language and to be able to converse with citizens of the country without the aid of interpreters. Generally, the equivalent of two years of college-level study is considered the minimum.

Duration: Applications will be accepted for projects with durations of at least eight weeks to no more than one academic year, including programs lasting an academic quarter, trimester, or semester. Exchanges of less than eight weeks duration or more than one full academic year will be considered technically ineligible. Although grant awards may begin earlier, the actual exchange of participants may not begin before April 1, 1993 and must be completed by December 31, 1994. Programs for exchanges in subsequent academic years will be considered technically ineligible.

Institutional Commitment: Proposals must include documentation of institutional support for the proposed program in the form of signed letters of endorsement from the U.S. and foreign institutions' directors, or in the form of signed agreement by the same persons Letters of endorsement must describe each institution's or organization's commitment and make specific reference to the proposed program, and each institution's activities in support of that program. Documentation of support from governmental ministries or academies will be acceptable when appropriate, replacing individual documentation from each foreign educational institution involved. Applicants must submit this documentation as part of the completed application. Applying institutions are expected to make their own arrangements with the appropriate foreign institutions.

Preference Factors:

—Preference will be given to proposals in which incoming students study in the U.S. for a full academic year
—Preference will be given to programs that reflect wide geographic distribution in recruitment of participants

Reciprocity: Proposals should be reciprocal, but not necessarily equal in numbers. In cases where political or practical circumstances do not allow for the placement of U.S. students, one way programs will be considered. The proposal should provide detailed information on the activities in both the U.S. and the partner country.

Orientation Programs: Participating students should be provided with a substantive and comprehensive orientation to the country where they will be studying, and proposals should describe these programs, including costs, in detail.

Special Allowances for Agriculture Programs: In order to give added encouragement to the participation of students of agriculture as provided for in the bilateral agreement, language standards may be modified for participating students of agriculture. Programs including agriculture students need not exchange agriculture students in both directions.

Allowable Costs for Category A

Projects: Project awards to U.S. organizations will be made in a wide range of amounts. The Agency reserves the right to reduce, revise or increase proposal budgets in accordance with the

needs of the program. For organizations with less than four years of experience in international exchange activities, grants will be limited to a maximum of $60,000, and proposed budgets should not exceed this amount. All organizations must submit a comprehensive line item budget, the details and format of which are contained in the application packet. Grant-funded items of expenditure will be limited to the following categories:

Program Costs

—International Travel (via American flag carrier);
—Domestic travel;
—Excursionary travel and lodging for cultural enrichment (not to exceed $200.00 per participant);
—Maintenance and per diem;
—Academic program costs (e.g. tuition, book allowance);
—Travel and partial maintenance costs (not to exceed 50% of U.S. Government per diem rates for stays of 30 days or less, or 35% for stays over 30 days) for accompanying faculty or resident directors; for no more than one program supervisor per twenty students;
—Orientation costs (speaker honoraria are not to exceed $150 per day per speaker);
—Cultural enrichment expenses (admissions, tickets, etc.; limited to $150 per participant);
—Medical insurance for participants (participants are covered by the Agency's self-insurance policy when USIA is funding over fifty percent of the total cost of the project);
—Taxes and visa fees.

Administrative Costs—Not to Exceed 20% of the Requested Budget

—Salaries and benefits;
—Communications (e.g. fax, telephone, postage);
—Office Supplies;
—Administration of tax withholding and reporting as required by Federal, State and local authorities and in accordance with relevant tax treaties;
—Other Direct Costs;
—All Indirect Costs applied to both administrative and program expenses.

Please Note: It is required that requested administrative funds, including indirect costs and administrative expenses for orientation, not exceed 20 percent of the total amount requested from USIA; administrative expenses should be cost-shared.

Applications should demonstrate substantial cost-sharing (dollar and in-kind) in both program and administrative expenses, including tuition waivers and overseas partner contributions.

Category B: Samantha Smith Memorial Exchange with Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan

Granting funding under this category is intended to enhance and expand the scope of U.S. academic exchanges with Armenia, Azerbaijan, Belarus, Estonia, Georgia Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan for undergraduate students under the age of 26. Participants must be citizens either of the U.S. or of the host country. Both existing and new projects are eligible. Programs designed specifically for U.S. teacher preparation in foreign language/area studies and/or programs in which foreign participants teach their native language or area studies in American institutions are ineligible for support.

Category C: Samantha Smith Memorial Exchange/Central and Eastern Europe

Grant funding under this category is intended to enhance and expand the scope of U.S. academic exchanges with Albania, Bosnia-Hercegovina, Bulgaria, Croatia, the Czech and Slovak Federal Republic, Hungary, Macedonia, Poland, Romania, Serbia and Montenegro, and Slovenia for undergraduate students under the age of 26. Participants must be citizens either of the U.S. or of the partner country. Both existing and new projects are eligible. Programs designed specifically for U.S. teacher preparation in foreign language/area studies and/or programs in which foreign participants teach their native language or area studies in American institutions are ineligible for support.

Criteria for Categories B and C

Applications for Categories B and C: Applications for substantive academic exchanges will be accepted from accredited, degree-granting U.S. universities or colleges, consortia of such universities and colleges, university systems, and not-for-profit organizations engaged in international educational exchange programs.

Language Qualifications: It is desirable, but not required, that undergraduate students have sufficient fluency in the language of the country to be visited for the pursuit of university study in the language and to converse with citizens of the country without the aid of interpreters. Preference will be given to programs in which U.S. participants will have had a minimum of two years of relevant language study.

Duration: Applications will be accepted for projects of at least twelve weeks duration. Projects of less than twelve weeks duration will be considered technically ineligible. Grants generally will be made for exchanges occurring within a 12-month period, but requests may be for longer periods of time. Preference will be given to proposals in which incoming students study in the U.S. for an academic year.

Institutional Commitment: Each proposal must include documentation of institutional support for the proposed program in the form of signed letters of endorsement from the U.S. and foreign partners' directors, or in the form of a signed agreement by the same persons. Letters of endorsement must describe each institution's or organization's commitment and make specific reference to the proposed program and each institution's activities in support of that program. Documentation of support from governmental ministries or academies will be acceptable when appropriate, replacing individual documentation from each foreign educational institution involved. Applicants must submit this documentation as part of the completed, original application. Applicant institutions are expected to make their own arrangements with the appropriate foreign institutions.

Reciprocity: Preference will be given to reciprocal exchanges, although two-way programs are not a requirement. It is desirable, but not required, that the number of U.S. and foreign participants be nearly equal. The proposal should provide detailed information on the activities in both the U.S. and the partner country.

Orientation Programs: Participating students should be provided with a substantive and comprehensive orientation to the country of their visit, and proposals should describe these programs, including costs, in detail.

Allowable Costs for Categories B and C

Projects: Project awards will be made in a wide range of amounts but will not exceed $75,000. The Agency reserves the right to reduce, revise or increase proposal budgets in accordance with the needs of the program. For organizations with less than four years of experience in international exchange activities, grants will be limited to a maximum of $60,000, and proposed budgets should not exceed this amount. All organizations must submit a comprehensive line item budget, the details and format of which are contained in the application packet. Grant-funded items of expenditure will be limited to the following categories:

Program Costs

—International Travel (via American flag carrier);
—Domestic travel;
—Excursionary travel and lodging for cultural enrichment (not to exceed $200.00 per participant);
—Maintenance and per diem for students;
—Academic program costs (e.g. tuition, book allowance);
—Travel and partial maintenance costs (not to exceed 50% of U.S. Government per diem rates for stays of 30 days or less or 35% for stays over 30 days) for accompanying faculty or resident directors; for no more than one program supervisor per twenty students;
—Orientation costs (speaker honoraria are not to exceed $150 per day per speaker);
—Cultural enrichment expenses (admissions, tickets, etc.; limited to $150 per participant);
—Medical insurance for participants (participants are covered by the Agency's self-insurance policy when USIA is funding over fifty percent of the total cost of the project);
—Taxes and visa fees.

Administrative Costs—Not to Exceed 20% of the Requested Budget

—Salaries and Benefits;
—Communications (e.g. fax, telephone, postage);
—Administration of tax withholding and reporting as required by Federal, State and local authorities and in accordance with relevant tax treaties;
—Other Direct Costs;
—All Indirect Costs applied to both administrative and program expenses.

Please Note: It is required that requested administrative funds, including indirect costs and administrative expenses for orientation, not exceed 20 percent of the total amount requested from USIA; administrative expenses should be cost-shared.

Applications should demonstrate substantial cost-sharing (dollar and in-kind) in both program and administrative expenses, including tuition waivers and overseas partner contributions.

Application Notice

Please be advised: Proposals submitted by the same institution under Categories A, B and C may not be duplicative. Each proposal must sponsor different students and employ separate budgets. Proposals not adhering to this restriction will be deemed technically ineligible and will not be reviewed for funding. Organizations applying for exchanges with the Commonwealth of Independent States are encouraged to submit under one category.

Review Process (All Categories)

USIA will acknowledge receipt of all proposals and will review them for technical eligibility.

Ineligible Proposals: Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Package, including the Guidelines for Preparing Proposals [E/AEE-93-01].

Eligible Proposals: Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria (All Categories)

Technically eligible applications will be competitively reviewed according to the following criteria:

a. Quality of program plan, including academic rigor, thorough conception of project, demonstration of meeting student needs, contributions to understanding the partner country, proposed follow-up, and qualifications of program staff and participants.

b. Feasibility of the program plan and the capacity of the organization to conduct the exchange. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

c. Track record—relevant Agency and outside assessments of the organization's experience with international exchanges; for organizations that have not worked with USIA, the demonstrated potential to achieve program goals will be evaluated.

d. Multiplier effect/impact—the impact of the exchange activity on the wider community and on the development of continuing ties, as well as the contribution of the proposed activity in promoting mutual understanding.

e. Value of U.S.-partner country relations—the assessment by USIA's geographic area office of the need, potential impact, and significance of the project with the partner country.

f. Cost effectiveness—greatest return on each grant dollar; degree of cost-sharing exhibited.

g. Diversity and pluralism—preference will be given to proposals that demonstrate efforts to provide for the participation of students with a variety of major disciplines, from diverse regions, and of different socio-economic and ethnic backgrounds, to the extent feasible for the applicant institutions.

h. Adherence of proposed activities to the criteria and conditions described above.

i. Institutional commitment as demonstrated by financial and other support to the program.

j. Follow-on Activities—proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA supported programs are not isolated events.

k. Evaluation plan—proposals must provide a plan for evaluation by the grantee institution.

Application Disclaimer (All Categories)

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of this request for proposals does not constitute an award commitment on the part of the government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants for Categories A, B and C will be notified in writing of the results of the review process on or about April 1, 1993. All funded proposals will be subject to periodic reporting and evaluation requirements.

Options for Renewal (All Categories)

Subject to the availability of funding for FY 1994 and the satisfactory performance of grant programs, USIA may invite grantee organizations to submit proposals for renewals of awards.

Dated: September 9, 1992.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-22348 Filed 9-16-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 181
Thursday, September 17, 1992

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).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, September 22, 1992, 10 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, September 24, 1992, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor.)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Advisory Opinion 1992-31: Kathy A. Magraw of LaRouche for President
Advisory Opinion 1992-35: George Cochran on behalf of Jon Khachaturian
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.

Delores Harris,
Administrative Assistant.

[FR Doc. 92-22700 Filed 9-15-92; 3:47 pm]

BILLING CODE 6715-01-M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 8:00 a.m., Wednesday, September 23, 1992.

PLACE: Second Floor Board Room, Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 2006

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC: The Board will consider the following:

1. Monthly Reports
   A. District Banks Directorate
   B. Housing Finance Directorate
2. Advances Regulation—Proposed Final Rule

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. Approval of the August Board Minutes
2. Office of Finance (OF)
   A. Discussion of Proposed Lease
   B. FHLBank Consolidated Bond Selling Group Agreement
   C. Fourth Quarter 1992 Financing Plan
   D. Report on OF Restructuring
3. Office of Strategic Planning
   • Strategic Plan—Progress Report
4. Preliminary 1993 System Budget
5. Board Management Issues

The above matters are exempt under one or more of sections 552b(c)(9)(A)(B) of title 5 of the United States Code. 5 U.S.C. 552(b)(c)(9)(A)(B).

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

Philip L. Conover,
Deputy Executive Director.

[FR Doc. 92-22604 Filed 9-14-92; 4:41 pm]

BILLING CODE 6725-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 12-92—Correction

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date Time, and Subject Matter

Wednesday, September 23, 1992 at 10:30 a.m.—Consideration of Proposed Decisions on claims against Iran

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, D.C. on September 14, 1992.

Judith H. Lock,
Administrative Officer.

[FR Doc. 92-22605 Filed 9-14-92; 4:42 pm]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Board of Directors and Committee Meetings and Hearing

TIME AND DATE: Meetings of the Legal Services Corporation Board of Directors and the Board's Audit and Appropriations Committee will be held on September 26, 1992. In addition, on that date, a meeting and hearing of the Board's Reauthorization Committee will be held. The meetings will commence at 8:00 a.m., and will be held in the following order, with each meeting continuing until all business has been concluded:

1. Audit and Appropriations Committee Meeting;
2. Reauthorization Committee Meeting and Hearing; and
3. Board of Directors Meeting.

PLACE: The Hyatt Regency Minneapolis Hotel, 1300 Nicollet Mall, The Mirage Room, Minneapolis, Minnesota 55403, (612) 370-1234.

AUDIT AND APPROPRIATIONS COMMITTEE MEETING:

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of September 14, 1992 meeting.
3. Consideration and Review of Proposed Fiscal Year 1993 Consolidated Operating Budget.
4. Consideration of Status Report on the Leasing of the Corporation's Former Headquarters Office Space.
5. Consideration of Whether the Corporation's Annual Financial Audit Should be Conducted In Accordance With Generally Accepted Governmental Auditing Standards.

REAUTHORIZATION COMMITTEE MEETING AND HEARING:

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of August 9, 1992 Meeting.
3. Consideration of Public Comment Regarding Proposed Reauthorization Legislation for the Corporation.

4. Consideration of Proposed Reauthorization Legislation for the Legal Services Corporation.

BOARD OF DIRECTORS MEETING:

STATUS OF MEETING: *Open,* except that a portion of the meeting may be closed if a majority of the Board of Directors votes to hold an executive session. At the closed session, pursuant to receipt of the aforementioned vote, the Board of Directors will consider and vote on approval of the draft minutes of the executive session held on August 10, 1992. In addition, the Board of Directors will hear and consider the report of the General Counsel on litigation to which the Corporation is a party. The Board of Directors will also consider a status report on several investigations from the Inspector General. Likewise, the Board of Directors will discuss the future of the Corporation's regional offices and personnel assigned to the same. Further, the Board of Directors will consider the results of the performance assessments of the Corporation's Inspector General and President. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b (c)(2), (6), (7)(C), (D) and (10)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Sections 1622.5(a), (e), (f)(3), (4) and (h)].[1] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, N.E., Washington, D.C., 20002, in its two reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda
2. Approval of Minutes of August 10, 1992 Meeting
3. Presentations by the Honorable Allan Spear, State of Minnesota, Robert Guzy, President, Minnesota State Bar Association, Mary Schneider, Executive Director, Legal Services of NW Minnesota, and Caty Jirik, Director, First Call for Help, Minneapolis United Way, Regarding "Issues Facing Legal Services—Some Minnesota Perspectives."
4. Chairman's and Members' Reports
5. Presentations by Alan Houseman, Executive Director, and Linda Perle, Senior Staff Attorney, Center for Law and Social Policy, on Behalf of the Project Advisory Group and the National Legal Aid and Defender Association, Regarding Proposed Changes to 45 C.F.R. Parts 1607, 1609, 1610, 1611, 1612 and 1626
6. Consideration of Operations and Regulations Committee Report
7. Consideration of Office of the Inspector General Oversight Committee Report
8. Consideration of Provision for the Delivery of Legal Services Committee Report
9. Consideration of Audit and Appropriations Committee Report
   a. Consideration of and Review of Proposed Fiscal Year 1993 Consolidated Operating Budget
   b. Consideration of the Method to be Proposed to Congress to Incorporate 1990 Census Data in Making 1993 Grants
10. Consideration of Reauthorization Committee Report
11. Consideration of Adoption of Proposed Guidelines for the Conduct of the Corporation's Annual Financial Audit
12. Consideration of Status Report on Efforts to Retain an Independent Insurance Consultant for the Corporation
13. Consideration of Disposition of the Corporation's Regional Offices
14. President's Report
15. Inspector General's Report

CLOSED SESSION:

16. Consideration of Results of Annual Assessments of the Job Performance of the Corporation's:
    a. President; and
    b. Inspector General.

CLOSED SESSION: (Continued)

17. Consideration of the Inspector General's Report on Several On-going Investigations Involving Allegations of Violations of Criminal Laws
18. Consideration of the Disposition of the Corporation's Regional Offices and Regional Office Personnel
19. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party
20. Approval of Minutes of Executive Session Held on August 10, 1992

OPEN SESSION: (Resumed)

21. Consideration of Other Business

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336–8896.

Date Issued: September 14, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–22610 Filed 9–14–92; 4:52 pm]

BILLING CODE 7050–01–M

[1] As to the Board's consideration and approval of the draft minutes of the executive session held on August 10, 1992, the closing is authorized as noted in the **Federal Register** notice corresponding to that Board meeting.

Corrections

Federal Register
Vol. 57, No. 181
Thursday, September 17, 1992

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 ENERGY

Environmental Restoration and Waste Management Advisory Committee (EMAC); Open Meeting

Correction

In notice document 92-21986 beginning on page 41737 in the issue of Friday, September 11, 1992, make the following corrections:

1. On page 41738, in the first column, under **TENTATIVE AGENDA**, under Wednesday, September 30, 1992, the eighth line reading "12Noon Lunch" should be removed.

2. On the same page, in the second column, the signature reading "J. Robert Frank" should read "J. Robert Franklin".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

[Project Nos. 710-000, et al.]

Hydroelectric Applications (Wisconsin Power and Light Company, et al.); Applications

Correction

In notice document 92-21520 beginning on page 40900 in the issue of Tuesday, September 8, 1992, make the following correction:

On page 40902, in the second column, in the first line, "b. *Project No.*: 2581-003." should read "b. *Project No.*: 2581-002."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Revised Federal Allotments to States for Developmental Disabilities Basic Support and Protection and Advocacy Formula Grant Programs for Fiscal Year 1993

Correction

In notice document 92-19024 beginning on page 35829 in the issue of Tuesday, August 11, 1992, make the following correction:

1. On page 35830, in the second column of the table, in the entry for Kentucky, "1,214,052" should read "1,217,052".

2. On the same page, in the third column, in the signature, "Deborah" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 91P-0090/CP]

Evaporated Milk; Proposed Amendment of the Standard of Identity

Correction

In the issue of Friday, August 21, 1992, on page 38095, in the second column, in the correction of proposed rule 92-17182, in correction 3., in the last line, "ADBI". should read "ADPI".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1321

[Ex Parte No. MC-208]

Nonoperating Motor Carriers—Collection of Undercharges

Correction

In rule document 92-21536 beginning on page 40857 in the issue of Tuesday, September 8, 1992, make the following correction:

On page 40857, in the second column, in the table of contents, in § 1321.5, "of" should read "to".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32136]

William E. Gardner and Railroad Acquisition Corporation—Control Exemption—Wisconsin & Calumet Railroad Co., Inc.

Correction

In notice document 92-21537 appearing on page 40923 in the issue of Tuesday, September 8, 1992, the finance docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 92-85]

Theatrical Effects, Works of Art and Other Articles for Temporary or Permanent Exhibition

Correction

In rule document 92-21279 beginning on page 40604 in the issue of Friday, September 4, 1992, make the following correction:

On page 40604, in the second column, in the **EFFECTIVE DATE:**, "August 4, 1992." should read "September 4, 1992."

BILLING CODE 1505-01-D

federal register

Thursday
September 17, 1992

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 110

Interagency Hazardous Materials; Public Sector Training and Planning Grants; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 110

[Docket No. HM-209; Amdt. No. 110-1]

RIN 2137-AC09

Interagency Hazardous Materials Public Sector Training and Planning Grants

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule implements a reimbursable grant program to enhance existing State, Indian tribal, and local hazardous materials emergency preparedness and response programs. This final rule sets forth application procedures for the planning and training grant programs established by the Hazardous Materials Transportation Act (HMTA), as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), for grants to States for emergency response planning and to States and Indian tribes for emergency response training. This rule sets forth procedures for the reimbursable grant program, and provides the application requirements for specific public sector training and planning grants. The requirements adopted under this final rule are intended to: increase State, local, and Indian tribal effectiveness in safely and efficiently handling hazardous materials accidents and incidents; enhance implementation of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA); and encourage a comprehensive approach to emergency planning and training by incorporating response to transportation situations.

DATES: The effective date of the final rule is October 19, 1992. Grant applications will be accepted after that date. Initial awards will be made after November 15, 1992.

FOR FURTHER INFORMATION CONTACT: Charles Rogoff, HMTUSA Grants Manager, Office of the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration (RSPA), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone: 202-366-4900.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Hazardous Materials Transportation Uniform Safety Act of 1990

The HMTA (49 App. U.S.C. 1801 *et seq.*), as amended by HMTUSA, gives the Secretary of Transportation the regulatory authority to strengthen interagency coordination and technical assistance with respect to hazardous materials emergency response planning and training. Section 17 of HMTUSA added a new Section 117A to the HMTA entitled, "Public Sector Training and Planning". Section 117A of the HMTA creates a reimbursable grant program to provide financial and technical assistance, national direction, and guidance to enhance State and local hazardous materials emergency planning and training, and enhance overall implementation of EPCRA.

Section 117A of the HMTA requires the Secretary of Transportation to make grants to States for: Developing, improving, and implementing emergency response plans under EPCRA, including the determination of flow patterns of hazardous materials within a State and between a State and another State; and determining the need for regional hazardous materials response teams. Section 117A of the HMTA also requires the Secretary to make grants to States and to Indian tribes for training public sector employees to respond to accidents and incidents involving hazardous materials. The grant programs will increase the emphasis on transportation in ongoing efforts to improve the capability of communities to plan for and respond to the full range of potential risks posed by accidents and incidents involving hazardous materials.

This reimbursable grant program is supported by fees collected pursuant to section 117A(h) of the HMTA. Section 106 of the HMTA establishes a registration program for shippers and carriers of certain hazardous materials. On July 9, 1992, a final rule was published in the **Federal Register** [57 FR 30620] establishing a program to assess and collect from all persons who are required to be registered an annual fee to fund this reimbursable grant program.

B. The Notice of Proposed Rulemaking (NPRM)

On March 2, 1992, a notice of proposed rulemaking (NPRM; 57 FR 7474) was published in the **Federal Register** which contained requirements for two separate grant programs authorized by the HMTA, as amended by HMTUSA. The NPRM proposed to provide financial assistance to States for emergency response planning, and to States and Indian tribes for training public sector employees to respond to hazardous materials incidents. Many of the activities eligible for funding under the two programs are closely related. Section 117A of the HMTA does not provide authority to include Indian tribes in the planning grant program. The NPRM contained requirements for reimbursement of the costs of activities that are conducted under the grant program. The purpose of the grants is to increase State, local and Indian tribal effectiveness in safely and efficiently handling hazardous materials incidents, and to enhance implementation of EPCRA.

Implementing guidance, which addresses such issues as allocation criteria, measures against which grant applications will be evaluated, explanation of certifications required, and relationship of the grant program to the national curriculum, is in development. This guidance will be included in an application package which will be provided to potential applicants following publication of this final rule.

II. Discussion of Comments Received on the NPRM

RSPA received over 150 comments in response to the NPRM. Comments were received from a variety of sources, including Members of Congress, State Governors, Indian tribal organizations, State and local fire and police departments, State and local emergency response planning councils, committees and agencies, Federal and State environmental agencies and commissions, other Federal, State and local government agencies, trade associations, transportation companies, and colleges and universities. The majority of the commenters supported the intent of the grants program to assist State and local governments with financial and technical assistance to develop and implement emergency response plans, and to provide training to public sector employees responding to hazardous materials emergencies, particularly those involving transportation. Several commenters opposed implementation of the grant programs for various reasons. A discussion of the comments and the actions being taken by RSPA in this final rule follows.

Regulatory review comments. In response to the President's January 28, 1992 announcement of a federal regulatory review, DOT published a notice on February 7, 1992, [57 FR 4744] soliciting public comments on the

Department's regulatory programs. In response to that notice, RSPA received one comment from the National Association of State Title III Program Officials (NASTTPO) on the proposed financial and technical assistance to States and Indian tribes with respect to hazardous materials emergency response planning and training grants. NASTTPO urged adoption of the final rule as soon as possible.

Major Issues

A. Reimbursable Grants

A number of commenters objected to a "reimbursable grant" program, and favored "up-front" money, or funding advances to fund the grant programs. Most of the State and local emergency response and planning organizations are opposed to the reimbursable grant procedure due to economic conditions in their States. They urged RSPA to recognize the tight budgets under which they believe most States and local governments operate. Many commenters believe it will be difficult, if not impossible, to find funds for the cost of any program conducted under the planning or training grants, and that it will be a hardship on rural States because the emergency response personnel in many of these communities are volunteers with little or no working funds. The commenters believe requiring States to fund project costs may preclude many States from participating in the award program. The State of Nebraska, Military Department, stated that, if this must be a reimbursable grant program, some up-front administrative funds should be provided so the states can implement the program and then start into the reimbursable portion. The commenters requested that RSPA promote participation in the areas with the greatest need, and develop a funding mechanism to provide federal grant funds or portions thereof in advance, rather than by reimbursement.

RSPA understands the concerns of the State and local governments and their need, at a minimum, for available start-up funds. RSPA believes that the language under HMTUSA relative to reimbursement allows advances to be made to States for emergency response planning programs, and States and Indian tribes for public sector emergency response training programs, provided the advances are consistent with the administrative requirements and grant procedures found in 49 CFR part 18. Therefore, the final rule provides that the Associate Administrator for Hazardous Materials Safety may make advances or provide working capital on a case-by-case basis to a State or Indian tribe. Accordingly, a new paragraph (c) regarding advance funds is added to § 110.70, financial administration.

Several commenters opposed the planning and training grants program because they believe that the economic benefit to units of local government would be minimal under the grant programs, and that there is little, if anything, to be gained by providing financial and technical assistance, particularly to Local Emergency Planning Committees (LEPCs).

RSPA disagrees with the commenters that completely oppose the planning and training grant programs. The financial and technical assistance provided under the grant programs will increase the emphasis on emergency planning related to hazardous materials moving in transportation, and improve the capability of local jurisdictions to plan for and respond to potential risks posed by hazardous materials in transportation, as well as at fixed sites.

B. Non-Federal Cost-Share

As specified in section 117A(d) of the HMTA, RSPA proposed that a recipient provide 20 percent of the direct and indirect costs of all activities covered by the grant award, and that a recipient be prohibited from using funds expended to qualify for the grant for cost-sharing purposes. RSPA specifically requested comments on whether to accept in-kind contributions under non-federal cost-share requirements, and if so, what types.

Many commenters favored in-kind (soft-match) contributions rather than cash (hard-match) as the required 20 percent match. Several commenters pointed out that, although the NPRM proposed to require that States and Indian tribes satisfy the cost-sharing requirement with cash, there was no stipulation in HMTUSA that the non-Federal cost share be in cash. The commenters recommended that the 20% match be allowed through either cash contributions or in-kind contributions to produce a viable program.

The Arizona Emergency Response Commission (AERC) stated that most federal grant programs, e.g., the SARA Title III training grants program, utilize "in-kind" contributions. The AERC believes it would be difficult to obtain State appropriations to satisfy cost-share requirements, especially since the State has funded a state hazardous materials training and hazardous materials emergency management program for the past five years. The AERC recommended that cost-share requirements be authorized to be satisfied with "in-kind" contributions. Many commenters believed that using existing management, support personnel, and equipment and facilities would be more cost-effective, rather than using Federal funding for new hiring, acquisition, and construction specifically for the grant award program activities.

HMTUSA did not stipulate that a hard-match was required for meeting the non-Federal cost-share requirement. An accommodative matching funds policy is appropriate to address State budget pressures and encourage participation. Accordingly, the provision for cost sharing (§ 110.60) for planning and training grants is revised to allow for either cash (hard-match) or in-kind (soft-match) contributions, or a combination of a hard and soft match. Contributions for matching or cost-sharing purposes must comply with 49 CFR part 18. A soft-match for cost sharing purposes could be, for example, the dollar equivalent value used for technical staff to support the planning effort. This should alleviate some of the most serious funding problems, and provide more opportunities for States and Indian tribes to participate in the program.

c. Allocation Criteria

Section 117A(b)(7) of the HMTA contains criteria for allocating training funds, based on need. There is no comparable provision for allocating planning funds. RSPA proposed to use the same criteria for allocating training funds, to the extent practicable, to allocate planning funds. RSPA requested comments on the factors that should be considered as allocation criteria.

The U.S. Environmental Protection Agency (EPA) recommended that a portion of the grants should be set aside for Indian tribes, and that the State allocation factors should include objective criteria, such as population, hazardous materials facilities, etc., and criteria based on performance, compliance and innovation. The EPA stated that the latter factor should be reviewed by the Interagency Coordinating Group (representing seven Federal agencies, including, EPA, DOL/OSHA, DHHS/NIEHS, and DOT), and allocation criteria should be based in part on information from the monitoring and technical assistance functions carried out in the field. RSPA concurs with EPA on this issue as it pertains to training grants, and the Interagency Coordinating Group is currently working to fully develop objective allocation criteria. The restriction on allocation of planning grants to Indian tribes is discussed in paragraph D.

One commenter stated that the proposed training grant program fails, in allocating grant funds, to place sufficient emphasis on the needs of the entity seeking funds. The commenter went on to suggest that needs-based tests should be determined through a comprehensive cost-benefit analysis of each proposed project. In HMTUSA, one of the stated findings of the Congress is "* * * 1,500,000 emergency response personnel need better basic or advanced training for responding to the unintentional release of hazardous materials * * *" RSPA agrees that there is a clear need for training of emergency response personnel. In addition, RSPA anticipates that the most needy projects will be clearly identified through hazard-specific information which must be provided by an applicant and considered in the grant award process. Therefore, applicants are not required to submit a cost-benefit analysis.

Commenters were concerned that funds be distributed fairly. Several commenters stated that the allocation criteria specified in the NPRM are vague, that the factors should be heavily weighted with regard to need, and that the list of criteria proposed to be used excludes the most needy States. In addition to the allocation criteria proposed in the NPRM, several commenters proposed other criteria, including: population within a given State Emergency Response Commission's (SERC) or Local Emergency Planning Committees' (LEPC) jurisdictional area, as appropriate; equal division of funds on a per capita basis; State or local population density; whether a municipality has a dedicated hazardous materials response team; a system that would more closely match potential risk with available resources; the ratio of volunteer responders to paid responders; natural and cultural resources at risk; and degree of hazard or risk of the hazardous material moving in transportation. Generally, most commenters urged flexibility as the guiding principle in allocating funds, and recognition of the differences between the States.

RSPA will consider several factors in allocating funds. Some factors under review are the number of hazardous materials facilities, types and amounts of hazardous materials transported, population at risk, frequency and number of incidents recorded in past years, high mileage transportation corridors, whether the State or Indian tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials. RSPA will use these factors to the extent practicable in allocating both planning and training funds.

One commenter suggested that the rule should specifically prohibit the award of a grant in instances where there is no clear demonstration that State-levied hazardous materials fees are being used as required by HMTUSA section 13(b). Section 110.30(a)(4) of this final rule requires applicants to provide information on the assessment, collection and disposition of State, local or Indian tribe imposed fees on the transportation of hazardous materials. RSPA is sensitive to the issue raised by this commenter and will carefully consider that information in its grants-review process. However, it is not necessary to revise the rule in the manner suggested by the commenter.

Section 117A(a)(3) of the HMTA requires that not less than 75 percent of planning grant funds be made available to State LEPCs. The Texas Division of Emergency Management stated that RSPA must recognize and incorporate state emergency planning concepts and requirements in the certification process. In Texas, the LEPCs do not generate plans. Rather, that is a function of counties and cities. Also, most of those LEPCs lack the fiscal infrastructure to adequately control public funds. The commenter suggested that the rule be revised to also permit authorized agents of LEPCs to be identified as the legal subgrantee designated to receive and expend funds on behalf of the LEPC to meet the intent of the law. RSPA recognizes that many LEPCs depend on associated organizations for administrative support. Therefore, RSPA will accept planning grant applications which adequately demonstrate that, in lieu of direct LEPC funding, funds are provided for LEPC-directed projects.

D. Exclusion of Indian Tribes From Planning Grant Program

Several commenters, including some Indian tribes, recommended that Indian tribes be included in the planning grant program. The commenters believe that funding training without providing funds for planning will prevent effective implementation of emergency response preparedness programs, which could create an incomplete response capability.

Section 117A(a)(1) of the HMTA specifies that the Secretary shall make grants to the States and makes no reference to Indian tribes, in contrast to section 117A(a)(2), which explicitly provides for training grants to both States and Indian tribes. The two terms are defined in section 103 of the HMTA. Therefore, RSPA does not have the authority to make planning grants to Indian tribes.

E. Maintenance of Effort Requirement

Some commenters were concerned that the proposed requirement for a recipient to maintain expenditures at a level not less than the average level of its expenditures for the last two fiscal years, coupled with the proposed requirement for a 20 percent matching share, would make it difficult for States and Indian tribes to qualify for grants. Most commenters favor relaxation of the two-fiscal year aggregate funding requirements.

Section 117A of the HMTA requires that a State or Indian tribe certify its maintenance of a certain expenditure level in order to receive a grant. Therefore, RSPA does not have discretion in this matter. However, RSPA is providing some flexibility in this final rule by allowing in-kind (soft match) contributions.

F. National Curriculum

A National Curriculum is being developed for use in training public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials. Although several commenters opposed the development of the National Curriculum, the HMTA requires that grant recipients certify that they will use it.

One commenter was concerned that development of the National Curriculum will not give adequate consideration to current training programs and courses conducted at the State or local level, and that the Federal Government's development of a National Curriculum may delay the award of training grants. RSPA acknowledges that development of a National Curriculum will require a considerable amount of time as fields of study and candidate courses are reviewed and evaluated. However, we anticipate a significant number of those candidate courses will come from current State and local emergency response training programs. Additional guidance in this matter will be included with implementing instructions which RSPA will forward to grant applicants and, upon request, to other interested persons.

G. Grant Mechanism and Administrative Requirements

Several commenters opposed the use of 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State

and Local Governments". RSPA proposed that recipients of planning or training grants comply with 49 CFR part 18, and other DOT regulations incorporated by reference in 49 CFR part 18.

Several commenters stated that the proposed grant application process ignores an existing grant application and management system, Federal Emergency Management Agency's (FEMA) Comprehensive Cooperative Agreement (CCA) system. These commenters believe that it would be a duplication of effort to establish and maintain a separate grant system for HMTA grants. They stated that the proposed grant mechanism and administrative requirements impose a significant administrative burden which could more readily be assimilated under FEMA's CCA process.

Although there are many positive features in the existing CCA process, RSPA identified a number of areas where the CCA process would not meet program needs. Although some of these areas could be adjusted to accommodate legal or program requirements, such as the proposed use of multi-year scopes of work, others could not be changed without compromising the CCA structure itself. RSPA had to determine whether the CCA process, which serves over 26 established programs, would easily accommodate RSPA's grant programs, or whether another process was needed to fully meet RSPA's legal and programmatic requirements. Another factor RSPA considered was its commitment to low cost grant administration with minimal oversight of State or Indian tribal program management.

Under the CCA structure, RSPA review and participation would have to be completed before negotiations began. All negotiations on grant awards would be performed by FEMA Regional Directors within a predetermined time frame to coincide with the regional discussions with the State agencies on other components of the CCA. RSPA participation in that process would jeopardize the schedule for award of the other CCA grants. Therefore, RSPA determined that the CCA process would not be responsive to RSPA's legal and programmatic requirements and has decided to retain management of the grant programs within the Department of Transportation. To minimize duplication and to ensure efficient administration, RSPA will utilize a small staff in anticipation of continuing support from existing FEMA and EPA hazardous materials staff in headquarters and the regions.

III. Key Features of the Reimbursable Grant Program and Discussion of Additional Related Comments

A. The Planning Grant Program

Planning grants may be made to reimburse States for: (1) Developing, improving, and implementing emergency plans under EPCRA; (2) determining the flow patterns of hazardous materials within a State and between a State and another State; and (3) determining the need for regional hazardous materials emergency response teams.

To qualify for a planning grant, a State must: (1) Certify that it is complying with Sections 301 and 303 of EPCRA; (2) certify that it will maintain the aggregate expenditure of funds for its last two fiscal years for developing, improving, and implementing emergency plans under EPCRA; and (3) agree to make at least 75 percent of the Federal funds provided available to LEPCs established pursuant to section 301(c) of EPCRA.

B. The Training Grant Program

Training grants may be made to reimburse States and Indian tribes for training public sector employees to respond to emergencies involving hazardous materials. The term "public sector employee," as defined in HMTUSA, is not repeated in this rulemaking. However, that definition is applicable to the term in each instance that it appears in part 110, as well as subsequent guidance documents issued by the HMTUSA Grants Manager. Several commenters suggested that the term be added to § 110.20 (Definitions), and one commenter wanted the definition expanded to specifically include State Troopers and Emergency Medical Service (EMS) personnel. The definition is broad and applies to all categories of public sector personnel routinely called upon to assist in emergency response activities. Thus, State Troopers and EMS personnel are public sector employees.

To qualify for a training grant, a State must: (1) Certify that it is complying with sections 301 and 303 of the EPCRA; (2) certify that it will maintain the aggregate expenditure of funds for its last two fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials; (3) agree to make at least 75 percent of the Federal funds provided available for the purpose of training such employees either employed or used by political subdivisions; and (4) agree to use courses consistent with the National Curriculum developed under section 117A(g).

To qualify for a training grant, an Indian tribe must: certify that it will maintain the aggregate expenditure of funds for each of its last two fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials; and agree to use courses consistent with the National Curriculum.

C. Relationship to the EPCRA

Section 117A(a)(1) of the HMTA requires RSPA to provide financial assistance to States for emergency response planning called for under EPCRA. States, in turn, are required to make at least 75 percent of the Federal funds available to LEPCs. A State may not receive a planning or training grant unless it certifies compliance with sections 301 and 303 of EPCRA. RSPA will accept self-certification of a State's current status and progress in achieving compliance.

RSPA is requiring, with respect to section 301, that an applicant certify that a SERC has been established, emergency planning districts have been designated, and LEPCs have been appointed by the SERC. The applicant must describe the status of the LEPCs' emergency response plans and their compliance with EPCRA section 303. Section 117A of the HMTA does not require Indian tribes to make these assurances.

D. Financial Issues

This final rule requires the States to make available (pass-through) 75 percent of the planning funds to LEPCs, and at least 75 percent of the benefits for training public sector employees employed or used by the political subdivisions. HMTA does not require Indian tribes to make this assurance for training purposes. States may pass-through funding to a local political subdivision for training public sector employees. If a State elects to conduct training itself, assurances must be provided that the training will in fact benefit public sector employees at the local level.

States and Indian tribes must contribute a matching share to any grant awarded. The cost-share requirement for both planning and training is 20 percent. RSPA will allow States and Indian tribes to satisfy the cost-sharing requirement with approved third party in-kind contributions consistent with 49 CFR 18.24. Funds may be used to carry out activities eligible for funding as specified in 49 CFR 110.40. Procurement

of operational equipment to be used in response actions is excluded from consideration for funding under this grant program.

Several commenters were concerned that the restriction on procurement of operational equipment may be too narrowly interpreted. They recommended that RSPA specifically identify expendable materials and equipment that may be procured in support of planning and training projects. The final rule is not revised to reflect that level of detail in activities eligible for funding. However, RSPA clearly recognizes that it must permit procurements of a variety of planning and training aids required to achieve basic goals and objectives of most projects funded under this grant program. The restriction applies to the procurement of operational equipment that is intended primarily for use in actual emergencies.

RSPA expects to make the first round of funding decisions in December 1992. Thereafter, decisions will be made on all applications pending in RSPA on January and July 1st of each year. Decisions on grant awards will be made within a reasonable time of receipt of grant application. RSPA will receive and review applications and make grant awards from its Washington, D.C. offices. Preapplication support, including assistance from other cooperating Federal agencies, will commence on the date this final rule is published.

IV. Role of Other Federal Agencies in the Implementation of Section 117A of HMTA.

RSPA holds delegated authority for administering the grant program. Representatives of the EPA and FEMA will assist RSPA in reviewing planning and training grant applications.

FEMA, in coordination with DOT, EPA, DOE, and NIEHS, will monitor public sector emergency response training and planning for accidents and incidents involving hazardous materials. These same agencies will provide technical assistance to States, political subdivisions and Indian tribes, and assist RSPA in developing and periodically updating the National Curriculum.

V. The Grant Mechanism and Administrative Requirements

Federal agencies collectively issued the "common rule". The Office of Management and Budget (OMB) issued a revised OMB Circular A-102 that provided guidance to Federal agencies in the development of the "common rule". DOT implemented the "common rule" through 49 CFR part 18, establishing uniform and administrative rules for Federal grants and cooperative agreements to State, local and Indian tribal governments.

RSPA is required to comply with these administrative and procedural requirements. Consequently, recipients of section 117A planning and training grants must comply with the provisions under 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", as well as other regulations incorporated by reference under this Part, pertaining to grants.

RSPA is encouraging submission of applications for multi-year projects from States and Indian tribes. However, an applicant may elect to apply for a grant on an annual basis for a specific project. Under the multi-year project approach, activities approved in a scope of work will be funded for one-year budget periods. Subsequent budget periods will be funded subject to availability of funds, satisfactory progress, and in accordance with the schedule of project activities authorized in the grant.

Performance reports must be submitted upon the completion of budget periods or upon completion of activities/projects for which reimbursement is being requested. Recipients must report on planning and training separately. Before proceeding with the next budget period or set of activities, recipients are required to provide a performance report.

Recipients must submit quarterly financial reports which will also be used for reimbursement. Except for advance funds, a recipient may be permitted to carry unexpended obligations from one year to the next. Carryover funds would provide recipients flexibility in the use of grant funds and, generally, expands the amount of funding which could be made available for planning and training grant programs. RSPA may reallocate resources if carryover spending authority is not used within one calendar year after receipt of grant award. Grant recipients may petition RSPA to waive non-statutory requirements that are not applicable to their circumstances.

Planning and training are two parts of a comprehensive national grant program; applicants are encouraged to request funds to conduct one or both in a single application package. RSPA will award funds for both in one award agreement. However, since both components are funded separately by a special registration fee program, RSPA has a fiduciary responsibility to obligate and account for planning and training funds separately. Recipients must rely on their own procurement methods unless they conflict with Federal laws and standards as defined in 49 CFR part 18.

VI. Section-by-Section Review

Section 110.1. This section implements a reimbursable grant program for both planning and training activities.

Section 110.5. This section prescribes requirements on the applicability of the training and planning grants, and administrative procedures.

Section 110.7. This section contains the Office of Management and Budget (OMB) control number for the information collection contained in this part.

Section 110.10. This section specifies who is eligible to apply for training and planning grants under this part.

Section 110.20. This section includes definitions of terms under part 110. For clarity, certain terms have been changed, as follows: "cost analysis" is changed to read "cost review", and "funding period" is changed to read "budget period".

Section 110.30. This section specifies grant application requirements and procedures, and includes information on where grant applications must be submitted. Also, January 1st and July 1st of each year are specified as deadlines for the filing of applications which will be considered in the semi-annual review and award process. To expedite implementation of this grant program, an initial award of grants will consider applications received on or before October 1, 1992.

Section 110.40. This section contains requirements on the types of activities which are eligible for funding under the grant programs prescribed in this Part. Several changes were made to proposed paragraph (a) in response to a comment that certain proposed activities go beyond the scope of the grant program established under HMTUSA. The changes are as follows: paragraph (a)(4) is revised by removing the words "to determine the distribution of Federal funds under the grant" since they suggest that a capabilities assessment is intended primarily to justify the awarding of a grant; paragraph (a)(5) is removed because it focused on awareness levels of the general public, rather than public sector employees; paragraph (a)(6) for planning is changed to paragraph "(a)(5)", and revised to change the reference to "RSPA" to read the "Associate Administrator for Hazardous Materials Safety"; in paragraph (a)(7) the last sentence is unnecessary and therefore deleted, and paragraph (a)(7) is changed to paragraph

"(a)(6)"; and paragraph (a)(8) is changed to paragraph "(a)(7)". Proposed paragraph (b)(6) for training has been revised to change the reference to "RSPA" to read the "Associate Administrator for Hazardous Materials Safety".

Section 110.50. This section prescribes requirements for disbursement of Federal funds. Proposed paragraph (a) of this section was changed for clarity to read: "Preaward expenditures may not be reimbursed."

Section 110.60. This section specifies requirements for cost sharing for planning and training grants under this Part. This section allows use of in-kind (soft-match) contributions for cost sharing purposes.

Section 110.70. This section prescribes requirements for financial administration and accounting procedures of the grant programs. Paragraph (c) is changed to (d), and a new paragraph (c) on advances is added to this section.

Section 110.80. This section specifies that procurement procedures must be used which reflect applicable State laws and regulations and Federal requirements under 49 CFR Part 18.

Section 110.90. This section prescribes requirements for monitoring, reports, and record retention for grant award recipients under this Part.

Section 110.100. This section specifies the requirements for enforcement of the terms of a grant award if a recipient fails to comply. In this proposed section, the reference to "RSPA" so changed to read "Associate Administrator for Hazardous Materials Safety".

Section 110.110. This section specifies after-grant requirements for closing out awards. In this proposed section, the reference to "RSPA" is changed to read "Associate Administrator for Hazardous Materials Safety".

Section 110.120. This section specifies requirements for requesting non-statutory deviations of this Part. In this proposed section, the reference to "RSPA" is changed to read "Associate Administrator for Hazardous Materials Safety." The address where requests for deviations must be submitted is added to this section.

Section 110.130. This section prescribes requirements for resolving disputes. In this proposed section, the reference to "RSPA" is changed to read "Administrator, RSPA".

VII. Rulemaking Analyses and Notices

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

RSPA has determined that this final rule is not a "major rule" under Executive Order 12291. The final rule is not considered a significant rule under DOT's Regulatory Policies and Procedures ("the Procedures"; 44 FR 11034; February 26, 1979). In accordance with the Procedures, RSPA has determined that preparation of a Regulatory Evaluation is not necessary because the costs of the regulation are expected to be minimal.

B. Regulatory Flexibility Act

RSPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

C. Executive Order 12612

The rule has been reviewed in accordance with Executive Order 12612 ("Federalism"). The HMTA specifies that States may apply for grants if they meet certain statutory criteria. The rule will implement the statutory requirements at a minimum level. The Federal-State relationship will be enhanced as a result of the grant funding provided. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

D. Paperwork Reduction Act

The new requirements for information collection have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) under OMB control number 2137–0586 (expiration date: May 31, 1995). The information requirements for this rule are the same as those set forth for most Federal grant programs and are consistent with OMB Circular A–102.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

F. National Environmental Policy Act

RSPA has evaluated this regulation in accordance with its procedures for ensuring full consideration of the environmental impacts of DOT actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1C. This final rule meets the criteria that establish it as a non-major action for environmental purposes.

List of Subjects in 49 CFR Part 110

Disaster assistance, Education, Emergency preparedness, Grant programs—Environmental protection, Grant programs—Indians, Hazardous materials transportation, Hazardous substances, Indians, Reporting and recordkeeping requirements.

In 49 CFR, a new part 110 is added to read as follows:

PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

Sec.
110.1 Purpose.
110.5 Scope.
110.7 Control Number under the Paperwork Reduction Act.
110.10 Eligibility.
110.20 Definitions.
110.30 Grant application.
110.40 Activities eligible for funding.
110.50 Disbursement of Federal funds.
110.60 Cost sharing for planning and training.
110.70 Financial administration.
110.80 Procurement.
110.90 Grant monitoring, reports, and records retention.
110.100 Enforcement.
110.110 After-grant requirements.
110.120 Deviation from this part.
110.130 Disputes.

1. The authority citation for Part 110 is added to read as follows:

Authority: 49 App. U.S.C. 1815; 49 CFR Part 1.

§ 110.1 Purpose.

This part sets forth procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes, and local communities to deal with hazardous materials emergencies, particularly those involving transportation. These grants will enhance the implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001).

§ 110.5 Scope.

(a) This part applies to States and Indian tribes and contains the program requirements for public sector training and planning grants to support hazardous materials emergency planning and training efforts.

(b) The requirements contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", apply to grants issued under this Part.

(c) Copies of standard forms and OMB circulars referenced in this part are available from the HMTUSA Grants Manager, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington DC. 20590–0001.

§ 110.7 Control Number under the Paperwork Reduction Act.

The Office of Management and Budget control number assigned to collection of information in §§ 110.30, 110.70, 110.80, and 110.90 is *2137–0586*.

§ 110.10 Eligibility.

This Part applies to States and Indian tribes. States may apply for planning and training grants. Federally-recognized Indian tribes may apply for training grants.

§ 110.20 Definitions.

Unless defined in this Part, all terms defined in Section 103 of the Hazardous Materials Transportation Act (HMTA) (49 App. U.S.C. 1802) are used in their statutory meaning and all terms defined in 49 CFR Part 18 and OMB Circular A–102, with respect to administrative requirements for grants, are used as defined therein. Other terms used in this Part are defined as follows:

Allowable costs means those costs that are: eligible, reasonable, necessary, and allocable to the project permitted by the appropriate Federal cost principles, and approved in the grant.

Budget period means the period of time specified in the grant agreement during which the project manager may expend or obligate project funds.

Cost review means the review and evaluation of costs to determine reasonableness, allocability, and allowability.

Indian country means Indian country as defined in 18 U.S.C. 1151. That section defines Indian country as all land within the limits of any reservation under the jurisdiction of the U.S. Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian tribe means a tribe "Federally-recognized" by the Secretary of the Interior under 25 CFR 272.2.

Local Emergency Planning Committee (LEPC) means a committee appointed by the State Emergency Response Commission under Section 301(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001(c)) that includes at a minimum, representatives from each of the following groups or organizations: elected State and local officials; law enforcement, firefighting, civil defense, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the emergency planning requirements.

National curriculum means the curriculum required to be developed under Section 117A of HMTA and necessary to train public sector emergency response and preparedness teams, enabling them to comply with performance standards as stated in Section 117A(g)(4).

Political subdivision means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Project means the activities and tasks identified in the grant agreement.

Project manager means the State or Indian tribal official designated in a grant as the recipient agency's principal program contact with the Federal Government.

Project officer means the Federal official designated in a grant as the program contact with the project manager. The project officer is responsible for monitoring the project.

Project period means the length of time specified in a grant for completion of all work associated with that project.

State Emergency Response Commission (SERC) means the State Emergency Response Commission appointed by the Governor of each State and Territory under the Emergency Planning and Community Right-to-Know Act of 1986.

Statement of Work means that portion of a grant that describes the purpose and scope of activities and tasks to be carried out as part of the proposed project.

§ 110.30 Grant application.

(a) *General.* An applicant for a planning or training grant shall use only the standard application forms approved by the Office of Management and Budget (OMB) (SF–424 and SF–424A) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3502). Applicants are required to submit an original and two copies of the application package to: HMTUSA Grants Manager, Research and Special Programs Adminstration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590–0001. Applications received on or before January 1st and July 1st of each year will be considered in that cycle of the semi-annual review and award process. An initial round of the review and award process will consider applications received on or before November 15, 1992. Requests and continuation applications must include an original and two copies of the affected pages; previously submitted pages with information that is still current do not have to be resubmitted. The application must include the following:

(1) Application for Federal Assistance for non-construction programs (SF–424) and Budget sheets (SF–424A). A single application may be used for both planning and training if the budgets for each are entered separately on all budget sheets.

(2) For States, a letter from the Governor designating the State agency that is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(3) For Indian tribes, a letter from the tribal government, governing body, or tribal council to the effect that the applicant is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(4) A written statement explaining whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials.

(5) A statement designating a project manager and providing the name, position, address and phone number of that individual who will be responsible for coordinating the funded activities with other agencies/organizations.

(6) A project narrative statement of the goals and objectives of the proposed project, project design, and long range plans. The proposed grant project and budget periods may be one or more years.

(7) A statement of work in support of the proposed project that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types

of deliverables and products to be completed, and a schedule for implementation.

(8) A description of the major items of costs needed to implement the statement of work and a copy of any cost or price analysis if conducted.

(9) *Drug-Free Workplace Certification.* The applicant must certify as specified in appendix C of 49 CFR part 29 that it will comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 51 U.S.C. 701 et seq.).

(10) *Anti-Lobbying Certification.* The applicant must certify as specified in appendix A of 49 CFR part 20 that no Federal funds will be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress (section 319 of Pub. L. 101-121, 31 U.S.C. 1352).

(11) *Debarment and Suspension Certification.* The applicant must certify as specified in subpart G of 49 CFR part 29 that it will not make an award or permit any award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

(b) *Planning.* In addition to the requirements specified in paragraph (a) of this section, eligible State applicants must include the following in their application package:

(1) A written certification that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act of 1986, including a brief explanation of how compliance has been achieved.

(2) A written statement specifying the aggregate expenditure of funds of the State, exclusive of Federal funds, for each of its last two fiscal years for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act of 1986, including an explanation specifying the sources of these funds. A written certification that the State's aggregate expenditures, as defined by the State, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing.

(3) A written statement agreeing to make at least 75 percent of the Federal funds awarded available to LEPCs and an explanation of how the applicant intends to make such funds available to them for developing, improving, or implementing emergency plans.

(4) Designation of a project manager to serve as contact for coordinating planning funds under this program.

(5) A project narrative statement of the goals and objectives of each proposed project, including the following:

(i) A background statement describing the applicant's long-term goals and objectives with respect to:

(A) The current abilities and authorities of the applicant's program for preparedness planning;

(B) The need to sustain or increase program capability;

(C) Current degree of participation in or intention to assess the need for a regional hazardous materials emergency response team; and

(D) The impact that the grant will have on the program.

(ii) A discussion of whether the applicant's program currently knows, or intends to assess, transportation flow patterns of hazardous materials within the State and between that State and another State.

(iii) A schedule for implementing the proposed grant activities.

(iv) A statement describing the ways in which planning will be monitored by the project manager.

(v) A statement indicating that all members of the State Emergency Response Commission were provided the opportunity to review the grant application.

(c) *Training.* In addition to the requirements specified in paragraph (a) of this section, eligible State and Indian Tribe applicants must include the following in their application package:

(1) For a State applicant, a written certification explaining how the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act.

(2) A written statement specifying the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for each of its last two fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials, including an explanation specifying the sources of these funds. A written certification that the applicant's aggregate expenditure, as defined by the State or tribe, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing purposes.

(3) For a State applicant, a written statement agreeing to make at least 75 percent of the Federal funds awarded available for the purpose of training public sector employees employed or used by political subdivisions. A State applicant may elect to pass all or some portion of the grant on to political subdivisions for this purpose. The applicant must include a specific explanation of how it intends to meet this requirement.

(4) Designation of a primary point of contact for coordinating training funded under this program. Identification of a single repository for copies of course materials delivered under the grant as specified in § 110.90 of this part.

(5) A project narrative statement of the long-range goals and objectives of each proposed project, including the following:

(i) A background statement describing:

(A) The current hazardous materials training program(s);

(B) Training audience, including numbers and levels of training and accreditation program for each level or criterion required to advance to the next level;

(C) Estimated total number of persons to be trained under the proposed project;

(D) The ways in which training grants will support the integrated delivery of training to meet the needs of individualized geographic and resource needs and time considerations of local responders. When appropriate, a statement describing how the proposed project will accommodate the different training needs for rural versus urban environments; and

(E) The impact that the grant and the National Curriculum will have on the program.

(ii) A statement describing how the National Curriculum will be used or modified to train public sector employees at the local level to respond to accidents and incidents involving hazardous materials.

(iii) A statement describing the ways in which effectiveness of training will be monitored by the project manager, including, but not limited to, examinations, critiques, and instructor evaluations.

(iv) A schedule for implementing the proposed training grant activities.

(v) A statement indicating that all members of the State or Tribal Emergency Response Commission were provided the opportunity to review the grant application.

§ 110.40 Activities eligible for funding.

(a) *Planning.* Eligible State applicants may receive funding for the following activities:

(1) Development, improvement, and implementation of emergency plans

required under the Emergency Planning and Community Right-to-Know Act of 1986, as well as exercises which test the emergency plan. Enhancement of emergency plans to include hazard analysis as well as response procedures for emergencies involving transportation of hazardous materials, including radioactive materials.

(2) An assessment to determine flow patterns of hazardous materials within a State, between a State and another State or Indian country, and development and maintenance of a system to keep such information current.

(3) An assessment of the need for regional hazardous materials emergency response teams.

(4) An assessment of local response capabilities.

(5) Conduct of emergency response drills and exercises associated with emergency preparedness plans.

(6) Provision of technical staff to support the planning effort.

(7) Additional activities the Associate Administrator for Hazardous Materials Safety deems appropriate to implement the scope of work for the proposed project plan and approved in the grant.

(b) *Training.* Eligible State and Indian tribe applicants may receive funding for the following activities:

(1) An assessment to determine the number of public sector employees employed or used by a political subdivision who need the proposed training and to select courses consistent with the National Curriculum.

(2) Delivery of comprehensive preparedness and response training to public sector employees. Design and delivery of preparedness and response training to meet specialized needs. Financial assistance for trainees and for the trainers, if appropriate, such as tuition, travel expenses to and from a training facility, and room and board while at the training facility.

(3) Emergency response drills and exercises associated with training, a course of study, and tests and evaluation of emergency preparedness plans.

(4) Expenses associated with training by a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) and activities necessary to monitor such training including, but not limited to examinations, critiques and instructor evaluations.

(5) Provision of staff to manage the training effort designed to result in increased benefits, proficiency, and rapid deployment of local and regional responders.

(6) Additional activities the Associate Administrator for Hazardous Materials Safety deems appropriate to implement the scope of work for the proposed project and approved in the grant.

§ 110.50 Disbursement of Federal funds.

(a) Preaward expenditures may not be reimbursed.

(b) Reimbursement may not be made for a project plan unless approved in the grant award.

(c) If a recipient agency seeks additional funds, the amendment request will be evaluated on the basis of needs, performance and availability of funds. An existing grant is not a commitment of future Federal funding.

§ 110.60 Cost sharing for planning and training.

(a) The recipient agency must provide 20 percent of the direct and indirect costs of all activities covered under the grant award program with non-Federal funds. Recipients may either use cash (hard-match), in-kind (soft-match) contributions, or a combination of in-kind plus hard match to meet this requirement. In-kind (soft-match) contributions are in addition to the maintenance of effort required of recipients of grant awards. The types of contributions allowed are as follows:

(1) Any funds from a State, local, or other non-Federal source used for an eligible activity as defined in § 110.40 in this part.

(2) The dollar equivalent value of an eligible activity as defined in § 110.40 of this part provided by a State, local, or other non-Federal source.

(3) The value of participants' salary while attending a planning or training activity contained in the approved grant application provided by a State, local, or other non-Federal source.

(4) Additional types of in-kind contributions the Associate Administrator for Hazardous Materials Safety deems appropriate.

(b) Funds used for matching purposes under any other Federal grant or cooperative agreement may not be used for matching purposes. The funds expended by a recipient agency to qualify for the grant may not be used for cost-sharing purposes.

(c) Acceptable contributions for matching and cost sharing purposes must conform to 49 CFR Part 18.

§ 110.70 Financial administration.

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(1) Permit the preparation of reports required by 49 CFR Part 18 and this Part, including the tracing of funds provided for planning to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available to LEPCs for developing, improving, and implementing emergency plans; and the tracing of funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(2) Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of Indian tribes and any subgrantees must meet the standards of 49 CFR 18.20, including the ability to trace funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(c) Advances shall be made to States and Indian tribes consistent with 49 CFR part 18 and 31 CFR part 205. The Associate Administrator for Hazardous Materials Safety shall base these advances on demonstrated need, which will be determined on a case-by-case basis, considering such factors as State/Tribal budget constraints and reductions in amounts budgeted for hazardous materials activities. To obtain an advance, a State or Indian tribe must comply with the following requirements:

(1) A letter from the Governor or Tribal leader or their designee is required specifying the extenuating circumstances requiring the funding advance for the grant;

(2) The maximum advance request may not be more than $25,000 for each State or Indian tribe;

(3) Recipients of advance funding must obligate those funds within 3-months of receipt;

(4) Advances including interest will be deducted from the initial reimbursement to the State or Indian tribe; and

(5) The State or Indian tribe will have its allocation of current grant funds reduced and will not be permitted to apply for future grant funds until the advance is covered by a request for reimbursement. For example, if $25,000 is advanced for personnel costs, this advance would be deducted from the

initial reimbursement in the year the advance was made.

(d) To be allowable, costs must be eligible, reasonable, necessary, and allocable to the approved project in accordance with OMB Circular A–87 and included in the grant award. Costs incurred prior to the award of any grant are not allowable. Recipient agencies are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501), 49 CFR part 90, and OMB Circular A–128. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. The Associate Administrator for Hazardous Materials Safety may audit a recipient agency at any time.

§ 110.80 Procurement.

Project managers shall use procurement procedures and practices which reflect applicable State laws and regulations and Federal requirements as specified in 49 CFR 18.36.

§ 110.90 Grant monitoring, reports, and records retention.

(a) *Grant monitoring.* Project managers are responsible for managing the day-to-day operations of grant, subgrant and contract-supported activities. Project managers must monitor performance of supported activities to assure compliance with applicable Federal requirements and achievement of performance goals. Monitoring must cover each program, function, activity, or task covered by the grant. Monitoring and reporting requirements for planning and training are contained in this Part; general grant reporting requirements are specified in 49 CFR 18.40.

(b) *Reports.* (1) The project manager shall submit a performance report at the completion of an activity for which reimbursement is being requested or with a request to amend the grant. The final performance report is due 90 days after the expiration or termination of the grant.

(2) Project managers shall submit an original and two copies of all performance reports. Performance reports for planning and training must include comparison of actual accomplishments to the stated goals and objectives established for the performance period, and the reasons for not achieving those goals and objectives, if applicable.

(3) Project managers shall report developments or events that occur between the required performance reporting dates which have significant impact upon the planning and training activity such as:

(i) Problems, delays, or adverse conditions which will impair the ability to meet the objective of the grant; and

(ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(4) Financial reporting, except as provided in § 110.70 and 49 CFR 18.41, shall be supplied quarterly using Standard Form 270, Request for Advance or Reimbursement, to report the status of funds. The project manager shall report separately on planning and training.

(c) *Records retention.* In accordance with 49 CFR 18.42, all financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated under a grant shall be maintained by the project manager for three years from the date the project manager submits the final financial status report (SF 269) or Request for Advance or Reimbursement (SF 270). The project manager shall designate a repository and single-point of contact for planning and for training, or both, for these purposes. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

§ 110.100 Enforcement.

If a recipient agency fails to comply with any term of an award (whether stated in a Federal statute or regulation, an assurance, a State plan or application, a notice of award, or elsewhere) a noncompliance action may be taken as specified in 40 CFR 18.43. The recipient agency may appeal any such actions as specified in 49 CFR part 18. Costs incurred by the recipient agency during a suspension or after termination of an award are not allowable unless the Associate Administrator for Hazardous Materials Safety authorizes it in writing. Grant awards may be terminated in whole or in part with the consent of the recipient at any agreed upon effective date, or by the recipient upon written notification.

§ 110.110 After-grant requirements.

The Associate Administrator for Hazardous Materials Safety will close out the award upon determination that all applicable administrative actions and all required work of the grant are complete in accordance with Subpart D of 49 CFR part 18. The project manager must submit all financial, performance, and other reports required as a condition of the grant, within 90 days after the expiration or termination of the grant. This time frame may be extended by the Associate Administrator for Hazardous Materials Safety for cause.

§ 110.120 Deviation from this part.

Recipient agencies may request a deviation from the non-statutory provisions of this part. The Associate Administrator for Hazardous Materials Safety will respond to such requests in writing. If appropriate, the decision will be included in the grant agreement. Request for deviations from Part 110 must be submitted to: HMTUSA Grants Manager, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590–0001.

§ 110.130 Disputes.

Disputes should be resolved at the lowest level possible, beginning with the project manager and the project officer. If an agreement cannot be reached, the Administrator, RSPA, will serve as the dispute resolution official, whose decision will be final.

Issued in Washington, DC, on August 24, 1992, under authority delegated in 49 CFR part 106, appendix A.

Douglas B. Ham,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 92–22220 Filed 9–16–92; 8:45 am]

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federal register

Thursday
September 17, 1992

Part III

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018-AB43

Subsistence Management Regulations for Public Lands in Alaska, Subpart D—1993-1994 Subsistence Taking of Fish and Wildlife Regulations

AGENCY: Forest Service, USDA, Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for seasons, bag limits, methods, and means related to subsistence taking of fish and wildlife during the entire 1993-1994 regulatory year. The rulemaking is necessary because subpart D is subject to an annual review cycle. The rulemaking, when final, will replace the regulations identified as "Subsistence Management Regulations for Public Lands in Alaska, Subpart D," which expire on June 30, 1993.

DATES: Written public comments and proposals for change will be accepted regarding this proposed rulemaking until November 16, 1992. Public hearings on this proposed rulemaking will be held during the week of October 5-9, 1992, in the following locations: Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Galena, Kodiak, Kotzebue, Nome, and Sitka. Proposals for changes to subpart D will then be compiled and made available for review on or about the beginning of November 1992. The public will then have 60 days to submit written comments on said complied proposals for change. Oral comments on the proposals for change may be submitted at a Federal Subsistence Board (Board) meeting to be held in March 1993. At that meeting the Board will take action on proposals for changes to the 1993-1994 Subsistence Taking of Fish and Wildlife Regulations included herein.

ADDRESSES: Written comments and proposals for change may be sent to the Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3447. For questions specific to National Forest System lands, contact Norman R. Howse, Assistant Director Subsistence, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802-1628, telephone (907) 586-8890.

SUPPLEMENTARY INFORMATION:

Proposed Changes from 1992-1993 Seasons and Bag Limits

The season and bag limit portions of the 1992-1993 subpart D, with minor corrections and adjustments to seasons and harvest area descriptions, serves as the proposed text for subpart D season and bag limit regulations for 1993-1994. Those corrections and modifications include:

- New Preamble.
- Definition of *Possession.*

Navigable Waters

At this time, the Federal Subsistence Management Program (FSMP) regulations apply to all non-navigable waters located on public lands and to navigable waters located on the public lands identified at § _____3(b) of the regulations. Nothing in these regulations is intended to enlarge or diminish the authority of the Departments to manage submerged lands title to which is held by the United States.

Public Comments/Proposals and Hearings

Interested persons may submit written comments or proposals regarding the 1993-1994 regulatory year for subpart D to the address noted at the beginning of this rulemaking. Comments or proposals may also be submitted at public hearings that will be held during the week of October 5-9, 1992, in Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Galena, Kodiak, Kotzebue, Nome, and Sitka. The public will be afforded a 60-day period commencing in December, in which to comment on proposed changes regarding the 1993-1994 regulatory year. Regional workshops will be held in January 1993, to facilitate detailed local review and comment on specific proposed changes affecting each region. In March 1993, the Board will hold a public hearing on this proposed rule and any submitted proposals for change.

Any proposals for change to the seasons, bag limits, methods and/or means set out in this proposed rule must include, at a minimum, the following information:

a. Name, address and telephone number of the individual or organization submitting the proposal;

b. Section and/or paragraph of the proposed rule associated with the proposal for change;

c. A statement as to why the change to the regulation is necessary for subsistence uses;

d. A proposed solution;

e. Suggested wording for the addition or change; and

f. Any supporting information.

Proposals for change which fail to include the above information may be rejected. To avoid such rejection, the public is encouraged to use standardized forms for submission of proposals which are available on request from U.S. Fish and Wildlife Service at the previously noted address.

Federal Regional Advisory Councils

The Record of Decision, Subsistence Management for Federal Public Lands in Alaska, signed in early April, 1992, and the final Subsistence Management Regulations for Public Lands in Alaska, 57 FR 22940-64 (1992) (to be codified at 50 CFR 100), identify the structure of the public advisory system that will be employed in the Federal Subsistence Management Program (FSMP). Alaska has been divided into ten subsistence resource regions, each to be represented by a Regional Advisory Council. These Councils will be composed of no fewer than seven and no more than thirteen members who are rural residents of the region and knowledgeable of local subsistence concerns. Regional Advisory Councils will possess the authority to make recommendations to the Federal Subsistence Board on subsistence seasons and bag limits, methods and means of taking, customary and traditional use determinations and rural determinations. Establishment of Regional councils requires that the Secretary of the Interior approve each Council's charter and appoint the members of each Council with the concurrence of the Secretary of Agriculture. Completion of these requirements is not expected before the Federal Subsistence Board deliberates on proposals for change to the 1993-1994 subsistence hunting and fishing regulations in March 1993.

In order to ensure meaningful local contribution to the development of the 1993-1994 subsistence taking regulations, the Federal Subsistence Board has adopted a plan to hold information meetings and workshops in each regional center. In conjunction with public hearings to be held in early October 1992, an informational meeting and workshop will be held to help interested individuals develop proposals for changes to this proposed rule. In January 1993, additional workshops will be held in regional centers to facilitate

detailed local review and comment on specific proposals for change which effect each region. Written summaries of these workshops will be prepared and presented to the Federal Subsistence Board prior to its meeting on subpart D regulations in late March of 1993.

Conformance With Statutory and Regulatory Authorities

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501–3520. They apply to the use of public lands in Alaska. The information collection requirements described above are approved by the OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018–0075.

Public reporting burden for this form is estimated to average .1382 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1016–0075), Washington, DC 20903. Additionally, information collection requirements may be imposed if the councils and committees subject to the Federal Advisory Committee Act are established under subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Economic Effects

Executive Order 12291, "Federal Regulation," of February 19, 1981, requires the preparation of regulatory impact analysis for major rules. A major rule is one 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, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The Departments of the Interior and Agriculture have determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, and certify that it will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue pre-existing uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of "Federalism Effects" as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

Drafting Information

These regulations were drafted under the guidance of Richard S. Pospahala, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Thomas H. Boyd, Alaska State Office, Bureau of Land Management, Robert Gerhard, Alaska Regional Office, National Park Service; John Borbridge, Alaska Area Office, Bureau of Indian Affairs; and Norman Howse, USDA, Forest Service, both of Juneau, Alaska.

The primary author was Sharon Fleek. Contributors were Peggy Fox, Sue Detwiler, and Dick Marshall of the U.S. Fish and Wildlife Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National Forests, Public Lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public Lands, Reporting and recordkeeping requirements, Wildlife.

Words of Issuance

For the reasons set out in the preamble, title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, are amended as set forth below.

PART _____—SUBSISTENCE MANAGEMENT REGULATIONS FOR FEDERAL PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 is revised to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. Subpart D is revised to read as follows:

Subpart D—Subsistence Taking of Fish and Wildlife

Sec.

_____.25 Subsistence taking of wildlife.
_____.26 Subsistence taking of fish.
_____.27 Subsistence taking of shellfish.

Subpart D—Subsistence Taking of Fish and Wildlife

§ _____.25 Subsistence taking of wildlife.

(a) Definitions. The following definitions shall apply to all regulations contained in this section.

ADF&G means the Alaska Department of Fish and Game.

Aircraft means a fixed-wing machine or device that is used or intended to be used to carry persons or objects through the air, including airplanes and gliders.

Airport means an airport listed in the Federal Aviation Administration, Alaska Airman's Guide and chart supplement.

Animal means those species with a vertebral column (backbone).

Bag limit means the number of any one species permitted to be taken by any one person in the unit or portion of a unit in which the taking occurs; however, additional numbers of a species may be taken in another designated open unit or portion of a unit where a greater limit on that species is prescribed. In no case may the total or cumulative bag for one person exceed the limit set for the unit or portion of a unit in which the additional animals are taken. A Federal subsistence bag limit and a State bag limit for the same species may not be accumulated.

Big game means black bear, brown and grizzly bear, caribou, deer, mountain goat, moose, musk oxen, Dall sheep, wolf and wolverine.

Bow means long bow, recurve bow, or compound bow, but not crossbow, or bows equipped with any other mechanical device that holds arrows at full draw.

Broadhead means an arrowhead with two or more steel cutting edges having

minimum cutting diameter of not less than seven-eighths inch.

Bull moose means any male moose.

Closed season means the time when wildlife may not be taken.

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Edible meat means, in the case of big game, except wolf and wolverine, the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and radius-ulna (knee), hindquarters as far as the distal joint of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; in the case of wild fowl, the meat of the breast; however, *edible meat* of big game or wild fowl does not include: meat of the head; meat that has been damaged and made inedible by the method of taking; bones, sinew and incidental meat reasonably lost as a result of boning or a close trimming of the bones; or viscera.

Full curl horn means the horn of a male Dall sheep; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken or that the sheep is at least 8 years of age as determined by horn growth annuli.

Fur animal means coyote, arctic fox, red fox, lynx, or red squirrel; *fur animals* is a classification of animals subject to taking with a hunting license.

Furbearer means beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, marmot, wolf or wolverine; *furbearers* is a classification of animals subject to taking with a trapping license.

Highway means the drivable surface of any constructed road.

Household means that group of people residing in the same residence.

Motorized vehicle means a motor-driven land, air or water conveyance.

Open season means the time when wildlife may be taken; each period prescribed as an open season includes the first and last days of the period prescribed.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance which is toxic or poisonous upon contact or ingestion.

Possession means having direct physical control of the wildlife at a given time or having both the power and intention at a given time to exercise dominion or control of the wildlife either directly or through another person or persons.

Registration permit means a hunting permit issued to a person who agrees to the conditions specified for the hunt. Registration permit hunts begin on a date announced and continue throughout the open season, or until the season is closed by Board action. Permits are issued in the order applications are received and/or based on priorities as determined by § _____.17.

Sealing means placing a mark or tag on a portion of an animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information concerning the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing, or surrendering a specific portion of the animal for biological information.

Seven-eighths curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights of a circle (315 degrees), described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Skin, hide, or pelt are all the same thing, and mean any tanned or untanned external covering of an animal's body: skin, hide, or pelt of a bear shall mean the entire external covering with claws attached.

Small game means all species of grouse, hares, rabbits, and ptarmigan.

Take or *Taking* means to pursue, hunt, shoot, trap, net capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler whose length is at least one inch, and is greater in length than in width, measured one inch or more from the tip.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Unclassified game means all species of game not otherwise classified in the definitions.

Unit means one of the 26 geographical areas listed herein as Game Management Units.

Wild fowl means small game birds.

Wildlife means any bird, big game, small game, furbearer, fur animal, or unclassified game and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Small game and unclassified game, fur animals, fur bearers, and big game may be taken for subsistence by any method, unless prohibited below or by other Federal statute. Taking wildlife for subsistence by a prohibited method is a violation of this regulation. Seasons are closed unless opened by Federal regulation. Hunting during a closed season or in an area closed by these regulations is prohibited.

(1) The following methods of taking wildlife for subsistence are prohibited:

(i) By shooting from, on, or across a highway;

(ii) With the use of any poison;

(iii) With the use of a helicopter in any manner, including transportation of individuals, equipment or wildlife; this paragraph does not apply to transportation of an individual, gear or wildlife during an emergency rescue operation in a life-threatening situation;

(iv) Taking wildlife from a motorized vehicle except in the following situations; from a motor-driven boat if the motor has been completely shut off and the boat's progress from the motor's power has ceased; from a motor-driven boat or snow machine to take caribou in Game Management Unit 23; or where otherwise provided in this subpart;

(v) Using a motorized vehicle to drive, herd, or molest wildlife;

(vi) With the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge;

(vii) With the aid of a pit, fire, artificial light (except that coyotes may be taken in Units 6(B) and 6(C) with the aid of artificial lights), radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, or a conventional steel trap with a jaw spread over nine inches; however, the "conibear" style trap with a jaw spread of less than 11 inches may be used;

(viii) With a snare, except for taking unclassified game, fur bearer, or small game.

(2) The following methods and means of taking big game for subsistence are prohibited in addition to the prohibitions in paragraph (b)(1) of this section:

(i) With the use of a firearm other than a shotgun, muzzle-loaded rifle, or rifle or pistol using a center-firing cartridge, except that—

(A) In Unit 23, swimming caribou may be taken with a firearm using rimfire cartridges;

(B) The use of a muzzle loading rifle is prohibited for brown bear, black bear, moose, musk ox and mountain goat unless such a firearm is .54 caliber or larger, or at least .45 caliber and a 250 grain or larger elongated slug is used;

(ii) With a crossbow in any area restricted to hunting by bow and arrow only;

(iii) With a longbow, recurve bow, or compound bow unless the bow is capable of casting a broadhead-tipped arrow at least 175 yards horizontally,

the arrow is tipped with a broadhead of at least ⅞" width, and arrow and broadhead together weigh at least one ounce (437.5 grains), and the broadhead is not barbed;

(iv) With the use of bait; except that black bears may be taken with the use of bait in Units 14(A) between April 15 and May 25; in Unit 14(B) between April 15 and May 31; in Units 1 (A) (B) (D), 2, 3, 5, 6, 7 (except Resurrection Creek and its tributaries), 11, 13 and 16 (except Denali State Park), 15 and 17, between April 15 and June 15; and in Units 12, 19–21, 24, and 25, between April 15 and June 30. Baiting of black bears is subject to the following restrictions—

(A) Only biodegradable materials may be used for bait; only the head, bones, viscera, or skin of legally harvested fish and game may be used for bait;

(B) No person may use bait within one-quarter mile of a publicly maintained road or trail;

(C) No person may use bait within one mile of a house or other permanent dwelling, or within one mile of a developed campground or developed recreational facility;

(D) A person using bait shall clearly mark the site with a sign reading "black bear bait station" that also displays the person's hunting license number and ADF&G assigned number;

(E) A person using bait shall remove litter and equipment from the bait station site when hunting is completed;

(F) No person may give or receive remuneration for the use of a bait station, including barter or exchange of goods;

(G) No person may have more than two bait stations established (bait present) at any one time;

(H) No person may establish a black bear bait station unless he or she first registers the site with ADF&G;

(v) With the use of a trap or snare;

(vi) While a big game animal is swimming, except that a swimming caribou may be taken in Unit 23;

(vii) No person who has been airborne, except in regularly scheduled commercial aircraft flights, may take or assist in taking a big game animal until after 3 a.m. following the day in which the flying occurred; however, this restriction does not apply to subsistence taking of deer;

(viii) From a boat in Units 1–5 except for persons certified as disabled;

(ix) Taking a bear cub or a sow accompanied by cub(s).

(3) The following methods and means of taking fur animals for subsistence under a hunting license are prohibited, in addition to the prohibitions in paragraph (b)(1) of this section:

(i) By using a trap, snare, net, or fish trap;

(ii) By disturbing or destroying a den;

(iii) By having been airborne and using a firearm to take or assist in taking an arctic or red fox until after 3 a.m. on the day following the day in which the flying occurred.

(4) The following methods and means of taking fur bearers for subsistence under a trapping license are prohibited, in addition to the prohibitions in paragraph (b)(1) of this section:

(i) By disturbing or destroying a den, except that any muskrat pushup or feeding house may be disturbed in the course of trapping;

(ii) By disturbing or destroying any beaver house;

(iii) Taking beaver by any means other than a steel trap or snare, except that a firearm may be used to take beaver in Unit 18 from April 1 through June 10, in Unit 21(E) from April 1 through June 1, and in Units 8, 22, and 23 throughout the seasons established herein;

(iv) Taking land otter with a steel trap having a jaw spread of less than five and seven-eighths inches during any closed mink and marten season in the same game management unit;

(v) using a net, or fish trap (except a blackfish or fyke trap);

(vi) Taking beaver in the Minto Flats Management Area with the use of an aircraft for ground transportation or by landing within one mile of a beaver trap or set used by the person transported;

(vii) Taking a wolf in Units 12 and 20(E) during March, April or October with a steel trap, or with a snare smaller than 3X;

(viii) Having been airborne and using a firearm to take or assist in taking a wolf, or wolverine until after 3:00 a.m. on the day following the day in which the flying occurred; this paragraph does not apply to a trapper using a firearm to dispatch a wolf, or wolverine caught in a trap or snare; or in taking an artcic fox, red fox, coyote or lynx if the person is over 100 feet from the airplane;

(ix) Taking a red fox in Unit 15 by any means other than a steel trap or snare;

(x) Taking beaver in Unit 13 from October 10–November 9, except with underwater traps or snares.

(c) Possession and Transportation of Wildlife.

(1) Unless otherwise provided, no person may take a species of wildlife in any unit or portion of a unit if that person's total statewide take of that species under Federal and State regulations already equals or exceeds the bag limit for that species in that unit or portion of a unit except as specified in paragraph (c)(3) of this section.

(2) Wildlife taken by a person, pursuant to § _____.6, as part of a community harvest, does not count toward any individual bag limit.

(3) The bag limit specified herein for a subsistence season for a species and the State bag limit set for a State season for the same species are not separate and distinct.

(4) The bag limit specified for a trapping season for a species and the bag limit set for a hunting season for the same species are separate and distinct. This means that a person who has taken a bag limit for a particular species under a trapping season may take additional animals under the bag limit specified for a hunting season or vice versa.

(5) A bear taken in a unit or portion of a unit having a bag limit of one bear per year counts against a one bear every four regulatory years bag limit in other units; an individual may not take more than one bear in a regulatory year.

(6) A bag limit applies to a regulatory year unless another time period is specified in the bag limit.

(7) Unless otherwise provided, any person who gives or receives wildlife shall furnish upon request of a Federal or State agent a signed statement describing the following: Names and addresses of persons who gave and received wildlife, when and where the wildlife was taken, and what wildlife was transferred. Where a qualified subsistence user has designated another qualified subsistence user to take fish or wildlife on his or her behalf in accordance with § _____.6, the permit shall be furnished in place of a signed statement.

(8) A rural Alaska resident who has been designated to take fish and wildlife on behalf of another rural Alaska resident in accordance with § _____.6, shall promptly deliver the fish or wildlife to that rural Alaska resident.

(9) No person may possess, transport, or give, receive or barter wildlife that was taken in violation of Federal or State statutes or a regulation promulgated thereunder.

(10) Evidence of sex and identity.

(i) No person may possess or transport a Dall sheep unless both horns accompany the animal, if the subsistence take is restricted to a single sex.

(ii) If the subsistence taking of a big game animal, except sheep, is restricted to one sex in the local area, no person may possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal; however, this section does not apply to

the carcass of a big game animal that has been cut and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(iii) If a moose bag limit includes an antler size or configuration restriction, no person may possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. A person possessing a set of antlers with less that the required number of brow tines on one antler shall leave the antlers naturally attached to the unbroken, uncut skull plate; however, this subsection does not apply to a moose carcass or its parts that have been cut and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(d) A person who takes an animal that has been marked or tagged for scientific studies must, within a reasonable time, notify ADF&G or agency identified on the collar or marker, when and where the animal was killed. Any ear tag, collar, radio, tattoo, or other identification must be retained with the hide until it is sealed, if sealing is required, and in all cases any identification equipment must be returned to the ADF&G or to an agency identified on such equipment.

(e) Sealing of bear skins and skulls.

(1) As used in paragraph (e), *bear* means brown bears in all units, and black bears of all color phases taken in Units 1–7, 11–16, and 20;

(2) No person may possess or transport from Alaska, the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State regulation, except that the skin and skull of a brown bear taken under a registration permit in the Western Alaska Brown Bear Management Area or the Northwest Alaska Brown Bear Management Area need not be sealed unless removed from the area.

(3) A person who possesses a bear shall keep the skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; except that this provision shall not apply to brown bears taken within the Western Alaska Brown Bear Managment Area or the Northwest Alaska Brown Bear Management Area which are not removed from the Management Area.

(i) In areas where sealing is required by Federal regulations, until the hide has been sealed by a representative of ADF&G, no person may possess or transport the hide of a bear which does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in the Western Alaska Brown Bear Management Area is removed from the area, it must be sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If the skin or skull of a bear taken in the Northwestern Alaska Brown Bear Management Area is removed from the area, it must be sealed by an ADF&G representative in Barrow, Fairbanks, Galena, or Kotzebue; at the time of sealing the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(4) No person may falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulation.

(f) Sealing of Marten, Lynx, Beaver, Otter, Wolf, and Wolverine. No person may possess or transport from Alaska the untanned skin of a marten taken in Units 1—5, 7, 13(E), 14, 15, and 16 or the untanned skin of a lynx, beaver, land otter, wolf, or wolverine, whether taken inside or outside the State, unless the skin has been sealed by an authorized representative of ADF&G in accordance with State regulation.

(g) A person who takes a species listed in paragraph (f) of this section but who is unable to present the skin in person must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in paragraph (f) of this section.

(h) Utilization of Wildlife.

(1) No person may use wildlife as food for a dog or fur bearer, or as bait, except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a fur bearer or a fur animal;

(iii) Red squirrels and small game; however, the breast meat of small game birds may not be used as animal food or bait;

(iv) Legally taken unclassified game.

(2) A person taking game for subsistence shall salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel and land otter, and the hide or meat of a beaver or muskrat;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in the Western and Northwestern Alaska Brown Bear Management Areas need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide, feathers, or meat of a squirrel, marmot, or unclassified game.

(3) Failure to salvage the edible meat of big game (except wolf or wolverine), or wild fowl is prohibited.

(4) Failure to salvage or possess the edible meat may not be a violation if due to circumstances beyond the control of a person; including theft of the animal or fowl, unanticipated weather conditions, or unavoidable loss to another wild animal.

(5) It is unlawful for a person to possess the horns or antlers of a big game animal that was taken after the opening of the current or most recent lawful season for the animal unless the person also possesses the edible meat of the animal. However, this does not apply to the acquisition of the horns or antlers as a gift after the edible meat of the big game animal was salvaged, or the edible meat is no longer present due to personal consumption or legal transfer.

(i) Wildlife taken in defense of life or property is the property of the State and is not a subsistence taking. A person taking such wildlife is required to salvage immediately the meat, or, in the case of a black bear, wolf, wolverine, or coyote, the hide and surrender it to the State immediately. All bear hides surrendered (brown or black) must include claws. In the case of brown or grizzly bear, the hide and skull must be salvaged and surrendered to the State immediately. The person taking the wildlife must notify the ADF&G of the taking immediately and must submit a written report of the circumstances of the taking of wildlife in defense of life or property to the ADF&G within 15 days of the taking.

(j) These regulations do not apply to the subsistence taking and use of those fish and wildlife resources regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 927, 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), and the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801–1882), or any amendments to these acts. The taking and use of fish and wildlife resources, covered by these acts, will conform to the specific provisions contained in

these acts, as amended, and any implementing regulations.

(k) There may be additional requirements for eligibility to harvest fish and wildlife resources in National Parks. Contact your local National Park Service office for details.

(l) Rural, or non-rural residents, and non-residents not specifically prohibited by Federal regulations from hunting or trapping on public lands in an area, may hunt or trap on public lands in accordance with the appropriate State regulations.

(m) Specific Game Management Units and Regulations. Subsistence taking of bat, shrew, rat, mouse, porcupine; red, ground, and flying squirrel is allowed in all GMU, without limitations to bag limits for the period of July 1 through June 30. The subsistence taking of wildlife outside of the following established seasons or in excess of the following establish bag limits, unless modified by Board action, is prohibited. Taking of wildlife under State regulations on public lands is permitted except as otherwise restricted.

(1) GMU 1. Game Management Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point and all islands in Stephens Passage and Lynn Canal north of Taku Inlet;

(i) Unit 1(A) consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal and excluding all drainages of Ernest Sound;

(ii) Unit 1(B) consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw, including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound and Seward Passage;

(iii) Unit 1(C) consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock, including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, and excluding drainages into Farragut Bay;

(iv) Unit 1(D) consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) public lands within Glacier Bay National Park are closed to all subsistence take;

(B) Unit 1(A);

(1) In the Ketchikan area, a strip one-fourth mile wide on each side of the Tongass Highway system, including the Ward, Connel, and Harriet Hunt Lake Roads, is closed to the taking of big game;

(2) In the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bears;

(C) Unit 1(B)—the Anan Creek drainage is closed to the taking of black bears;

(D) Unit 1(C);

(1) In the Juneau area, that area between the coast and a line one-fourth mile inland of the following road systems is closed to the taking of big game: Glacier Highway from Mile 0 to Mile 24 at Peterson Creek, Douglas Highway from the Douglas city limits to Milepost 7 on the North Douglas Highway, Mendenhall Loop Road, and Thane Road;

(2) The area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

(3) The area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(4) Mt. Juneau drainage, bounded by the Glacier Highway, Salmon Creek and its reservoir, a line from the head of the Salmon Creek drainage to the head of Granite Creek, and down Granite Creek and Gold Creek to the Glacier Highway, is closed to the taking of mountain goat;

(E) Unit 1(D)—a strip one-fourth mile wide on each side of the Lutak Road between Mile 7 and Chilkoot Lake, and from the Chilkoot River bridge to the end of the Lutak Road spur at the head of Lutak Inlet, is closed to the taking of big game;

(vi) The following areas are closed to the trapping of furbearers for subsistence as indicated—

(A) Glacier Bay National Park;

(B) Unit 1(C) (Juneau area)

(1) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(2) Auke Lake and the area within one-quarter mile of Auke Lake;

(3) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(4) A strip within one-quarter mile of the Douglas Island coast along the entire length of the Douglas Highway and a strip within one-quarter mile of the Eaglecrest Road;

(5) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(6) A strip within one-quarter mile of the following trails as designed on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and the Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

Bag Limits and Open Season

Black Bear: Unit 1—2 bears, not more than one of which may be a blue or glacier bear—Sept. 1–June 30

Brown Bear: Unit 1—1 bear every four regulatory years by State registration permit only—Sept. 15–Dec. 31 and Mar. 15–May 31

Deer:

Unit 1(A)—4 antlered deer—Aug. 1–Dec. 31

Unit 1(B)—2 antlered deer—Aug. 1–Dec. 31

Unit 1(C)—4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31—Aug. 1–Dec. 31

Goat:

Unit 1(A)—Revillagigedo Island only—No open season

Unit 1(B)—that portion North of the Bradfield Canal and the North fork of the Bradfield River. 1 goat by State registration permit only; that portion between LeConte Bay and the north fork of Bradfield River/canal will require a Federal Registration permit for the taking of a second goal; the taking of kids or nannies accompanied by kids is prohibited—Aug. 1–Dec. 31

Unit 1(A) and Unit 1(B)—Remainder—2 goats by State registration permit only—Aug. 1–Dec. 31

Unit 1(C)—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River—1 goat by State registration permit only—Oct. 1–Nov. 30

Unit 1(C)—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier, and all drainages of the Chilkat Range south of the Endicott River—No open season

Remainder of Unit 1(C)—1 goat by State registration permit only—Aug. 1–Nov. 30

Unit 1(D)—that portion lying north of the Katzehin River and northeast of the Haines Highway—1 goat by State registration permit only—Sept. 15–Nov. 30
Remainder of Unit 1(D)—1 goat by State registration permit only—Aug. 1–Dec. 31
Moose:
Unit 1(A) and 1(B) south of LeConte Glacier—1 bull—Sept. 15–Oct. 15
Remainder of Unit 1(C)—1 bull by State registration permit only—Sept. 15–Oct. 15
Beaver: Trapping—Unit 1(A), (B), and (C)—No limit—Dec. 1–May 15
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Dec. 1–Feb. 15
Fox, Red (including Cross, Black, and Silver Phases):
Hunting—2 Foxes—Nov. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Hare (Snowshoe and Arctic): 5 hare per day—Sept. 1–Apr. 30
Lynx:
Hunting—2 Lynx—Dec. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Marten: Trapping—No limit—Dec. 1–Feb. 15
Mink and Weasel: Trapping—No limit—Dec. 1–Feb. 15
Muskrat: Trapping—No limit—Dec. 1–Feb. 15
Otter (land only): Trapping—No limit—Dec. 1–Feb. 15
Wolf:
Hunting—No limit—July 1–June 30
Trapping—No limit—Nov. 10–Apr. 30
Wolverine:
Hunting—1 Wolverine—Nov. 10–Feb. 15
Trapping—No limit—Nov. 10–Apr. 30
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession—Aug. 1–May 15
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 1–May 15

(2) GMU 2. Game Management Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the western most point of Warren Island.

Bag Limits and Open Season

Black Bear: Unit 2—2 bears, not more than one of which may be a blue or glacier bear—Sept. 1–June 30
Deer: Unit 2—4 antlered deer—Aug. 1–Dec. 31
Beaver: Trapping—No limit—Dec. 1–May 15
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Dec. 1–Feb. 15
Fox, Red (including Cross, Black, and Silver Phases):
Hunting—2 Foxes—Nov. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Hare (Snowshoe and Arctic): 5 hare per day—Sept. 1–Apr. 30
Lynx:
Hunting—2 Lynx—Dec. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Marten: Trapping—No limit—Dec. 1–Feb. 15
Mink and Weasel: Trapping—No limit—Dec. 1–Feb. 15
Muskrat: Trapping—No limit—Dec. 1–Feb. 15
Otter (land only): Trapping—No limit—Dec. 1–Feb. 15
Wolf:
Hunting—No limit—July 1–June 30
Trapping—No limit—Nov. 10–Apr. 30
Wolverine:
Hunting—1 Wolverine—Nov. 10–Feb. 15
Trapping—No limit—Nov. 10–Apr. 30
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession—Aug. 1–May 15
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 1–May 15

(3) GMU 3.

(i) Game Management Unit 3 consists of all islands west of Unit 1(B), north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait, including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) A strip one-fourth mile wide on each side of the Stikine (Zimovia) Highway from the Wrangell city limits to Milepost 9 is closed to the taking of big game;

(B) In the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to the Crystal Lake campground is closed to the taking of big game;

(C) The Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(D) Blind Slough, draining into Wrangell Narrows, and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge, are closed to all hunting.

Bag Limits and Open Season

Black Bear: Unit 3—2 bears, not more than one of which may be a blue or glacier bear—Sept. 1–June 30
Deer:
Unit 3—that portion south of Sumner Strait and Decision Passage, including the Vank Island group, but not including Level, Conclusion—2 antlered deer—Aug. 1–Nov. 30
Unit 3—that portion of Mitkof Island, south of city limits of Petersburg only; Woewodski and Butterworth Islands—1 antlered deer by State registration permit only—Oct. 15–Oct. 31
Moose: Unit 3—Mitkof and Wrangell Islands—1 bull with spike-fork or 50-inch antler—Oct. 1–Oct. 15
Beaver:
Trapping—Unit 3—Mitkof Island—No limit—Dec. 1–Apr. 15
Trapping—Unit 3 (except Mitkof Island—No limit—Dec. 1–May 15
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Dec. 1–Feb. 15
Fox, Red (including Cross, Black, and Silver Phases):
Hunting—2 Foxes—Nov. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Hare (Snowshoe and Arctic): 5 hare per day—Sept. 1–Apr. 30
Lynx:
Hunting—2 Lynx—Dec. 1–Feb. 15
Trapping—No limit—Dec. 1–Feb. 15
Marten: Trapping—No limit—Dec. 15–Feb. 15
Mink and Weasel: Trapping—No limit—Dec. 1–Feb. 15
Muskrat: Trapping—No limit—Dec. 1–Feb. 15
Otter (land only): Trapping—No limit—Dec. 1–Feb. 15
Wolf:
Hunting—No limit—July 1–June 30
Trapping—No limit—Nov. 10–Apr. 30
Wolverine:
Hunting—1 Wolverine—Nov. 10–Feb. 15
Trapping—No limit—Nov. 10–Apr. 30
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession—Aug. 1–May 15
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 1–May 15

(4) GMU 4.

(i) Game Management Unit 4 consists of all islands south and west of Unit 1(C) and north of Unit 3, including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) In the Sitka area, a strip one-fourth mile wide on each side of all State highways is closed to the taking of big game;

(B) The Seymour Canal Closed Area (Admiralty Island), including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay, and including Swan and Windfall Islands, is closed to the taking of bears;

(C) The Salt Lake Bay Closed Area (Admiralty Island), including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(D) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(E) Northeast Chichagof Controlled Use Area (NECCUA) consisting of that portion of Unit 4 on Chichagof Island north of Tenakee Inlet and east of Idaho Inlet and north of a line from the headwaters of Trail River to the head of

Tenakee Inlet is closed to the use of any motorized land vehicle for brown bear hunting or for the taking of marten, mink, or weasel.

Bag Limits and Open Season

Brown Bear:

Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21' W. long.), to Rodgers Point (57° 35' N. lat., 135° 33' W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34' N. lat., 135° 25' W. long.), to the entrance of Gut Bay (56° 44' N. lat., 134° 38' W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only—Sept. 15–Dec. 31 and Mar. 15–May 31

Unit 4—that portion in the Northeast Chichagof Controlled Use Area—1 bear every four regulatory years by State registration permit only—Mar. 15–May 20

Remainder of Unit 4—1 bear every four regulatory years by State registration permit only—Sept. 15–Dec. 31 and Mar. 15–May 20

Deer:

Unit 4—All drainages of Chichagof west of the drainage divide which begins at the southwest entrance of Gull Cove and extends southward to Point Leo. This includes all drainages into Slocum Arm, Lisianski Inlet, Idaho Inlet, and all offshore islands including the Inian Islands. Lemesurier Island is excluded. All of Admiralty Island and its associated offshore islands that lie within Unit 4. That portion of Baranof Island south of the divide from North Point of Kasnyku Bay southwest to North Cape of Whale Bay—0 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31— Aug. 1–Jan. 31

Unit 4—All drainages of Chichagof Island east of the drainage divide which begins at the southwest entrance of Gull Cove and extends southward to the divide between Trail River and Upper Tenakee Inlet and including all drainages into Chatham Straits north of the Kook Lake drainage. Lemesurier, Pleasant, and associated offshore islands are included—0 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31. For hunters who are not residents of GMU 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, or Wrangell the bag limit is 3 deer. Federal public lands are closed beginning Nov. 1 to hunters who are not residents of GMU 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, or Wrangell—Aug. 1–Jan 31

Unit 4—All drainages of Baranof Island north of the divide from North Point of Kasnyku Bay southwest to North Cape of Whale Bay; and all drainages on Chichagof Island draining into Peril Straits, Hoonah Sound, and Salisbury Sound east of Point Leo, and all offshore islands including Kruzof, Biorka, and Catherine—4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31. Federal public lands are closed to the taking of deer by persons who are not residents of GMU 4, Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, or Wrangell—Aug. 1–Dec. 31

Goat: 1 goat by State registration permit only—Aug. 1–Dec. 31

Beaver: Trapping—Unit 4 (that portion east of Chatham Stait)—No limit— Dec. 1–May 15

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Dec. 1–Feb.15

Fox, Red (including Cross, Black, and Silver Phases):

Hunting—2 Foxes—Nov. 1–Feb. 15

Trapping—No limit—Dec. 1–Feb. 15

Hare (Snowshoe and Arctic): 5 hare per day—Sept. 1–Apr. 30

Lynx:

Hunting—2 Lynx—Dec. 1–Feb. 15

Trapping—No limit—Dec. 1–Feb. 15

Marten:

Trapping—Unit 4 that portion within the NECCUA—no limit. Public lands within the NECCUA are closed to marten trapping except by eligible rural Alaska residents—Dec. 1–Dec. 31

Trapping—Remainder of Unit 4—No limit—Dec. 1–Feb. 15

Mink and Weasel:

Trapping—Unit 4 that portion within the NECCUA—no limit. The taking of mink and weasel on public lands within the NECCUA is closed except to eligible rural Alaska residents—Dec. 1–Dec. 31

Trapping—Remainder of Unit 4—No limit—Dec. 1–Feb. 15

Muskrat: Trapping—No limit—Dec. 1–Feb. 15

Otter (land only): Trapping—No limit—Dec. 1–Feb.15

Wolf:

Hunting—No limit—July 1–June. 30

Trapping—No limit—Nov. 10–Apr.30

Wolverine:

Hunting—1 Wolverine—Nov. 10–Feb. 15

Trapping—No limit—Nov. 10–Apr.30

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession—Aug. 1–May. 15

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession

(5) GMU 5.

(i) Game Management Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills;

(A) Unit 5(A) consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5(B) consists of the remainder of Unit 5;

(ii) Public lands within Glacier Bay National Park are closed to subsistence uses.

Bag Limits and Open Season

Black Bear: Unit 5—2 bears, not more than 1 of which may be a blue or glacier bear—Sept. 1–June 30

Brown Bear: 1 bear every four regulatory years—Sept. 1–May 31

Deer: Unit 5(A)—1 buck—Nov. 1–Nov. 30

Goat: 1 goat by State registration permit only—Aug. 1–Dec. 31

Moose:

Unit 5(A), except Nunatak Bench—1 bull by State registration permit only. The season will be closed when 60 bulls have been taken from the unit. The season will be closed in that portion west of the Dangerous River when 30 bulls have been taken in that area. From Oct. 15–21, public lands will be closed to taking of moose, except by rural Alaska residents of GMU 5(A)—Oct. 15–Nov. 15

Unit 5(B)—1 bull by State registration permit only—Sept. 1–Nov. 15

Beaver: Trapping—No limit—Nov. 10–May 15

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Dec. 1–Feb. 15

Fox, Red (including Cross, Black and Silver Phases):

Hunting—2 Foxes—Nov. 1–Feb. 15

Trapping—No limit—Dec. 1–Feb. 15

Hare (Snowshoe and Arctic): 5 hare per day—Sept. 1–Apr. 30

Lynx:

Hunting—2 Lynx—Dec. 1–Feb. 15

Trapping—No limit—Dec. 1–Feb. 15

Marten: Trapping—No limit—Nov. 10–Feb. 15

Mink and Weasel Trapping—No limit—Nov. 10–Feb. 15

Muskrat: Trapping—No limit—Dec. 1–Feb. 15

Otter (land only): Trapping—No limit—Nov. 10–Feb. 15

Wolf:

Unit 5(A)—Hunting—No limit—July 1–June 30

Unit 5(B)—Hunting—5 Wolves—Aug. 1–Apr. 30

Trapping—No limit—Nov. 10–Apr. 30

Wolverine:

Hunting—1 Wolverine—Nov. 10–Feb. 15

Trapping—No limit—Nov. 10–Apr. 30

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession—Aug. 1–May 15

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 1–May 15

(6) GMU 6.

(i) Game Management Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield, including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages;

(A) Unit 6(A) consists of Gulf of Alaska drainages east of Palm Point near Katalla, including Kanak, Wingham, and Kayak Islands;

(B) Unit 6(B) consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(C) Unit 6(C) consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6(D) consists of the remainder of Unit 6;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified.

(A) The Goat Mountain goat observation area, which consists of that portion of Unit 6 bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River, is closed to the taking of mountain goat;

(B) The Heney Range goat observation area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat.

Bag Limits and Open Season

Black Bear
- Unit 6(A)—1 bear—Sept. 1–June 30
- Unit 6(B) and (C)—1 bear—Sept. 1–June 30
- Unit 6(D)—1 bear—Sept. 1–June 30

Deer: Unit 6—4 deer; however, antlerless deer may be taken only from Nov. 1—Dec. 31—Aug. 1–Dec. 31

GOATS:
- Unit 6(A), (B)—1 goat by State registration permit only—Aug. 20–Jan. 31
- Unit 6(D) (subareas 822, 823, 824, 828, 829, 830, and 879 only)—1 goat by Federal registration permit only. The season will be closed when harvest limits are reached—Aug. 20–Jan. 31

Beaver: Trapping—20 Beaver per season—Dec. 1–Mar. 31

Coyote:
- Unit 6(A) and (D)—Hunting—2 Coyotes—Sept. 1–Apr. 30
- Unit 6(A)—Trapping—No limit—Nov. 10–Mar. 31
- Unit 6(B)—Hunting—No limit—July 1–June 30
- Unit 6(B)—Trapping—No limit—Nov. 10–Mar. 31
- Unit 6(C)—South of the Copper River Highway and east of the Heney Range—Hunting—No limit—July 1–June 30
- Trapping—No limit—Nov. 10–Apr. 30
- Remainder of Unit 6(C)—Hunting—No limit—July 1–June 30
- Trapping—No limit—Nov. 10–Mar. 31

Fox, Red (including Cross, Black and Silver Phases):
- Hunting—2 Foxes—Nov. 1–Feb. 15
- Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30

Lynx:
- Hunting—2 Lynx—Dec. 15–Jan. 15
- Trapping—No limit—Dec. 15–Jan. 15

Marten: Trapping—No limit—Nov. 10–Jan. 31

Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31

Muskrat: Trapping—No limit—Nov. 10–June 10

Otter (land only): Trapping—No limit—Nov. 10–Mar. 31

Wolf:
- Hunting—1 Wolves—Aug. 10–Apr. 30
- Trapping—No limit—Nov. 10–Mar. 31

Wolverine:
- Hunting—2 Wolverine—Sept. 1–Mar. 31
- Trapping—No limit—Nov. 10–Feb. 28

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 20 in possession—Aug. 1–May 15

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 1–May 15

(7) GMU 7.

(i) Game Management Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield, including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, small game may be hunted with shotguns after September 1;

(B) The Seward Closed Area in Unit 7, which consists of the south side drainages of the Resurrection River downstream from the Kenai Fjords National Park's eastern boundary, and Resurrection Bay drainages between the mouth of the Resurrection River and the mouth of Lowell Creek, are closed to the taking of big game; Kenai Fjords National Park is closed to all subsistence uses;

(C) The Cooper Landing Closed Area, which consists of that portion of Units 7 and 15 bounded by a line from the junction of the Sterling Highway and the Chugach National Forest boundary, then along the national forest boundary to Thurman Creek, then southeasterly along Thurman Creek and the northeast side of Trout Lake, then to the confluence of Juneau Creek and Falls Creek, then easterly along Falls Creek and the North Fork of Falls Creek and over the connecting saddle to Devils Creek, then southeasterly along Devils Creek to its confluence with Quartz Creek, then southwesterly along Quartz Creek to the Sterling Highway and then to the point of beginning, is closed to the taking of Dall sheep and mountain goat;

(D) The Resurrection Creek Closed Area, which consists of the drainage of Resurrection Creek downstream from and including the drainage of Rimrock and Highlands Creeks, (and including Palmer Creek), is closed to the taking of moose.

Bag Limits and Open Season

Black Bear: Unit 7—3 bears—July 1–June 30

Beaver: Trapping—20 Beaver per season—Dec. 1–Mar. 31

Coyote:
- Hunting—No limit—Sept. 1–Apr. 30
- Trapping—No limit—Nov. 10–Feb. 28

Fox, Red (including Cross, Black and Silver Phases):
- Hunting—2 Foxes—Nov. 1–Feb. 15
- Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30

Marten: Trapping—No limit—Nov. 10–Jan. 31

Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31

Muskrat: Trapping—No limit—Nov. 10–May 15

Otter (land only): Trapping—No limit—Nov. 10–Feb. 28

Wolf:
- Hunting—1 Wolf—Aug. 10–Apr. 30
- Trapping—No limit—Nov. 10–Feb. 28

Wolverine:
- Hunting—1 Wolverine—Sept. 1–Mar. 31
- Trapping—No limit—Nov. 10–Feb. 28

Grouse (Spruce, Blue, Ruffled, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Mar. 31

(8) GMU 8. Game Management Unit 8 consists of all islands southeast of the centerline of Shelikof Strait, including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

Bag Limits and Open Season

Caribou: No limit—July 1–June 30

Deer:
- Unit 8, that portion of Kodiak Island north of a line from the head of Settlers Cove to Crescent Lake (57° 52′ N. lat., 152° 58′ W. long.), and east of a line from the outlet of Crescent Lake to Mount Ellison Peak and from Mount Ellison Peak to Pokati Point at Whale Passage, and that portion of Kodiak Island east of a line from the mouth of Saltery Creek to Crag Point, and adjacent small islands in Chiniak Bay—1 deer; however, antlerless deer may be taken only from Oct. 25–Oct. 31—Aug. 1–Oct. 31

Unit 8—That portion of Kodiak Island and adjacent islands south and west of a line from the head of Terror bay to the head of the south western-most arm of Ugak Bay—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31—Aug. 1–Dec. 31

Remainder of Unit 8—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31; no more than 1 antlerless deer may be taken from Oct. 1–Nov. 30—Aug. 1–Dec. 31

Beaver: Trapping—30 Beaver per season—Nov. 10–Apr. 30

Fox, Red (including Cross, Black and Silver Phases):

Hunting—2 Foxes—Sept 1.–Feb. 15

Trapping—No limit—Nov. 10–Mar. 31

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30

Marten: Trapping—No limit—Nov. 10–Jan. 31

Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31

Muskrat: Trapping—No limit—Nov. 10–June 10

Otter (land only): Trapping—No limit—Nov. 10–Jan. 31

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(9) GMU 9.

(i) Game Management Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage, drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands;

(A) Unit 9(A) consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9(B) consists of the Kvichak River drainage;

(C) Unit 9(C) consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9(D) consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9(E) consists of the remainder of Unit 9;

(ii) Katmai National Park is closed to all subsistence uses.

Bag Limits and Open Season

Black Bear: Unit 9—3 bears—July 1–June 30

Brown Bear:

Unit 9(B)—1 bear every four regulatory years—Oct. 1–Oct. 21 (odd years only), May 10–May 25 (even years only)

Unit 9(E)—1 bear by Federal registration permit only—Oct. 1–Dec. 31 and May 10–May 25

Caribou:

Unit 9 (A), (B), (C), and (E)—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30—Aug. 10–Mar. 31

Unit 9(D)—1 bull. Public lands are closed to the hunting of caribou except by rural Alaska residents of Unit 9(D) and False Pass—Aug. 10–Sept. 30, Dec. 1–Mar. 31

Sheep: Unit 9—1 ram with ⅞ curl horn—Aug. 10–Sept. 20

Moose:

Unit 9(A)—1 bull—Sept. 1–Sept. 15

Unit 9(B)—1 bull—Sept. 1–Sept. 15, Dec. 1–Dec. 31

Unit 9(C)—that portion draining into the Naknek River from the north—1 bull. The December hunt will be by Federal registration permit only—Sept. 1–Sept. 15, Dec. 1–Dec. 31

Unit 9(C)—that portion draining into the Naknek River from the south—1 bull. However, during the December hunt 5 antlerless moose may be taken by Federal Registration permit only. The season will be closed when 5 antlerless moose have been taken. Public lands are closed during December for the hunting of moose except by eligible rural Alaska residents—Sept. 1–Sept. 15, Dec. 1–Dec. 31

Remainder of Unit 9(C)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31—Sept. 1–Sept. 15, Dec. 1–Dec. 31

Unit 9(E)—1 bull—Sept. 1–Sept. 20, Dec. 1–Dec. 31

Beaver: Trapping—40 Beaver per season—Jan. 1–Mar. 31

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Nov. 10–Mar. 31

Fox, Arctic (Blue and White):

Hunting—No limit—Dec. 1–Mar. 15

Trapping—No limit—Nov. 10–Feb. 28

Fox, Red (including Cross, Black and Silver Phases):

Hunting—2 Foxes—Sept. 1–Feb. 15

Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30

Lynx:

Hunting—2 Lynx—Nov. 10–Feb. 28

Trapping—No limit—Nov. 10–Feb. 28

Marten: Trapping—No limit—Nov. 10–Feb. 28

Mink and Weasel: Trapping—No limit—Nov. 10–Feb. 28

Muskrat: Trapping—No limit—Nov. 10–June 10

Otter (land only): Trapping—No limit—Nov. 10–Mar. 31

Wolf:

Hunting—10 Wolves—Aug. 10–Apr. 30

Trapping—No limit—Nov. 10–Mar. 31

Wolverine:

Hunting—1 Wolverine—Sept. 1–Mar. 31

Trapping—No limit—Nov. 10–Feb. 28

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Apr. 30

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(10) GMU 10.

(i) Game Management Unit 10 consists of the Aleutian Islands, Unimak Island and the Pribilof Islands;

(ii) Public lands within the following area are closed to subsistence take or subsistence take is restricted as specified: Otter Island in the Pribilof Islands is closed to hunting.

Bag Limits and Open Season

Caribou:

Unit 10—Unimak Island only—1 bull. Public lands are closed to the hunting of caribou except by rural Alaska residents of False Pass—Aug. 10–Sept. 30, Dec. 1–Mar. 31

Remainder of Unit 10—No limit—July 1–June 30

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Nov. 10–Mar. 31

Fox, Arctic (Blue and White Phase):

Hunting—No limit—July 1–June 30

Trapping No limit—Nov. 10–Feb. 28

Fox, Red (including Cross, Black and Silver Phases):

Hunting—2 Foxes—Sept. 1–Feb. 15

Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic) Hunting—No limit:—July 1–June 30

Mink and Weasel: Trapping—No limit—Nov. 10–Feb. 28

Muskrat: Trapping—No limit—Nov. 10–June 10

Otter (land only): Trapping—No limit—Nov. 10–Mar. 31

Wolf:

Hunting—2 Wolves—Aug. 10–Apr. 30

Trapping—No limit—Nov. 10–Mar. 31

Wolverine:

Hunting—1 Wolverine—Sept. 1–Mar. 31

Trapping—No limit—Nov. 10–Feb. 28

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(11) GMU 11. Game Management Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

Bag Limits and Open Season

Black Bear: Unit 11—3 bears—July 1–June 30

Caribou: Unit 11—1 bull by Federal registration permit only. Harvest quota will be announced by the Federal Subsistence Board—To be announced by the Federal Subsistence Board

Sheep: Unit 11—1 sheep—Aug. 10–Sept. 20

Moose: Unit 11—1 bull—Aug. 25–Sept. 20

Beaver: Trapping—30 Beaver per season—Nov. 10–Apr. 30

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Nov. 10–Mar. 31

Fox, Red (including Cross, Black and Silver Phases):

Hunting—2 Foxes—Sept. 1–Feb. 15

Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Dec. 15–Jan. 15
Trapping—No limit—Dec. 15–Jan. 15
Marten: Trapping—No limit—Nov. 10–Jan. 31
Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31
Muskrat: Trapping—No limit—Nov. 10–June 10
Otter (land only): Trapping—No limit—Nov. 10–Mar. 31
Wolf:
Hunting—5 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Jan. 31
Trapping—2 Wolverine—Nov. 10–Jan. 31
Public lands are closed to the taking of wolverine except by eligible rural Alaska residents
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Mar. 31

(12) GMU 12. Game Management Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River Drainage.

Bag Limits and Open Season

Black Bear: Unit 12—3 bears—July 1–June 30
Caribou:
Unit 12—that portion west of the Nabesna River within the drainages of Jack Creek, Platinum Creek, and Totschunda Creek—1 bull by Federal registration permit only. Harvest quota to be announced by the Federal Subsistence Board—To be announced by the Federal Subsistence Board
Remainder of Unit 12—1 bull
1 bull caribou may be taken by a Federal registration permit during a winter season to be announced for the rural Alaska residents of Tetlin and Northway only—Sept. 1–Sept. 20, Winter season to be announced by the Federal Subsistence Board
Moose:
Unit 12—that portion drained by the Tanana, Nabesna, and Chisana Rivers east of the Tetlin Reservation boundary and north of the Winter Trail from Pickerel Lake to the Canadian border—1 bull—Sept. 1–Sept. 15, Nov. 20–Nov. 30
Unit 12—that portion lying east of the Nabesna River and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 bull—Sept. 1–Sept. 30
Unit 12—Remainder—1 bull—Sept. 1–Sept. 15
Beaver: Trapping—15 Beaver per season—Nov. 1–Apr. 15
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Feb. 28
Fox, Red (including Cross, Black and Silver Phases):
Hunting—10 Foxes; however, no more than 2 foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
Trapping—No limit—Nov. 1–Feb. 28
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Nov. 1–Jan. 31
Trapping—No limit—Nov. 1–Jan. 31
Marten: Trapping—No limit—Nov. 1–Feb. 28
Mink and Weasel: Trapping—No limit—Nov. 1–Feb. 28
Muskrat: Trapping—No limit—Sept. 20–June 10
Otter (land only): Trapping—No limit—Nov. 1–Apr. 15
Wolf:
Hunting—5 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Oct. 1–Apr. 30
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(13) GMU 13.

(i) Game Management Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north bank of the Talkeetna River; the drainages into the east bank of the Chickaloon River; the drainages of the Matanuska River above its confluence with the Chickaloon River;

(A) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13(E) consists of the remainder of Unit 13;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980 are closed to subsistence. Denali National Preserve and lands added to Denali National Park on December 2, 1980 are open to subsistence;

(B) Delta Controlled Use Area consisting beginning at the confluence of Miller Creek and the Delta River then west to VABM Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to

its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) The Paxson Closed Area in Unit 13(b), which consists of the eastern drainage of the Gulkana River lying west of the Richardson Highway and the western drainage of the Gulkana River between the Denali Highway and the north end of Paxson Lake where the Gulkana River enters Paxson Lake, is closed to the taking of big game;

(D) The Sheep Mountain Closed Area which lies along the Glenn Highway in Unit 13(A) and is bounded by a line from Caribou Creek, Milepost 107 Glenn Highway, then easterly along the Glenn Highway to Milepost 123, then north to Squaw Creek, then downstream to Caribou Creek, then down Caribou Creek to the point of beginning, is closed to the taking of mountain goat and Dall sheep;

(E) The Sourdough Controlled Use Area

(*1*) Consisting of that portion of Unit 13(B) bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Meiers Creek Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning;

(*2*) Which is closed to the use of any motorized vehicle for hunting; however, this does not prohibit motorized access or transportation of game on the Richardson Highway, Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Alaska Department of Fish and Game;

(F) The Clearwater Creek Controlled Use Area

(*1*) Consisting of that portion of Unit 13(B) north of the Denali Highway, west of and including the MacLaren River drainage, east of and including the eastern bank drainages of the Middle Fork of the Susitna River downstream from and including the Susitna Glacier, and the eastern bank drainages of the Susitna River downstream from its confluence with the Middle Fork;

(*2*) Which is closed to the use of any motorized vehicle for hunting; however, this does not prohibit motorized access, or transportation of game, on the Denali Highway;

(G) The Tonsina Controlled Use Area

(*1*) Consisting of that portion of Unit 13(D) bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River;

(*2*) Which is closed to the use of any motorized vehicle or pack animal for hunting, from August 5 to September 30.

Bag Limits and Open Season

Black Bear: Unit 13—3 bears—July 1–July30

Caribou: Unit 13—2 caribou by Federal registration permit only. Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified as the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline—Aug. 10–Sept. 20, Jan. 5–Mar. 31

Sheep: Unit 13—excluding Unit 13(D) and the Tok and Delta Management Areas—1 Ram with ⅞ curl horn—Aug. 10–Sept. 20

Moose: Unit 13—1 bull moose by Federal registration permit only; only 1 permit will be issued per household—Aug. 25–Sept. 20

Beaver: Trapping—30 Beaver per season—Nov. 10–Apr. 30

Coyote:
- Hunting—2 Coyotes—Sept. 1–Apr. 30
- Trapping—No limit—Nov. 10–Mar. 31

Fox, Red (including Cross, Black and Silver Phases):
- Hunting—2 Foxes—Sept. 1–Feb. 15
- Trapping—No limit—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30

Lynx:
- Hunting—2 Lynx—Dec. 15–Jan. 15
- Trapping—No limit—Dec. 15–Jan. 15

Marten: Trapping—No limit—Nov. 10–Jan. 31

Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31

Muskrat: Trapping—No limit—Nov. 10–June 10

Otter (land only) Trapping—No limit—Nov. 10–Mar. 31

Wolf:
- Hunting—10 Wolves—Aug. 10–Apr. 30
- Trapping—No limit—Nov. 10–Mar. 31

Wolverine:
- Hunting—1 Wolverine—Sept. 1–Jan. 31
- Trapping—2 Wolverine—Nov. 10–Jan. 31
- Public lands are closed to the taking of wolverine except by eligible rural Alaska residents

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Mar. 31

(14) GMU 14.

(i) Game Management Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south bank of the Talkeetna River;

(A) Unit 14(A) consists of drainages in Unit 14 bounded on the west by the Susitna River, on the north by Willow Creek, Peters Creek, and by a line from the head of Peters Creek to the head of the Chickaloon River, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14(B) consists of that portion of Unit 14 north of Unit 14(A);

(C) Unit 14(C) consists of that portion of Unit 14 south of Unit 14(A);

(ii) Public lands within Fort Richardson Management Area, consisting of the Fort Richardson Military Reservation, subsistence take is restricted to the taking of big game by permit only.

Bag Limits and Open Season

Black Bear: Unit 14 (A) and (C)—1 bear—July 1–June 30

Brown Bear: Unit 14(A)—1 bear every four regulatory years—Sept. 15–Oct. 10 and May 1–May 25

Beaver:
- Trapping—Unit 14(A)—30 Beaver per season—Nov. 10–Apr. 30
- Trapping—Unit 14(C)—That portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 Beaver per season—Dec. 1–Apr. 15

Coyote:
- Hunting—Unit 14 (A) and (C)—2 Coyotes—Sept. 1–Apr. 30
- Trapping—Unit 14(A)—No limit—Nov. 10–Mar. 31
- Trapping—Unit 14(C)—No limit—Nov. 10–Feb. 28

Fox, Red (including Cross, Black and Silver Phases):
- Hunting—Unit 14—2 Foxes—Nov. 1–Feb. 15
- Trapping—Unit 14(A)—No limit—Nov. 10–Feb. 28
- Trapping—Unit 14(C)—1 Fox—Nov. 10–Feb. 28

Hare (Snowshoe and Arctic):
- Hunting—Unit 14(A)—5 hares per day—July 1–June 30
- Hunting—Unit 14(C)—5 hares per day—Sept. 8–Apr. 30

Lynx:
- Hunting—2 Lynx—Dec. 15–Jan. 15
- Trapping—No limit—Dec. 15–Jan. 15

Marten: Trapping—No limit—Nov. 10–Jan. 31
Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31
Muskrat: Trapping—No limit—Nov. 10–May 15
Otter (land only):
Trapping—Unit 14(A)—No limit—Nov. 10–Mar. 31
Trapping—Unit 14(C)—No limit—Nov. 10–Feb. 28
Wolf:
Hunting—Unit 14(A)—4 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Hunting—Unit 14(C)—1 Wolf—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Feb. 28
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 10–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):
Unit 14(A)—15 per day, 30 in possession—Aug. 10–Mar. 31
Unit 14(C)—5 per day, 10 in possession—Sept. 8–Mar. 31
Ptarmigan (Rock, Willow, and Whitetailed):
Unit 14(A)—10 per day, 20 in possession—Aug. 10–Mar. 31
Unit 14(C)—10 per day, 20 in possession—Sept. 8–Mar. 31
Remainder of Unit 14—20 per day, 40 in possession—Aug. 10–Mar. 31

(15) GMU 15.

(i) Game Management Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coast line of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary;

(A) Unit 15(A) consists of that portion of Unit 15 north of the Kenai River and Skilak Lake;

(B) Unit 15(B) consists of that portion of Unit 15 south of the Kenai River and Skilak Lake, and north of the Kasilof River, Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15(C) consists of the remainder of Unit 15;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The Kenai Controlled Use Area, consisting of that portion of Unit 15(A) north of the Sterling Highway, is closed during moose-hunting season to the use of aircraft for hunting moose, including transportation of a moose hunter or moose part; however, this does not apply after 12:01 a.m., September 11, and does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside of the area;

(B) The Lower Kenai Controlled Use Area, consisting of Unit 15(C), is closed to the use of any motorized vehicle except an aircraft or boat for hunting moose from September 11 through September 20, including transportation of a moose hunter or moose part; however, this does not apply to a motorized vehicle on a State- or Borough-maintained highway or on the gravel portion of Oilwell and Brody Roads;

(C) The Skilak Loop Management Area; consisting of that portion of Unit 15(A) bounded by a line beginning at the eastern most junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its western most junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning; is closed to hunting and trapping except that small game may be taken only from October 1 through March 1 by bow and arrow only, and antlerless moose may be taken by permit only;

(iii) The following areas are closed to the trapping of furbearers for subsistence as indicated—

(A) Within the city limits of Homer (Unit 15) as those limits existed in November 1987;

(B) The Skilak Loop Wildlife Management Area;

(C) That portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten.

Bag Limits and Open Season

Black Bear: Unit 15—3 bears—July 1–June 30
Beaver: Trapping—20 Beaver per season—Dec. 1–Mar. 31
Coyote:
Hunting—No limit—Sept. 1–Apr. 30
Trapping—No limit—Nov. 10–Feb. 28
Fox, Red (including Cross, Black and Silver Phases): Trapping—1 Fox—Nov. 10–Feb. 28
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Marten:
Trapping—Unit 15(B)—that portion east of the Kenai River, Skilak Lake, Skilak River and Skilak Glacier—No open season
Remainder of Unit 15—No limit—Nov. 10–Jan. 31
Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31
Muskrat: Trapping—No limit—Nov. 10–May 15
Otter (land only):
Trapping—Unit 15(A), (B)—No limit—Nov. 10–Jan. 31
Trapping—Unit 15(C)—No limit—Nov. 10–Feb. 28
Wolf:
Hunting—1 Wolf—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Feb. 28
Wolverine:
Hunting—Unit 15—1 Wolverine—Sept. 1–Mar. 31
Trapping—Unit 15 (B) and (C)—No limit—Nov. 10–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31
Ptarmigan (Rock, Willow, and White-tailed):
Unit 15 (A) and (B)—20 per day, 40 in possession—Aug. 10–Mar. 31
Unit 15(C)—20 per day, 40 in possession—Aug. 10–Dec. 31
5 per day, 10 in possession—Jan. 1–Mar. 31

(16) GMU 16.

(i) Game Management Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its junction with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier;

(A) Unit 16(A) consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16(B) consists of the remainder of Unit 16;

(ii) Public Lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980 are closed to subsistence. Denali National Preserve and lands added to Denali National Park on December 2, 1990, are open to subsistence.

(B) [Reserved].

Bag Limits and Open Season

Black Bear: Unit 16—3 bears—July 1–June 30
Caribou: Unit 16—1 caribou—Aug. 10–Oct. 31
Moose:

Unit 16(B)—Redoubt Bay, Drainages south and west of, and including the Kustatan River drainage—1 bull—Sept. 1–Sept. 15
Remainder of Unit 16(b)—1 moose; however, antlerless moose may be taken only from Sept. 25–Sept. 30 and from Dec. 1 to Feb. 28 by February registration permit only—Sept. 1–Sept. 30 and Dec. 1–Feb. 28
Beaver: Trapping—30 Beaver per season—Nov. 10–Apr. 30
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Fox, Red (including Cross, Black and Silver Phases):
Hunting—2 Foxes—Sept. 1–Feb. 15
Trapping—No limit—Nov. 10–Feb. 28
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Dec. 15–Jan. 15
Trapping—No limit—Dec. 15–Jan. 15
Marten: Trapping—No limit—Nov. 10–Jan. 31
Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31
Muskrat: Trapping—No limit—Nov. 10–June 10
Otter (land only): Trapping—No limit—Nov. 10–Mar. 31
Wolf:
Hunting—4 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 10–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Mar. 31
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession.—Aug. 10–Mar. 31

(17) GMU 17.

(i) Game Management Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points, including Hagemeister Island and the Walrus Islands;

(A) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17(B) consists of the Nushagak River drainage upstream from and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17(C) consists of the remainder of Unit 17;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) All islands and adjacent waters within one-half mile of each island in the Walrus Islands State Game Sanctuary, as described in Alaska Statute 16.20.110, except for those islands known as the Twins and their adjacent waters are closed to hunting;

(B) The Upper Mulchatna Controlled Use Area consisting of Unit 17(B), is closed to the use of any motorized vehicle, except aircraft and boats and in legally permitted hunting camps, for hunting big game from August 1 to November 1, including transportation of big game hunters and parts of big game;

(C) The Western Alaska Brown Bear Management Area consisting of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting;

(iii) The following areas are closed to the trapping of furbearers for subsistence as indicated: all islands within the Walrus Islands State Game Sanctuary as described in Alaska Statute 16.20.110.

Bag Limits and Open Season

Black Bear: Unit 17—3 bears—July 1–June 30
Brown Bear:
Unit 17(A) and that portion of Unit 17(B) draining into the Nuyakuk Lake and Trikchik Lake—1 bear—Sept. 1–May 31
Remainder of Unit 17(B)—1 bear every four regulatory years—Sept. 20–Oct. 10, May 10–May 25
Unit 17(C)—1 bear every four regulatory years—Sept. 10–Oct. 10, Apr. 10–May 25
Caribou: Unit 17 (B) and (C)—that portion of 17(C) east of the Nushagak River—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Aug. 31, and no more than 1 caribou may be taken Sept. 1–Nov. 30—Aug. 10–Mar. 31
Sheep: Unit 17—1 ram with full curl horn or larger—Aug. 10–Sept. 20
Moose:
Unit 17(B)—that portion that includes all the Mulchatna River drainage upstream from and including the Chilchitna River drainage—1 bull—Sept. 1–Sept. 20
Remainder of Unit 17(B)—1 bull; however, during the period Aug. 20–Aug. 31 bull moose may be taken by State registration permit only—Aug. 20–Sept. 20, Dec. 1–Dec. 31
Unit 17(C)—that portion that includes the Iowithla drainage and Sunshine Valley and all lands west of Wood River and south of Aleknagik Lake—1 bull; however, during the period Aug. 20–Aug. 31 bull moose may be taken by State registration permit only—Aug. 20–Sept. 15
Remainder of Unit 17(C)—1 bull; however, during the period Aug. 20–Aug. 31 bull moose may be taken by State registration permit only—Aug. 20–Sept. 15, Dec. 1–Dec. 31
Beaver:
Trapping—Unit 17(A)—20 Beaver per season—Jan. 1–Jan. 31
Trapping—Unit 17 (B) and (C)—20 Beaver per season—Jan. 1–Feb. 28
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Fox, Arctic (Blue and White Phase):
Hunting—No limit—Dec. 1–Mar. 15
Trapping—No limit—Nov. 10–Feb. 28
Fox, Red (including Cross, Black and Silver Phases):
Hunting—2 Foxes—Sept. 1–Feb. 15
Trapping—No limit—Nov. 10–Feb. 28
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Nov. 10–Feb. 28
Trapping—No limit—Nov. 10–Feb. 28
Marten: Trapping—No limit—Nov. 10–Feb. 28
Mink and Weasel: Trapping—No limit—Nov. 10–Feb. 28
Muskrat: Trapping—No limit—Nov. 10–June 10
Otter (land only): Trapping—No limit—Nov. 10–Mar. 31
Wolf:
Hunting—10 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 10–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession.—Aug. 10–Apr. 30

(18) GMU 18.

(i) Game Management Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River;

(ii) Public lands within the following area are closed to subsistence take or subsistence take is restricted as specified—

(A) The Kalskag Controlled Use Area consisting of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag is closed to the use of aircraft for hunting big game, including transportation of any big game hunter and big game part; however, this does not apply to transportation of a big game hunter or big game part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(B) The Western Alaska Brown Bear Management Area consisting of Unit

17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

Bag Limits and Open Season

Black Bear: Unit 18—3 bears—July 1–June 30
Brown Bear: Unit 18—1 bear—Sept.1–May 31
Caribou:
Unit 18—that portion south of the Yukon River—Kilbuck caribou herd; rural Alaska residents domiciled in Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaaskiak, Napakiak, Kasigiuk, Atmauthluak, Nunapitchuk, Tuntutuliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills, only. The number of permits available for these hunts will be determined at a later date. There is a total harvest quota of 130 caribou bulls during the fall hunt administered by the Alaska Department of Fish and Game and the two Federal subsistence seasons. A Federal registration permit is required—Dec. 15–Jan. 9 and Feb. 23–Mar. 15
Remainder of Unit 18—Public lands are closed to the taking of caribou by rural or non-rural Alaska residents and non-residents—Closed to all caribou hunting
Moose:
Unit 18—that portion north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of but not including the Andreafsky River drainage; and those portions contained in the Kanektok and Goodnews drainages—Closed to all moose hunting
Remainder of Unit 18—1 antlered moose. A 10 day hunt falling sometime between Dec. 1 and Feb. 28 shall also be opened by announcement of the Federal Subsistence Board—Sept. 1–Sept. 30; Winter season to be announced
Public lands in Unit 18 are closed to the hunting of moose except by rural Alaska residents of Unit 18 and Upper Kalskag
Beaver: Trapping—No limit—Nov. 1–June 10
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov.10–Mar. 31
Fox, Arctic (Blue and White Phase):
Hunting—2 Foxes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 10–Mar.31
Fox, Red (including Cross, Black and Silver Phases):
Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
Trapping—No limit—Nov. 10–Mar. 31
Hare (Snowshoe and Arctic): No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Nov. 10–Mar. 31
Trapping—No limit—Nov. 10–Mar. 31
Marten: Trapping—No limit—Nov. 10–Mar. 31
Mink and Weasel: Trapping—No limit—Nov. 10–Jan. 31
Muskrat: Trapping—No limit—Nov. 10–June 10
Otter (land only): Trapping—No limit—Nov. 10–Mar. 31
Wolf:
Hunting—4 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 10–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar 31
Trapping—No limit—Nov. 10–Mar. 31
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(19) GMU 19.

(i) Game Management Unit 19 consists of the Kuskokwim River drainage upstream from Lower Kalskag;

(A) Unit 19(A) consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19(B);

(B) Unit 19(B) consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19 (C) consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19(D) consists of the remainder of Unit 19;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980, are closed to subsistence uses. Denali National Preserve and lands added to Denali National Park on December 2, 1980, are open to subsistence uses;

(B) The Upper Kuskokwim Controlled Use Area consisting of that portion of Unit 19(D) upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152°50′ W. long., then north to the boundary of Denali National Preserve, then following the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf bench mark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area;

(C) The Holitna-Hoholitna Controlled Use Area consisting of the waters of the Holitna River downstream from Kashegelok, the Titnuk River downstream from Fuller Mountain and the Hoholitna River downstream from the confluence of the South Fork and main Hoholitna River is closed to the use of any boat equipped with inboard or outboard motor(s) with an aggregate horsepower in excess of manufacturer's rating of 40 horsepower for the purpose of taking big game, including transportation of big game hunters or parts of big game during the period August 1 to November 1;

(D) The Western Alaska Brown Bear Management Area consisting of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

Bag Limits and Open Season

Black Bear: Unit 19—3 bears—July 1–June 30
Brown Bear:
Unit 19 (A) and (B) that portion which is downstream of and including the Aniak River drainage—1 bear—Sept. 1–May 31

Remainder of Unit 19 (A), (B), and (D)—1 bear every four regulatory years—Sept. 10–May 25

Caribou:

Unit 19(A) north of Kuskokwim River—1 caribou—Aug. 10–Sept. 30, Nov. 1–Feb. 28

Unit 19(A) south of the Kuskokwim River, and Unit 19(B) (excluding rural Alaska residents of Lime Village)—4 caribou—Aug. 10–Mar. 31

Unit 19(C)—1 caribou—Aug. 10–Oct. 10

Unit 19(D) south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou—Aug. 10–Sept. 30, Nov. 1–Jan. 31

Unit 19(D)—Remainder—1 caribou—Aug. 10–Sept. 30

Unit 19—Rural Alaska residents domiciled in Lime Village only; no individual bag limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9–July 1–June 30

Sheep: Unit 19—1 ram with ⅞ curl—Aug. 10–Sept. 20

Moose:

Unit 19—Rural Alaska residents of Lime Village only—No individual bag limit, but a village harvest quota of 40 moose; either sex—July 1–June 30

Unit 19(A)—1 moose; however, antlerless moose may be taken only from Jan. 1–Jan 10 and Feb. 1–Feb. 5–Sept. 5–Sept. 25, Jan. 1–Jan. 10, Feb. 1–Feb. 5

Unit 19(B)—1 bull—Sept. 1–Sept. 30

Unit 19(C)—1 bull—Sept. 1–Oct. 10

Unit 19(D)—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 bull—Sept. 1–Sept. 10

Unit 19(D)—remainder of the Upper Kuskokwim Controlled Use Area—1 bull—Sept. 1–Sept. 30, Dec. 1–Feb. 28

Unit 19(D)—Remainder—1 bull—Sept. 1–Sept. 30, Dec. 1–Dec. 15

Beaver: Trapping—No limit—Nov. 1–Apr. 15

Coyote:

Hunting—2 Coyotes—Sept. 1–Apr. 30

Trapping—No limit—Nov. 1–Mar. 31

Fox, Red (including Cross, Black and Silver Phases):

Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1–Sept. 1–Mar. 15

Trapping—No limit—Nov. 1–Mar. 31

Hare (Snowshoe and Arctic): No limit—July 1–June 30

Lynx:

Hunting—2 Lynx—Nov. 1–Feb. 28

Trapping—No limit—Nov. 1–Feb. 28

Marten: Trapping—No limit—Nov. 1–Feb. 28

Mink and Weasel: Trapping—No limit—Nov. 1–Feb. 28

Muskrat: Trapping—No limit—Nov. 1–June 10

Otter (land only): Trapping—No limit—Nov. 1–Apr. 15

Wolf:

Hunting—10 Wolves—Aug. 10–Apr. 30

Trapping—No limit—Nov. 1–Mar. 31

Wolverine:

Hunting—1 Wolverine—Sept. 1–Mar. 31

Trapping—No limit—Nov. 1–Mar. 31

Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession—Aug. 10–Apr. 30

Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

(20) GMU 20.

(i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River;

(A) Unit 20(A) consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20(B) consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20(C) consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20(D) consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage;

(E) Unit 20(E) consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20(F) consists of the remainder of Unit 20;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980, are closed to subsistence uses; Denali National Preserve and lands added to Denali National Park on December 2, 1980, are open to subsistence uses;

(B) Delta Controlled Use Area consisting beginning at the confluence of Miller Creek and the Delta River then west to VABM Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) The Dalton Highway Corridor Management Area, consisting of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area, is closed to the use of motorized vehicles, except aircraft and boats, and licensed highway vehicles. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area;

(D) Birch Lake and the area within one-half mile of Birch Lake (Mile 56 Richardson Highway) is closed to the taking of big game;

(E) Harding Lake and the area within one-half mile of Harding Lake (Mile 44 Richardson Highway) is closed to the taking of big game;

(F) Lost Lake and the area within one-half mile of Lost Lake (Mile 56 Richardson Highway) is closed to the taking of big game with firearms and crossbows;

(G) The Delta Junction Closed Area (Unit 20(D) near Delta Junction), which consists of that portion of Unit 20(D) bounded by a line beginning at the confluence of Donnelly Creek and the Delta River, then up Donnelly Creek to the Richardson Highway (Mile 238), then north along the east side of the highway to the "12 mile crossing trail" (Mile 252.4), then east along the south side of the "12 mile crossing trail" and across Jarvis Creek to the 33-Mile Loop Road then northeast along the 33-Mile Loop Road to the intersection with the Alaska Highway (Mile 1414), then southeast along the north side of the Alaska Highway to the bridge at Sawmill Creek (Mile 1403.9), then down the west bank of Sawmill Creek to its confluence with Clearwater Creek and down the south bank of Clearwater Creek to its confluence with the Tanana River, then down the Tanana River to its confluence with the Delta River, and upstream along the east bank of the Delta River to the point of beginning at Donnelly Creek, is closed to the taking of moose;

(H) The Glacier Mountain Controlled Use Area consisting of that portion of Unit 20(E) bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River on its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway is closed to the use of any motorized vehicle for hunting, from August 5 to September 20; however, this does not prohibit motorized access via, or transportation of game on, the Taylor Highway or any airport;

(I) The Wood River Controlled Use Area consisting of that portion of Unit 20(A) bounded on the north by the south side of the Rex Trail beginning at its intersection with the Totatlanika River then easterly along the Rex trail to Gold King airstrip, then from Gold King airstrip along the trail's extension along the north side of Japan Hills to the Wood River; on the east by the Wood River, including the Wood River drainage upstream from and including the Snow Mountain Gulch Creek drainage; on the south by the divide separating the Yanert River drainage from the drainages of Healy Creek, Moody Creek, Montana Creek and the Wood River; and on the west by the east bank of the Nenana River from the divide separating the drainage of the Yanert River and Montana Creek north to Healy Creek, then easterly along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek to its headwaters, then along a straight line to the headwaters of Dexter Creek, then along Dexter Creek to the Totatlanika River, and then down the east bank of the Totatlanika River to the Rex Trail is closed to the use of any motorized vehicle except aircraft for big game hunting and transportation of any big game part, from August 1 through September 30;

(j) The Macomb Plateau Controlled Use Area, consisting of that portion of Unit 20(D) south of the Alaska Highway, drainage into the south side of the Tanana River between the east bank of the Johnson River upstream to Prospect Creek, and the east bank of Bear Creek (Mile 1357.3), is closed to the use of any motorized vehicle, except a floatplane on Fish Lake, for hunting or transportation of any game part, from August 10 through September 30;

(K) The Yanert Controlled Use Area, consisting of that portion of Unit 20(A) drained by the Nenana River upstream from and including the Yanert Fork drainage, is closed to the use of any motorized vehicle, except aircraft, for big game hunting and transportation of any big game part; however, this does not prohibit motorized access via, and transportation of game on, the Parks Highway;

(L) The Minto Flats Management Area consisting of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning, is open to moose hunting by permit only;

(M) The Fairbanks Management Area consisting of the Goldstream subdivision (SE¼ SE¼, Section 28 and Section 33, Township 2 North, Range 1 West, Fairbanks Meridian) and that portion of Unit 20(B) bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to the divide between Rosie Creek and Cripple Creek, then down Cripple Creek to its confluence with Ester Creek, then up Ester Creek to its confluence with Ready Bullion Creek, then up Ready Bullion Creek to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its intersection with the Trans-Alaska Pipeline, then southerly along the pipeline right-of-way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning is open to moose hunting by bow and arrow only;

(N) The Ferry Trail Management Area consisting of that portion of Unit 20(A) bounded on the north by the Rex Trail; on the west by the east bank of the Nenana River from its intersection with the Rex Trail south to the divide forming the north boundary of the Lignite Creek drainage; on the south by that divide easterly and southerly to the headwaters of Sanderson Creek at Usibelli Peak, then along a southwesterly line to the confluence of Healy Creek and Coal Creek, then upstream easterly along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek to its headwaters; on the east by a straight line from the headwaters of Healy Creek to the headwaters of Dexter Creek, then along Dexter Creek to the Totatlanika River, then down the east bank of the Totatlanika River to the Rex Trail is open to caribou hunting by permit only;

(O) The Healy-Lignite Management Area consisting of that portion of Unit 20(A) that includes the entire Lignite Creek drainage, and that portion of the Nenana River drainage south of the Lignite Creek drainage and north of a boundary beginning at the confluence of the Nenana River and Healy Creek, then easterly along the south bank of Healy Creek to its confluence with Coal Creek, then northeasterly to the headwaters of Sanderson Creek at Usibelli Peak is open to hunting by bow and arrow only.

Bag Limits and Open Season

Black Bear: Unit 20–3 bears—July 1–June 30

Brown Bear: Unit 20–except Unit 20(E)—1 bear every four regulatory years—Sept. 1–May 31

Caribou:

Unit 20(E)—that portion drained by the Yukon River downstream from and including the Seventy-mile and Charley Rivers, the North Fork Fortymile River upstream from and including Independence Creek, the Middle Fork Fortymile River upstream from Fish Creek, and the Mosquito Fork Fortymile River upstream from and including Ketchumstuck Creek—1 caribou—Aug. 10–Sept. 30 and Dec. 1–Feb. 28

Unit 20(E)—Remainder of Unit 20(E) accessible by the Taylor Highway and associated trails, as described in the permit—1 caribou by State registration permit only; however, only bulls may be taken prior to Dec. 1—Aug. 10–Sept. 30 and Dec. 1–Feb 28

Unit 20(F)—South of the Yukon River and west of the Dalton Highway-1 bull.—Aug. 10–Sept. 20

Unit 20(F)—Tozitna River drainage—1 caribou; however, only bull caribou may

be taken Aug. 10–Sept. 30—Aug. 10–Sept. 30, Nov. 26–Dec. 10, Mar. 1–Mar. 15
Remainder of Unit 20(F)—1 bull—Aug. 10–Sept. 30
Moose:
Unit 20(A)—the Ferry Trail Management Area and the Yanert Controlled Use Area—1 bull with a spike-fork or 50-inch antlers—Sept. 1–Sept. 20
Unit 20(A)—Remainder 1 bull—Sept. 1—Sept. 20
Unit 20(B)—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only—Sept. 1–Sept. 20, Jan. 10–Feb. 28
Unit 20(B)—the drainage of the Middle Fork of the Chena River and that portion of the Salcha River Drainage upstream from and including Goose Creek—1 bull—Sept. 1–Sept. 20
Remainder of Unit 20(B)—(except the Fairbanks Management Area; No subsistence)—1 bull—Sept. 1–Sept. 20
Unit 20(C)—1 bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken—Sept. 1–Sept. 20
Unit 20(E)—that portion drained by the Ladue, Sixty-mile, and Forty-mile Rivers (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 bull—Sept. 1–Sept. 15
Remainder of Unit 20(E)—that portion draining into the Yukon River upstream from and including the Charley River drainage to and including the Boundary Creek drainages and the Taylor Highway from mile 145 to Eagle—1 bull—Sept. 5–Sept. 25
Unit 20(F)—that portion within the Dalton Highway Corridor Management Area—1 bull by Federal registration permit only—Sept. 1–Sept. 25
Remainder of Unit 20(F)—1 bull—Sept. 1–Sept. 25
Beaver:
Trapping—Unit 20(A)—25 Beaver per season—Nov. 1–Apr. 15
Trapping—Unit 20(B)—Remainder of Unit 20(B) and Unit 20 (C), (E), and that portion of 20(D) draining into the north bank of the Tanana River, including the islands in the Tanana River—25 Beaver per season—Nov. 1–Apr. 15
Trapping—Unit 20(D)—Remainder 15 Beaver per season—Feb. 1–Apr. 15
Trapping—Unit 20(F)—50 Beaver per season—Nov. 1–Apr. 15
Coyote:
Hunting—Unit 20—2 Coyotes—Sept. 1–Apr. 30
Trapping—Unit 20(E)—No limit—Nov. 1–Feb. 28
Trapping—Unit 20—Remainder (except 20(D))—No limit—Nov. 1–Mar. 31
Fox, Red (including Cross, Black and Silver Phases):
Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar 15
Trapping—No Limit—Nov. 1–Feb. 28
Hare (Snowshoe and Arctic): No limit—July 1–June 30
Lynx:
Hunting—Unit 20(E)—2 Lynx—Nov. 1–Jan. 31
Trapping—Unit 20(E)—No limit—Nov. 1–Jan. 31
Hunting—Unit 20—Remainder (except (D))—2 Lynx—Dec. 1–Jan. 31
Trapping—Unit 20—Remainder (except 20(D))—No limit—Dec. 1–Jan 31
Marten: Trapping—No limit—Nov. 1–Feb. 28
Mink and Weasel: Trapping—No limit—Nov. 1–Feb 28
Muskrat:
Trapping—Unit 20(E)—No limit—Sept. 20–June 10
Trapping—Unit 20—Remainder (except 20(D))—Nov. 1–June 10
Otter (land only): Trapping—No limit—Nov. 1–Apr. 15
Wolf:
Hunting—Unit 20—10 Wolves per season—Aug. 10–Apr. 30
Trapping—Unit 20(E)—No limit—Oct. 1–Apr. 30
Trapping—Unit 20—Remainder (except 20(D))—No limit—Nov. 1–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Feb. 28
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):
Unit 20(D))—that portion south of the Tanana River and west of the Johnson River—15 per day, 30 in possession, provided that not more than 5 per day and 10 in possession are sharp-tailed grouse—Aug. 25–Mar. 31
Unit 20—Remainder—15 per day, 30 in possession—Aug. 10–Mar. 31
Ptarmigan (Rock, Willow, and White-tailed):
Unit 20—those portions within five miles of Alaska Route 6 (Steese Highway) and Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession—Aug. 10–Mar. 31
Unit 20—Remainder—20 per day, 40 in possession—Aug. 10–Apr. 30

(21) GMU 21.

(i) Game Management Unit 21 consists of drainages into the Yukon River upstream from Paimiut to but not including the Tozitna River drainage on the north bank and to, but not including the Tanana River drainage on the south bank; and excluding the Koyukuk River upstream and including from the Dulbi River drainage;

(A) Unit 21(A) consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(B) Unit 21(B) consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21(C) consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21(D) consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21(E) consists of the Yukon River drainage from Paimiut upstream to but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage;

(ii) Public Lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The Koyukuk Controlled Use Area consisting of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the Department of Fish and Game operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to department personnel at the check station;

(B) Paradise Controlled Use Area consisting of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik

River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

Bag Limits and Open Season

Black Bear Unit 21—3 bears—July 1–June 30
Brown Bear Unit 21—1 bear every four regulatory years—Sept. 1–May 31
Caribou
Unit 21 (A), (B), (C), and (E)—1 caribou—Aug. 10–Sept. 30
Unit 21(D) North of the Yukon River and east of the Koyukuk River 1 caribou; however, 2 additional caribou may be taken during a winter season to be announced—Aug. 10–Sept. 30. Winter season to be announced
Unit 21(D)—Remainder (Western Arctic Caribou herd)—5 caribou per day, however, cow caribou may not be taken May 16–June 30—July 1–June 30
Moose
Unit 21(A)—1 bull—Sept. 5–Sept. 30, Nov. 1–Nov. 30
Unit 21 (B) and (C)—1 bull—Sept. 5–Sept. 25
Unit 21(D)—1 moose; antlerless moose may be taken only from Sept. 21–Sept. 25 and Feb. 1–Feb. 5; moose may not be taken within one-half mile of the Yukon River during the February season—Sept. 5–Sept. 25, Feb. 1–Feb. 5
Unit 21(E)—1 moose; however, only bulls may be taken from Sept. 5–Sept. 25—Sept. 5–Sept. 25, Feb. 1–Feb. 10
Beaver
Unit 21(E) Trapping—No Limit—Nov. 1–Jun. 1
Remainder of Unit 21—Trapping—No Limit—Nov. 1–Apr. 15
Coyote
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Fox, Red (including Cross, Black and Silver Phases)
Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
Trapping—No limit—Nov. 1–Feb. 28
Hare (Snowshoe and Arctic)
No limit—July 1–June 30
Lynx
Hunting—2 Lynx—Nov. 1–Feb. 28
Trapping—No limit—Nov. 1–Feb. 28
Marten
Trapping—No limit—Nov. 1–Feb. 28
Mink and Weasel
Trapping—No limit—Nov. 1–Feb. 28
Muskrat
Trapping—No limit—Nov. 1–June 10
Otter (land only)
Trapping—No limit—Nov. 1–Apr. 15
Wolf
Hunting—10 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Wolverine
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Mar. 31
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed)
15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed)
20 per day, 40 in possession—Aug. 10–Apr. 30

(22) GMU 22. (i) Game Management Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22(A) consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22(B) consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22(C) consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22(D) consists of that portion of Unit 22 draining into the Bering Sea north of but not including the Tisuk River to and including Cape York, and St. Lawrence Island:

(E) Unit 22(E) consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) [Reserved].

Bag Limits and Open Season

Black Bear
Unit 22—3 bears—July 1–June 30
Brown Bear
Unit 22(C)—1 bear every four regulatory years—Sept. 1–Oct. 31, May 10–May 25
Remainder of Unit 22—1 bear every four regulatory years—Sept. 1–Oct. 31, Apr. 15–May 25
Caribou
Unit 22 (A) and (B)—5 caribou per day; however, cow caribou may not be taken May 16–June 30—July 1–June 30
Moose
Unit 22(A)—1 bull—Aug. 1–Sept. 30, Dec. 1–Jan. 31
Unit 22 (B)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31—no person may take a cow accompanied by a calf—Aug. 1–Jan. 31
Unit 22(C)—1 bull—Sept. 1–Sept. 14
Unit 22(D)—1 moose; however, antlerless moose may be taken only from Aug. 1–Dec. 31—no person may take a cow accompanied by a calf—Aug. 1–Jan. 31
Unit 22(E)—1 moose; No person may take a cow accompanied by a calf—Aug. 1–Mar. 31
Beaver
Trapping—Unit 22 (A) and (B)—50 Beaver per season—Nov. 1–June 10
Trapping—Unit 22 (C), (D), and (E)—50 Beaver per season—Nov. 1–Apr. 15
Coyote
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Fox, Arctic (Blue and White Phase)
Hunting—2 Foxes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Fox, Red (including Cross, Black and Silver Phases)
Hunting—10 Foxes—Nov. 1–Apr. 15
Trapping—No limit—Nov. 1–Apr. 15
Hare (Snowshoe and Arctic)
No limit—July 1–June 30
Lynx
Hunting—2 Lynx—Nov. 1–Apr. 15
Trapping—No limit—Nov. 1–Apr. 15
Marten
Trapping—No limit—Nov. 1–Apr. 15
Mink and Weasel
Trapping—No limit—Nov. 1–Jan. 31
Muskrat
Trapping—No limit—Nov. 1–June 10
Otter (land only)
Trapping—No limit—Nov. 1–Apr. 15
Wolf
Hunting—No limit—Aug. 10–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Wolverine
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Apr. 15
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed)
15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed)
20 per day, 40 in possession—Aug. 10–Apr. 30

(23) GMU 23.

(i) Game Management Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne;

(ii) Public lands within the following area are closed to subsistence take or subsistence take is restricted as specified—

(A) The Noatak Controlled Use Area, consisting of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Kugururok River, and extending easterly along the Noatak River to the mouth of Sapun Creek, is closed for the period August 20—

September 20 to the use of aircraft in any manner for big game hunting, including transportation of big game hunters or game;

(B) The Northwest Alaska Brown Bear Management Area consisting of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(a) is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting; aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

Bag Limits and Open Season

Black Bear Unit 23—3 bears—July 1–June 30
Brown Bear
  Unit 23—except the Baldwin Peninsula north of the Arctic Circle—1 bear—Sept. 1–May 31
  Remainder of Unit 23—1 bear every four regulatory years—Sept. 1–Oct. 10, Apr. 15–May 25
Caribou
  Unit 23—5 caribou per day; however, cow caribou may not be taken May 16–June 30—July 1–June 30
Sheep
  Unit 23—1 ram with 7/8 curl horn or larger. Unit 23—that portion south and east of the Noatak River, excluding Gates of the Arctic National Park, a State registration permit is required. A harvest quota will be announced before the permit hunt—Aug. 10–Sept. 20
  Unit 23—1 sheep. In that portion of Unit 23 south and east of the Noatak River, excluding Gates of the Arctic National Park, the hunt will be closed when 30 sheep have been taken. From Oct. 1–Apr. 30, public lands will be closed to the taking of sheep, except by rural Alaska residents of Unit 23 living north of the Arctic Circle—Oct. 1–Apr. 30
Moose
  Unit 23—that portion north and west of and including the Kivalina River drainage—1 moose; however, antlerless moose may be taken only from Sept. 1–Mar. 31; no person may take a cow accompanied by a calf—July 1–Mar. 31
  Remainder of Unit 23—1 moose; however, antlerless moose may be taken only from Sept. 1–Mar. 31; no person may take a cow accompanied by a calf—Aug. 1–Mar. 31
Beaver
  Trapping—Unit 23—the Kobuk and Selawik River drainages—50 Beaver per season—Nov. 1–June 10
  Trapping—Unit 23—Remainder—30 Beaver per season—Nov. 1–June 10
Coyote
  Hunting—3 Coyotes—Sept. 1–Apr. 30
  Trapping—No limit—Nov. 1–Apr. 15
Fox, Arctic (Blue and White Phase)
  Hunting—2 Foxes—Sept. 1–Apr. 30
  Trapping—No limit—Nov. 1—Apr. 15
Fox, Red (including Cross, Black and Silver Phases)
  Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
  Trapping—No limit—Nov. 1–Apr. 15
Hare (Snowshoe and Arctic) No limit—July 1–June 30
Lynx
  Hunting—2 Lynx—Dec. 1–Jan. 15
  Trapping—3 Lynx—Dec. 1–Jan. 15
Marten
  Trapping—No limit—Nov. 1–Apr. 15
Mink and Weasel
  Trapping—No limit—Nov. 1–Jan. 31
Muskrat
  Trapping—No limit—Nov. 1–June 10
Otter (land only)
  Trapping—No limit—Nov. 1–Apr. 15
Wolf
  Hunting—10 Wolves—Aug. 10–Apr. 30
  Trapping—No limit—Nov. 1–Apr. 15
Wolverine
  Hunting—1 Wolverine—Sept. 1–Mar. 31
  Trapping—No limit—Nov. 1–Apr. 15
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed)
  15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed)
  20 per day, 40 in possession—Aug. 10–Apr. 30

(24) GMU 24.

(i) Game Management Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The Dalton Highway Corridor Management Area, consisting of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area, is closed to the use of motorized vehicles, except aircraft and boats, and licensed highway vehicles. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area;

(B) The Kanuti Controlled Use Area, consisting of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(C) The Koyukuk controlled Use Area consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57′ N. lat., 156°41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning. The area is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the Department of Fish and Game operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to department personnel at the check station;

(D) The Northwest Alaska Brown Bear Management Area consisting of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A) is open to brown bear hunting by State registration permit in lieu of a resident tag. No resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State

registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transporation of aircraft to or between publicly owned airports.

Bag Limits and Open Season

Black Bear Unit 24–3 bears—July 1–June 30
Brown Bear
Unit 24—that portion west of the Dalton Highway Corridor Management Area—1 bear—Sept. 1–May 31
Remainder of Unit 24–1 bear every four regulatory years—Sept. 1–May 31
Caribou
Unit 24—the Kanuti River drainage upstream from Kanuti, Chalatna Creek, the Fish Creek drainage (including Bonanza Creek)—1 bull—Aug. 10–Sept. 30
Remainder of Unit 24–5 caribou per day; however, cow caribou may not be taken May 16–June 30—July 1–June 30
Sheep
Unit 24—that portion within the Gates of the Arctic National Park—3 sheep—Aug. 1–Apr. 30
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 ram with ⅞ curl horn or larger by Federal registration permit only—Aug. 10–Sept. 20
Remainder of Unit 24–1 ram with ⅞ curl horn or larger—Aug. 10–Sept. 20
Moose
Unit 24—that portion within the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25, Dec. 1–Dec. 10, and Mar. 1–Mar. 10—Sept. 5–Sept. 25, Dec. 1–Dec. 10, Mar. 1–Mar. 10
Unit 24—that portion that includes the John River drainage upstream from but excluding the Hunt Fork drainage—1 moose—Aug. 1–Dec. 31
Unit 24—the Alatna River drainage upstream from and including Helpmejack Creek drainage, the John River drainage upstream from and including the Malemute Fork drainage and downstream from and including the Hunt Fork drainage, the Wild River drainage upstream from and including the Michigan Creek drainage, and the North Fork Koyukuk River drainage north of the Bettles/Coldfoot winter trail—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10—Aug. 25–Sept. 25, Mar. 1–Mar. 10
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 bull by Federal registration permit only—Aug. 25–Sept. 25
Remainder of Unit 24–1 bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents—Aug. 25–Sept. 25
Beaver
Trapping—No limit—Nov. 1–Apr. 15
Coyote
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Fox, Red (including Cross, Black and Silver Phases)
Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
Trapping—No limit—Nov. 1–Feb. 28
Hare (Snowshoe and Arctic)
Hunting—No limit—July 1–June 30
Lynx
Hunting—2 lynx—Nov. 1–Feb. 28
Trapping—No limit—Nov. 1–Feb. 28
Marten
Trapping—No limit—Nov. 1–Feb. 28
Mink and weasel
Trapping—No limit—Nov. 1–Feb. 28
Muskrat
Trapping—No limit—Nov. 1–June 10
Otter (land only)
Trapping—No limit—Nov. 1–Apr. 15
Wolf
Hunting—10 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Wolverine
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Mar. 31
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed)
15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed)
20 per day, 40 in possession—Aug. 10–Apr. 30

(25) GMU 25.

(i) Game Management Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River;

(A) Unit 25(A) consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage;

(B) Unit 25(B) consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25(C) consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20(E) boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25(D) consists of the remainder of Unit 25;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The Dalton Highway Corridor Management Area, consisting of those portion of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area, is closed to the use of motorized vehicles, except aircraft and boats, and licensed highway vehicles. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area;

(B) The Arctic Village Sheep Management Area encompasses approximately 567,680 acres north and west of Arctic Village. The area consists of that portion of Game Management Unit 25(A) which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Cane Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary located directly south of Little Njoo Mountain; the boundary leaves the river and continues upstream along this unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 20 miles along the divide to an unnamed peak, elevation 6,460, located north of the most southerly major fork of the headwaters of Cane Creek; then the boundary continues due south 1.5 miles to the high point of a saddle, then down the headwaters tributary to Cane Creek and down the creek to the confluence of Cane Creek and the East Fork Chandalar. Sheep hunting in this area is restricted to residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik.

Bag Limits and Open Season

Black Bear: Unit 25—3 bears—July 1–June 30

Caribou:
Unit 25(A), (B), and the remainder of Unit 25(D)—10 caribou; however, no more than 5 caribou may be transportated from these units per regulatory year—July 1–Apr. 30
Unit 25(C)—1 bull—Aug. 10–Sept. 20, Feb. 15–Mar. 15
Unit 25(D)—that portion of Unit 25(D) drained by the west fork of the Dall River west of 150° W. long.—1 bull—Aug. 10–Sept. 30
Sheep:
Unit 25(A)—that portion within the Dalton Highway Corridor Management Area—3 sheep by Federal registration permit only; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl horn or larger—Oct. 1–Apr. 30, Aug. 10–Sept. 20
Units 25(A)—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik—Aug. 10–Apr. 30
Remainder of Unit 25(A)—3 sheep by Federal registration permit only—Aug. 10–Apr. 30
Moose:
Unit 25(A)—that portion within the Dalton Highway Management Area—1 bull by Federal registration permit only—Aug. 25–Sept. 25, Dec. 1–Dec. 10
Remainder of Unit 25(A)—1 bull—Aug. 25–Sep. 25, Dec. 1–Dec. 10
Unit 25(B)—that portion within the Porcupine River drainage upstream from but excluding the Coleen River drainage—1 bull—Aug. 25–Sept. 30, Dec. 1–Dec. 10
Remainder of Unit 25(B)–1 bull—Aug. 25–Sept. 25, Dec. 1–Dec. 15
Unit 25(C)—1 bull—Sept. 1–Sept. 15
Unit 25(D) (West)—that portion within the Dalton Highway Corridor Management Area—1 bull by Federal registration permit only—Aug. 25–Sept. 25, Dec. 1–Dec. 10, Feb. 18–Feb. 28
Unit 25(D) (West)—that portion of Unit 25(D), not within the Dalton Highway Corridor Management Area, lying west of a line extending from the Unit 25(D) boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzik River, then upstream along the west bank of the Hadweenzik River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25(D) boundary—1 bull by Federal registration permit or State Tier II permit. Season will be closed after 35 bulls have been harvested.—Aug. 25–Sept. 25, Dec. 1–Dec. 10, Feb. 18–Feb. 28
Remainder of Unit 25(D)—1 bull, August 25–Sept. 25, Dec. 1–Dec. 20
Beaver:
Trapping—Unit 25(C)—25 Beaver per season—Nov. 1–Apr. 15
Trapping—Unit 25—Remainder—50 Beaver per season—Nov. 1–Apr. 15
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Fox, Red (including Cross, Black and Silver Phases):
Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1–Sept. 1–Mar. 15
Trapping—No limit—Nov. 1–Feb. 28
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—Unit 25(C)—2 Lynx—Dec. 1–Jan. 31
Trapping—Unit 25(C)—No limit—Dec. 1–Jan. 31
Hunting—Unit 25—Remainder—2 Lynx—Nov. 1–Feb. 28
Trapping—Unit 25—Remainder—No limit—Nov. 1–Feb. 28
Marten: Trapping—No limit—Nov. 1–Feb. 28
Mink and Weasel: Trapping—No limit—Nov. 1–Feb. 28
Muskrat: Trapping—No limit—Nov. 1–June 10
Otter (land only): Trapping—No limit—Nov. 1–Apr. 15
Wolf:
Hunting—Unit 25(A)—No limit—Aug. 10–Apr. 30
Hunting—Unit 25—Remainder—10 Wolves—Aug. 10–Apr. 30
Trapping—No limit—Nov. 1–Mar. 31
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—Unit 25(C)—No limit—Nov. 1–Feb. 28
Trapping—Unit 25—Remainder—No limit—Nov. 1–Mar. 31
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):
Unit 25(C)—15 per day, 30 in possession—Aug. 10–Mar. 31
Unit 25—Remainder—15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed):
Unit 25(C)—those portions within 5 miles of Alaska Route 6 (Steese Highway) and Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary), and that portion of Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession—Aug. 10–Mar. 31
Unit 25—Remainder—20 per day, 40 in possession—Aug. 10–Apr. 30

(26) GMU 26.

(i) Game Management Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska;

(A) Unit 26(A) consists of that portion of Unit 26 lying west of the Itkillik River drainage, and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26(B) consists of that portion of Unit 26 east of Unit 26(A), west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26(C) consists of the remainder of Unit 26;

(ii) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified—

(A) The GMU 26(A) Controlled Use Area, consisting of Unit 26(A), from August 1 through August 31 is closed to the use of aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose. No hunter may take or transport a moose, or part of a moose in GMU 26(A) after having been transported by aircraft into the unit. However, this does not apply to transportation of moose hunters or moose parts by regularly scheduled flights to and between villages by carriers that normally provide scheduled service to this area, nor does it apply to transportation by aircraft to or between publicly owned airports;

(B) The Prudhoe Bay Closed Area is closed to the taking of big game; this closed area consists of the area bounded by a line beginning at 70° 22′ N. lat., 148° W. long., then running south approximately 14 miles to a point at 70° 10′ N. lat., 148° W. long., then west approximately 15 miles to a point at 70° 10′ N. lat., 148° 40′ W. long., then north approximately two miles to a point at 70° 12′ N. lat., 148° 40′ W. long., then west approximately eight miles to a point at 70° 12′ N. lat., 148° 56′ W. long., then north approximately two miles to a point at 70° 15′ N. lat., 148° 56′ W. long., then west approximately 12 miles to a point at 70° 15′ N. lat., 149° 28′ W. long., then north approximately 12 miles to a point at 70° 26′ N. lat., 149° 28′ W. long., then east approximately 14 miles to a point at 70° 26′ N. lat., 148° 52′ W. long., then south approximately 2 miles to a point at 70° 24′ N. lat., 148° 52′ W. long., then east approximately 16 miles to a point at 70° 24′ N. lat., 148° 11′ W. long., then south approximately 2 miles to a point at 70°24′ N. lat., 148°11′ W. long., then east approximately 6 miles to the point of beginning;

(C) The Dalton Highway Corridor Management Area, consisting of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area, is closed to the use of motorized vehicles, except aircraft and boats, and licensed highway vehicles. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area;

(D) The Northwest Alaska Brown Bear Management Area consisting of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A) is open to brown bear hunting by State registration permit in

lieu of a resident tag; no resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting; aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

Bag Limits and Open Season

Black Bear: Unit 26—3 bears—July 1–June 30
Brown Bear:
Unit 26(A)—1 bear—Sept. 1–May 31
Remainder of Unit 26—1 bear every four regulatory years—Sept. 1–May 31
Caribou:
Unit 26(A)—5 caribou per day; however, cow caribou may not be taken May 16–June 30—July 1–June 30
Unit 26(B)— 5 caribou; however, cow caribou may be taken only from Oct. 1–Apr. 30—July 1–June 30
Unit 26(C)—10 caribou; however, not more than 5 caribou may be transported from Unit 26(C) per regulatory year—July 1–Apr. 30
Sheep:
Unit 26(A)—those portions within the Gates of the Arctic National Park—3 sheep—Aug. 1–Apr. 30
Unit 26(B)—that portion within the Dalton Highway Corridor Management Area—1 ram with ⅞ curl horn or larger by Federal registration permit only—Aug. 10–Sept. 20
Remainder of Unit 26(A) and (B)—including the Gates of the Arctic National Preserve—1 ram with ⅞ curl horn or larger—Aug. 10–Sept. 20
Unit 26(C)—3 sheep per year; the Aug. 10–Sept. 20 season is restricted to 1 ram with ⅞ curl horn or larger. A State registration permit is required for the Oct. 1–Apr. 30 season—Aug. 10–Sept. 20, Oct. 1–Apr. 30
Moose:
Unit 26(A)—1 moose; however, no person may take a cow accompanied by a calf—Aug. 1–Dec. 31
Unit 26(B) That portion within two miles of the Dalton Highway—No open season
Unit 26(B) Remainder and (C)—1 moose—Aug. 1–Dec. 31
Musk Oxen: Unit 26(C)—1 bull by Federal registration permit only; up to 10 permits may be issued to rural Alaska residents of the village of Kaktovik only. Public lands are closed to the taking of musk oxen, except by rural Alaska residents of the village of Kaktovik—Oct. 1–Oct. 31 and Mar. 1–Mar. 31
Coyote:
Hunting—2 Coyotes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Fox, Arctic (Blue and White Phase):
Hunting—2 Foxes—Sept. 1–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Fox, Red (including Cross, Black and Silver Phases):
Unit 26(A) and (B) Hunting—10 Foxes; however, no more than 2 Foxes may be taken prior to Oct. 1—Sept. 1–Mar. 15
Unit 26(C) Hunting—10 Foxes—Nov. 1–Apr. 15
Trapping—No limit—Nov. 1–Apr. 15
Hare (Snowshoe and Arctic): Hunting—No limit—July 1–June 30
Lynx:
Hunting—2 Lynx—Nov. 1–Apr. 15
Trapping—No limit—Nov. 1–Apr.15
Marten: Trapping—No limit—Nov. 1–Apr. 15
Mink and Weasel: Trapping—No limit—Nov. 1–Jan. 31
Muskrat: Trapping—No limit—Nov. 1–June 10
Otter (land only) Trapping—No limit—Nov. 1–Apr. 15
Wolf:
Hunting—No limit—Aug. 10–Apr. 30
Trapping—No limit—Nov. 1–Apr. 15
Wolverine:
Hunting—1 Wolverine—Sept. 1–Mar. 31
Trapping—No limit—Nov. 1–Apr. 15
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed) 15 per day, 30 in possession—Aug. 10–Apr. 30
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession—Aug. 10–Apr. 30

§ _____.26 Subsistence taking of fish.

(a) Applicability.

(1) Regulations in this section apply to subsistence fishing for salmon, herring, pike, bottomfish, smelt, and other types of finfish or their parts except halibut, and aquatic plants.

(2) Aquatic plants and finfish other than salmon may be taken for subsistence purposes at any time by any method unless restricted by the subsistence fishing regulations in this section. Salmon may be taken for subsistence purposes only as provided in this section.

(b) Definitions. The following definitions shall apply to all regulations contained in this section and in § _____.27.

Abalone Iron is a flat device used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth.

Anchor is a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor or being secured to another vessel or net that is anchored.

Bag Limit means the maximum legal take per person or designated group, per specified time period, even if part or all of the fish are preserved.

Beach seine is a floating net designed to surround fish which is set from and hauled to the beach.

Crab means the following species: *Paralithodes camshatica* (red king crab); *Paralithodes platypus* (blue king crab); *Lithodes couesi*; *Lithodes aequispina* (brown king crab); all species of the genus Chionoecetes (tanner or snow crab); *Cancer magister* (Dungeness crab).

Dip net is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving Gear is any type of hard hat or skin diving equipment, including SCUBA equipment.

Drainage means all of the waters comprising a watershed including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed.

Drift gill net is a drifting gill net that has not been intentionally staked, anchored or otherwise fixed.

Fishwheel is a fixed, rotating device for catching fish which is driven by river current or other means of power.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide.

Fyke net is a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gill net is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water.

Grappling hook is a hooked device with flukes or claws and attached to a line and operated by hand.

Groundfish—Bottomfish means any marine finfish except halibut, osmerids, herring and salmonids.

Hand purse seine is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line

through one or more rings attached to the lead line is not allowed.

Hand troll gear consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment.

Herring pound is an enclosure used primarily to retain herring alive over extended periods of time.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Inclusive season dates means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first date specified designates the first day of the period, and the second date specified designates the last day of the period.

Jigging gear means a line or lines with lures or baited hooks which are operated during periods of ice cover from holes cut in the ice and are drawn through the water by hand.

Lead is a length of net employed for guiding fish into a seine, set gill net, or other length of net, or fencing employed for guiding fish into a fishwheel, fyke net or dip net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section.

Line attached to a rod or pole means a device upon which a line is stored on a fixed or revolving spool and deployed through guides mounted on a flexible pole or a line is attached to a pole.

Long line is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached.

Net gear site means the in-water location of stationary net gear.

Possession limit means the maximum number of fish a person or designated group may have in possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water.

Purse seine is a floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ring net is a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be non-rigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net.

Rockfish means all species of the genus *Sebastes*.

Salmon stream means any stream used by salmon for spawning or for travelling to a spawning area.

Salmon stream terminus means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water.

Set gill net is a gill net that has been intentionally set, staked, anchored, or otherwise fixed.

Shovel is a hand-operated implement for digging clams or cockles.

Spear is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and is operated by hand.

To operate fishing gear means the deployment of gear in the waters of Alaska, the removal of gear from the waters of Alaska, the removal of fish or shellfish from the gear during an open season or period, or possession of a gill net containing fish during an open fishing period, except that a gill net which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

Trawl is a bag-shaped net towed through the water to capture fish or shellfish.

(c) Methods, Means, and General Restrictions.

(1) The bag limit specified herein for a subsistence season for a species and the State bag limit set for a State general season for the same species are not cumulative. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified herein may not after that, take any additional fish of that species under any other bag limit specified for a State general season.

(2) Unless otherwise provided in this section, gear specified in definitions in subsection (b) are legal types of gear for subsistence fishing.

(3) Gill nets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by the regulations in particular areas set forth in this section.

(4) It is prohibited to buy or sell subsistence-taken fish, their parts, or their eggs, unless otherwise specified in this section or unless, prior to the sale, the prospective buyer or seller obtains a determination from the Board that the sale constitutes customary trade.

(5) Fishing for, taking or molesting any fish by any means, or for any purpose, in prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(6) The use of explosives and chemicals for taking fish is prohibited.

(7) Each person subsistence fishing shall plainly and legibly inscribe his/her first initial, last name, and address on his/her fishwheel, or on a keg or buoy attached to gill nets and other unattended subsistence fishing gear.

(8) All pots used to take fish must contain an opening in the webbing of a side wall of the pot which has been laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one half of the tunnel eye opening perimeter.

(9) Persons licensed by the State of Alaska under Alaska Statutes to engage in a fisheries business may not receive for commercial purposes or barter or solicit to barter for subsistence taken salmon or their parts. Further restrictions on the bartering of subsistence taken salmon or their parts may be implemented by the Federal Subsistence Board if necessary.

(10) Gill net web must contain at least 30 filaments and all filaments must be of equal diameter, or the web must contain at least six filaments, each of which must be at least 0.20 millimeter in diameter. Gill net should not be monofilament and should not be more than 6 inches in mesh size.

(11) Except as provided elsewhere in this regulation, the taking of rainbow trout and steelhead is prohibited.

(12) Fish taken for subsistence use or under subsistence fishing regulations may not be subsequently used as bait for commercial and sport fishing purposes.

(13) The use of live non-indigenous fish as bait is prohibited.

(d) Unlawful Possession of Subsistence Finfish. No person may possess, transport, give, receive or barter subsistence-taken fish or their parts that the person knows or should know were taken in violation of Federal or State statute or a regulation promulgated thereunder.

(e) Fishery Management Area Restrictions. For detailed descriptions of Fishery Management Areas, see Alaska Fishing Regulations.

(1) Kotzebue-Northern Area.

(i) Allowed gear and specifications:

(A) Salmon may be taken only by gill nets, beach seines, or a line attached to a rod or pole.

(B) Fish other than salmon may be taken by set gill net, drift gill net, beach seine, fishwheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, or a line attached to a rod or pole.

(C) A gill net may obstruct not more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(D) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(E) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(F) Fish may be taken for subsistence purposes without a subsistence fishing permit.

(G) Fish may be taken at any time except that during the weekly fishing closures of the commercial salmon fishing season in the Kotzebue District commercial fishermen may not fish for subsistence purposes.

(ii) Kotzebue District.

(A) In the Kotzebue District, kegs or buoys attached to subsistence gill nets may be any color except red.

(B) In the Kotzebue District, gill nets used to take sheefish may not be more than 50 fathoms in aggregate length nor 12 meshes in depth, nor have a mesh size larger than seven inches.

(2) Norton Sound-Port Clarence Area.

(i) General Area Regulations.

(A) Salmon may only be taken by gill net, beach seine, fishwheel, or a line attached to a rod or pole.

(B) Fish other than salmon may be taken by set gill net, drift net, beach seine, fishwheel, pot, long line, fyke net, jigging gear, spear, lead, or a line attached to a rod or pole.

(C) A gill net may not obstruct more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(D) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(E) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(F) Except as provided in this subsection, fish may be taken for subsistence purposes without a subsistence fishing permit. A subsistence fishing permit is required as follows:

(*1*) In the Port Clarence District—Pilgrim River drainage including Salmon Lake;

(*2*) In the Norton Sound District: for net fishing in all waters from Cape Douglas to Rocky Point.

(G) Only one subsistence fishing permit will be issued to each household per year.

(ii) The Norton Sound District.

(A) In the Norton Sound District, fish may be taken at any time except as follows:

(B) In Subdistrict 1 from June 15 through August 31, salmon may be taken only from 6 p.m. Monday until 6 p.m. Wednesday and from 6 p.m. Thursday until 6 p.m. Saturday.

(C) In Subdistricts 2 through 6, commercial fishermen may not fish for subsistence purposes during the weekly closures of the commercial salmon fishing season [except that from July 15 through August 1, commercial fishermen may take salmon for subsistence purposes seven days per week in the Unalakleet and Shaktoolik River drainages with gill nets which have a mesh size that does not exceed 4½ inches, and with beach seines].

(D) In the Unalakleet River from June 1 through July 15, salmon may be taken from 8 a.m. Monday until 8 p.m. Saturday.

(E) In the Norton Sound District, kegs or buoys attached to subsistence gill nets may be any color except red.

(F) In the Unalakleet River from June 1 through July 15, no person may operate more than 25 fathoms of gill net in the aggregate.

(G) Gill nets with a mesh size of less than four and one-half inches and beach seines may not be used in the Sinuk River upstream of Alaska Department of Fish and Game regulatory markers placed two miles above the mouth, in the Nome River, and in the Solomon River upstream from Alaska Department of Fish and Game regulatory markers places near the village of Solomon.

(H) In the Nome River, no person may operate more than 50 feet of gill net in the aggregate.

(I) The Nome River, from its terminus upstream for a distance of 200 yards and upstream from an Alaska Department of Fish and Game regulatory marker located near Osborn, is closed to the taking of fish.

(iii) The Port Clarence District.

(A) In the Port Clarence District, fish may be taken at any time except that during the period July 1 through August 15, salmon may only be taken from 6 p.m. Thursday until 6 p.m. Tuesday.

(B) In the Port Clarence District, Salmon Lake, its tributaries, and within 300 feet of the Alaska Department of Fish and Game regulatory markers placed at the outlet of Salmon Lake, are closed to subsistence fishing from July 15 through August 31.

(3) Yukon Area.

(i) Unless otherwise restricted, salmon may be taken in the Yukon Area at any time.

(ii) Salmon may only be taken by gill net, beach seine, fishwheel, or a line attached to a rod or pole subject to the restrictions set forth in this section.

(iii) Unless otherwise specified in this section, fish other than salmon may be taken only by set gill net, drift gill net, beach seine, fishwheel, long line, fyke net, dip net, jigging gear, spear, lead, or a line attached to a rod or pole subject to the following restrictions, which also apply to subsistence salmon fishing:

(A) During the open weekly fishing periods of the commercial salmon fishing season, a commercial fisherman may not operate more than one type of gear at a time, for commercial and subsistence purposes, except that in Subdistrict 4–A, upstream from the mouth of Stink Creek, a commercial fisherman may, at any time, assist subsistence fishermen in the operation of subsistence fishing gear;

(B) The aggregate length of set gill net in use by an individual may not exceed 150 fathoms and each drift gill net in use by an individual may not exceed 50 fathoms in length;

(C) In Subdistricts 4, 5, and 6, it is unlawful to set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear;

(D) A gill net may obstruct not more than one-half the width of any fish stream; a stationary fishing device may obstruct not more than one-half width of any salmon stream.

(iv) Salmon may be taken only by set gill net, fishwheel, or a line attached to a rod or pole. No person may operate a gill net having a mesh size larger than six inches after a date specified by emergency order issued between July 5 through July 25.

(v) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(vi) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly

inscribed on a stake inserted in the ice and attached to the gear.

(vii) In Districts 1, 2, and 3, commercial fishermen may not take salmon for subsistence purposes by gill nets larger than six-inch mesh during periods established by emergency order.

(viii) In Districts 4, 5, and 6, salmon may not be taken for subsistence purposes by drift gill nets, except as follows:

(A) In Subdistrict 4–A, upstream from the mouth of Stink Creek king salmon may be taken by drift gill nets from June 21 through July 14, and chum salmon may be taken by drift gill nets after August 2;

(B) No person may operate a drift gill net that is more than 150 feet in length during the seasons described in this section.

(ix) Except as provided in this section, fish may be taken for subsistence purposes without a subsistence fishing permit.

(x) A subsistence fishing permit is required as follows:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from Alaska Department of Fish and Game regulatory markers placed near the upstream mouth of 22 Mile Slough upstream to the U.S.-Canada border;

(C) For the Tanana River drainage above the mouth of the Wood River;

(D) For whitefish and suckers in the waters listed;

(E) For the taking of pike in waters of the Tolovana River drainage upstream of its confluence with the Tanana River;

(F) For the taking of salmon in Subdistricts 6–A and 6–B.

(xi) Except as otherwise provided, and except as may be provided by the terms of a subsistence fishing permit, there is no closed season on fish other than salmon.

(xii) In addition to the subsistence fishing permit conditions, permits issued for fish other than salmon may also designate restrictive measures for the conservation of salmon.

(xiii) Only one subsistence fishing permit will be issued to each household per year.

(xiv) Birch Creek and the Dall River of the upper Yukon drainage, and waters within 500 feet of their mouths, are closed to subsistence fishing June 10 through September 10, except that whitefish and suckers may be taken under the authority of a subsistence fishing permit designating measures for the protection of other fish.

(xv) The following drainages located north of the main Yukon River are closed to subsistence fishing:

(A) Kanuti River, upstream from a point five miles downstream of the State highway crossing;

(B) Fish Creek, upstream from the mouth of Bonanza Creek;

(C) Bonanza Creek;

(D) Jim River, including Prospect Creek and Douglas Creek;

(E) South Fork of the Koyukuk River system upstream from the mouth of Jim River;

(F) Middle Fork of the Koyukuk River system upstream from the mouth of the North Fork;

(G) North Fork of the Chandalar River system upstream from the mouth of Quartz Creek.

(xvi) The main Tanana River and its adjoining sloughs are closed to subsistence fishing between the mouth of the Salcha River and the mouth of the Gerstle River, except that salmon may be taken in the area upstream of the Richardson Highway bridge to the mouth of Clearwater Creek after November 20.

(xvii) Waters of the Tanana River drainage are closed to the subsistence taking of pike between the mouth of the Kantishna River and Delta River at Black Rapids on the Richardson Highway and Cathedral Rapids on the Alaska Highway, except that pike may be taken for subsistence purposes in the Tolovana River drainage upstream from its confluence with the Tanana River.

(xviii) The Delta River is closed to subsistence fishing, except that salmon may be taken after November 20.

(xix) The following locations are closed to subsistence fishing:

(A) The following rivers and creeks and within 500 feet of their mouths: Delta Clearwater River (Clearwater Creek at 64° 06' N. lat., 145° 34' W. long.), Richardson Clearwater Creek (Clear Creek at 64° 14' N. lat., 146° 16' W. long.), Goodpaster River, Chena River, Little Chena River, Little Salcha River, Blue Creek, Big Salt River, Shaw Creek, Bear Creek, McDonald Creek, Moose Creek, Hess Creek, and Beaver Creek;

(B) Ray River and Salcha River upstream of a line between Alaska Department of Fish and Game regulatory markers located at the mouth of the rivers;

(C) Deadman, Jan, Boleo, Birch, Lost, Harding, Craig, Fielding, Two-Mile, Quartz, and Little Harding lakes;

(D) Piledriver and Badger (Chena) sloughs.

(xx) The following waters are closed to the taking of chum salmon from August 15 through December 31:

(A) Toklat River;

(B) Kantishna River from the mouth of the Toklat River to its confluence with the Tanana River.

(xxi) Salmon may be taken only by set gill nets in those locations described in below after July 19:

(A) Waters of the Black River including waters within one nautical mile of its terminus;

(B) Waters of Kwikluak Pass downstream of Agmulegut and the waters of Kwemeluk Pass;

(C) Waters of Alakanuk Pass downstream from the mouth of Kuiukpak Slough;

(D) Waters of Kwiguk Pass downstream to the mouth of Kawokhawik Slough;

(E) Waters of Kawanak Pass downstream from Sea Gull Point;

(F) Waters of Apoon Pass downstream from the mouth of the Kotlik River and waters of Okwega Pass downstream from its confluence with Apoon Pass;

(G) Waters within one nautical mile seaward from any grassland bank in District 1.

(xxii) In the following locations, salmon may be taken only during the open weekly fishing periods of the commercial salmon fishing season and may not be taken for 24 hours before the opening and 24 hours after the closure of the commercial salmon fishing season except:

(A) Through July 19 in Districts 1 and 2 subsistence fishing periods will be established by emergency order every other weekend during commercial salmon fishing closures;

(B) After July 19 in District 1, except for the set net only locations, and in District 2, a 24 hour subsistence fishing period will be established by emergency order each weekend during commercial salmon fishing closures;

(C) In Subdistrict 4–A from June 15 through August 1, salmon may be taken from 6 p.m. Sunday until 6 p.m. Tuesday and from 6 p.m. Wednesday until 6 p.m. Friday;

(D) In Subdistricts 4–B and 4–C from June 15 through September 30, salmon may be taken from 6 p.m. Sunday until 6 p.m. Tuesday and from 6 p.m. Wednesday until 6 p.m. Friday;

(E) District 5, excluding the Tozitna River drainage and Subdistrict 5–D;

(F) District 6, excluding

(*1*) The Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River;

(*2*) Subdistrict 6–B, from the downstream end of Crescent Island to three miles upstream of the mouth of the Totchaket Slough, where salmon may be taken from 6 p.m. Friday until 6 p.m. Wednesday.

(xxiii) During any commercial salmon fishing season closure of greater than five days in duration, salmon may not be taken during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk and Innoko River drainages, salmon may not be taken from 6 p.m. Friday until 6 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5–B, salmon may not be taken from 6 p.m. Sunday until 6 p.m. Tuesday;

(C) In Subdistrict 6–A and 6–B, excluding the Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River, salmon may not be taken from 6 p.m. Wednesday until 6 p.m. Friday.

(xxiv) In Subdistrict 6–C and that portion of the Tanana River drainage upstream to the mouth of the Salcha River, salmon may not be taken following the closure of the commercial salmon fishing season from 6 p.m. Monday until 6 p.m. Friday.

(xxv) Adjustments may have to be made to the subsistence salmon fishing seasons and fishing periods to protect healthy populations.

(xxvi) Pike may not be taken with gill nets in the waters of the Tolovana River drainage from October 15 through April 14.

(xxvii) An Alaska Commercial Fisheries Entry Commission salmon permit holder registered for the set net only locations may not use drift gill nets for the subsistence taking of salmon in Districts 1, 2, and 3.

(xxviii) A commercial salmon fisherman who is registered for Districts 1, 2, or 3 may not take salmon for subsistence purposes in any other district located downstream from Old Paradise Village.

(xxix) During any commercial salmon fishing season closure of greater than five days in duration, salmon may not be taken during the following periods in District 4, excluding the Koyukuk and Innoko River drainages, salmon may not be taken from 6 p.m. Friday until 6 p.m. Sunday.

(xxx) In District 4, commercial fishermen may not take salmon for subsistence purposes during the commercial salmon fishing season by gill nets larger than six inch mesh after a date specified by emergency order issued between July 10 and July 31.

(xxxi) In Districts 4, 5 and 6, salmon may not be taken for subsistence purposes by drift gill nets, except as follows:

(A) In Subdistrict 4–A, upstream from the mouth of Stink Creek king salmon may be taken by drift gill nets from June 21 through July 14, and chum salmon may be taken by drift gill nets after August 2;

(B) No person may operate a drift gill net that is more than 150 feet in length during the seasons described in this section.

(xxxii) In Subdistricts 5–A, 5–B, 5–C, and that portion of Subdistrict 5–D downstream from Long Point, no person may possess salmon taken for subsistence purposes during a commercial fishing period, unless the dorsal fin has been immediately removed from the salmon. A person may not sell or purchase salmon from which the dorsal fin has been removed.

(xxxiii) In addition to the subsistence fishing permit conditions, permits issued for the taking of salmon in Subdistricts 6–A and 6–B must also contain the following requirements:

(A) Salmon may be taken only by set gill net or fishwheel. No household may operate more than one fishwheel;

(B) Each person subsistence fishing shall keep accurate daily records of his/her catch, the number of fish taken by species, location and date of the catch, and other information that the Federal Subsistence Board or Alaska Department of Fish and Game may require for management or conservation purposes;

(C) In that portion of Subdistrict 6–B three miles or more upstream of the mouth of Totchaket Slough, each permittee shall report the number of salmon taken to the Alaska Department of Fish and Game once each week, or as specified on the permit. In the remainder of Subdistrict 6–B and in Subdistrict 6–A, each permittee shall report the total number of salmon taken to the Alaska Department of Fish and Game no later than October 31.

(xxxiv) Subsistence fishermen taking salmon in Subdistrict 6–C shall report their salmon catches at designated Alaska Department of Fish and Game check stations by the end of each weekly fishing period. Immediately after salmon have been taken, catches must be recorded on a harvest form provided by the Alaska Department of Fish and Game.

(xxxv) The annual possession limit for the holder of a Subdistrict 6–C subsistence salmon fishing permit is 10 king salmon and 75 chum salmon for periods through August 15 and 75 chum and coho salmon for periods after August 15.

(xxxvi) Subsistence salmon harvest limits in Subdistrict 6–C are 750 king salmon and 5,000 chum salmon taken through August 15 and 5,200 chum and coho salmon combined taken after August 15. When either the king or chum salmon harvest limit for periods before August 16 has been taken, the subsistence salmon fishing season in Subdistrict 6–C will close. A later season will open after August 15 to allow the taking of the harvest limit for periods after August 15. If the chum salmon harvest limit has not been obtained through August 15, the remaining harvest will not be added to the chum salmon harvest level for periods after August 15.

(xxxvii) Subsistence salmon fishing seasons and weekly fishing periods for Subdistrict 6–C are as follows:

(A) Salmon may be taken at any time except salmon may not be taken for 24 hours before the opening and after the closing of the commercial salmon fishing seasons and during closed weekly commercial salmon fishing periods;

(B) Weekly subsistence salmon fishing periods that follow closures of the commercial salmon fishing seasons will be established by emergency order;

(C) The annual harvest limit for the holder of a Subdistrict 6–A or 6–B subsistence salmon fishing permit is 60 chinook salmon and 500 chum salmon for the period through August 15 of a year, and 2,000 chum and coho salmon combined for the period after August 15. Upon request, permits for additional salmon may be issued by the Alaska Department of Fish and Game;

(D) Unless otherwise provided, from June 20 through September 30, open subsistence salmon fishing periods are concurrent with open commercial salmon fishing periods. During closures of the commercial salmon fishery, open subsistence salmon fishing periods are as specified in 5 Alaska Administrative Code 05.367;

(E) In the Kantishna River drainage, the open subsistence salmon fishing periods are seven days per week;

(F) In Subdistrict 6–B from the downstream end of Crescent Island to a line three miles upstream from the mouth of the Totchaket Slough, the open subsistence salmon fishing periods are from 6 p.m. Friday through 6 p.m. Wednesday.

(4) Kuskokwim Area.

(i) Unless otherwise restricted, salmon may be taken in the Kuskokwim area at any time.

(ii) Except as otherwise provided, there is no closed season on fish other than salmon.

(iii) Salmon may only be taken by gill net, beach seine, fishwheel, or by a line attached to a rod or pole, subject to the restrictions set forth in this chapter, except that salmon may also be taken by spear in the Holitna River drainage.

(iv) The aggregate length of set gill nets or drift gill nets in use by any individual for taking salmon may not exceed 50 fathoms.

(v) Fish other than salmon may only be taken by set gill net, drift gill net, beach seine, fishwheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, or by a line attached to a rod or pole.

(vi) Each subsistence gill net operated in tributaries of the Kuskokwim River must be attached to the bank, fished substantially perpendicular to the bank and in a substantially straight line.

(vii) Fish may be taken for subsistence purposes without a subsistence fishing permit.

(viii) A gill net may obstruct not more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(ix) Kegs or buoys attached to subsistence gill nets may be any color except red during any open weekly commercial salmon fishing period.

(x) The maximum depth of gill nets is as follows:

(A) Gill nets with six-inch or smaller mesh may not be more than 45 meshes in depth;

(B) Gill nets with greater than six-inch mesh may not be more than 35 meshes in depth.

(xi) In addition to the previously stated requirements,

(A) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river;

(B) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(xii) In that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakof River, no part of a set gill net located within a tributary to the Kuskokwim River may be set or operated within 150 feet of any part of another set gill net.

(xiii) The Goodnews River is closed to the subsistence taking of fish by nets east of a line between Alaska Department of Fish and Game regulatory markers placed near the mouth of the Ufigag River and Alaska Department of Fish and Game regulatory marker placed near the mouth of the Tunulik River 24 hours before, during, and six hours after each open commercial salmon fishing period.

(xiv) The Kanektok River is closed to the subsistence taking of fish by nets upstream of Alaska Department of Fish and Game regulatory markers placed near the mouth 24 hours before, during and six hours after each open commercial salmon fishing period.

(xv) The Arolik River is closed to the subsistence taking of fish by nets upstream of Alaska Department of Fish and Game regulatory markers placed near the mouth 24 hours before, during, and six hours after each open commercials fishing period.

(xvi) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, salmon may be taken at any time except salmon may not be taken for 16 hours before, during and for six hours after, each open commercial salmon fishing period for District 1.

(xvii) In District 1, Kuskokuak Slough only, salmon may be taken at any time except:

(A) From June 1 through July 31, salmon may not be taken for 24 hours before and during each open commercial salmon fishing period in the district;

(B) From August 1 through August 31, salmon may not be taken for 15 hours before and during each open commercial salmon fishing period in the district.

(xviii) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, salmon may be taken at any time, except that from June 1 through September 8 salmon may not be taken for 24 hours before, during, and six hours after each open commercial salmon fishing period in the district.

(xix) In Districts 4 and 5, salmon may be taken at any time except from June 1 through September 8, salmon may not be taken for 24 hours before, during, and 6 hours after each open commercial salmon fishing period in each district.

(5) Bristol Bay Area.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time and by any gear, as specified in the definitions at § _____.26(b), for the Bristol Bay Area.

(ii) Within the waters of a district open during the commercial salmon fishing season, salmon may be taken only during open commercial salmon fishing periods.

(iii) Salmon, trout and char may only be taken under authority of a subsistence fishing permit.

(iv) Only one subsistence fishing permit may be issued to each household per year.

(v) No set gill net may obstruct more than one-half the width of a stream.

(vi) Each set gill net must be staked and buoyed.

(vii) No person may operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(viii) Within any district, salmon, herring, and capelin may only be taken by drift and set gill nets and by a line attached to a rod or pole.

(ix) Outside the boundaries of any district, salmon may only be taken by set gill net, except that salmon may also be taken by spear in the Togiak River including its tributaries.

(x) The maximum lengths for set gill nets used to take salmon are as follows:

(A) In the Naknek, Egegik and Ugashik Rivers, in the Nushagak District, set gill nets may not exceed 10 fathoms in length;

(B) In the remaining waters of the area, set gill nets may not exceed 25 fathoms in length.

(xi) Subsistence fishing is not permitted within the boundaries of Katmai National Park.

(xii) In the Naknek River outside the Katmai National Park, and the Egegik, and Ugashik Rivers from 9 a.m. June 23 through 9 a.m. July 17, salmon may be taken only from 9 a.m. Tuesday to 9 a.m. Wednesday and 9 a.m. Saturday to 9 a.m. Sunday. Subsistence fishing is not permitted within the boundaries of Katmai National Park.

(xiii) Except for the western shore of the Newhalen River, waters used by salmon are closed to the subsistence taking of fish within 300 feet of a stream mouth.

(xiv) Nushagak District.

(A) In the open waters of the Nushagak District, provision shall be made for subsistence salmon fishing by emergency order whenever there are commercial salmon fishing closures of five or more days. During these emergency order openings,

(1) Set gill nets may not be more than 10 fathoms in length;

(2) No set gill net may be set or operated within 450 feet of another set gill net, and

(3) Catches during the emergency order openings must be reported to the Dillingham Alaska Department of Fish and Game office within 24 hours after the closure.

(B) In the Nushagak District from an Alaska Department of Fish and Game regulatory marker located two statute miles south of Bradford Point to an Alaska Department of Fish and Game regulatory marker located at Red Bluff on the west shore of the Wood River, from 9 a.m. June 16 through 9 a.m. July 17, salmon may be taken only from 9 a.m. Monday to 9 a.m. Tuesday, 9 a.m.

Wednesday to 9 a.m. Thursday, and 9 a.m. Friday to 9 a.m. Saturday.

(xv) Naknek-Kvichak District.

(A) Subsistence salmon fishing permits for the Naknek River drainage will be issued only through the Alaska Department of Fish and Game King Salmon office.

(B) Subsistence fishing with nets is prohibited in the following waters and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14: Lower Talarik Creek, Roadhouse Creek, Nick G. Creek, Middle Talarik Creek, Alexi Creek, Copper River, Upper Talarik Creek, Tazimina River, Kakhonak River, Pete Andrew Creek, Young's Creek, Gibralter River, Zacker Creek, Chekok Creek, Dennis Creek, Newhalen River, Tomokok Creek, Belinda Creek.

(C) Gill nets are prohibited in that portion of the Naknek River upstream from Sovonaski.

(xvi) Togiak District. After August 20, no person may possess coho salmon for subsistence purposes in the Togiak River Section and the Togiak River drainage unless the head has been immediately removed from the salmon. It is unlawful to purchase or sell coho salmon from which the head has been removed.

(6) Aleutian Islands Area.

(i) Salmon may be taken by seine and gill net, with gear specified on a subsistence fishing permit, or by a line attached to a rod or pole.

(ii) Fish other than salmon may be taken by gear, as specified in the definitions at § ____.26(b), unless restricted under the terms of a subsistence fishing permit.

(iii) The Adak District is closed to the taking of salmon.

(iv) Salmon, trout and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak and Adak Districts. Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(7) Alaska Peninsula Area.

(i) Salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50 mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(ii) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

(iii) Salmon may be taken by seine and gill net, with gear specified on a subsistence fishing permit, or by a line attached to a rod or pole.

(iv) Fish other than salmon may be taken by gear, as specified in the definition at § ____.26(b), unless restricted under the terms of a subsistence fishing permit.

(v) No set gill net may exceed 100 fathoms in length.

(vi) The following waters are closed to subsistence fishing for salmon:

(A) Russell Creek and Nurse Lagoon;

(B) Trout Creek;

(C) Humboldt Creek.

(vii) Salmon, trout and char may be taken under the authority of a subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(8) Chignik Area.

(i) Salmon may be taken by seines and gill nets, or with gear specified on a subsistence fishing permit, or by a line attached to a rod or pole, except that in Chignik Lake, salmon may not be taken with purse seines.

(ii) Fish other than salmon may be taken by gear, as specified in the definitions at § ____.26(b), unless restricted under the terms of a subsistence fishing permit.

(iii) Salmon may not be taken in the Chignik River, upstream from the Alaska Department of Fish and Game weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

(iv) Salmon, trout and char may only be taken under the authority of a subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(v) From June 10 through September 30, commercial fishing license holders may not subsistence fish for salmon.

(9) Kodiak Area.

(i) Salmon may be taken for subsistence purposes from 6 a.m. until 9 p.m. from January 1 through December 31, with the following exceptions:

(A) From June 1 through September 15, salmon seine vessels may not be used to take subsistence salmon for 24 hours before, during, and for 24 hours after any open commercial salmon fishing period;

(B) From June 1 through September 15, purse seine vessels may be used to take salmon only with gill nets and no other type of salmon gear may be on board the vessel.

(ii) Fish other than salmon may be taken at any time unless restricted by the terms of a subsistence fishing permit.

(iii) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear, as specified in definitions at § ____.26(b).

(iv) Salmon may be taken only by gill net, seine, or by a line attached to a rod or pole.

(v) Subsistence fishermen must be physically present at the net at all times the net is being fished.

(vi) The following locations are closed to the subsistence taking of salmon:

(A) All waters of Mill Bay and all those waters bounded by a line from Spruce Cape to the northernmost point of Woody Island, then to the northernmost point of Holiday Island, then to a point on Near Island opposite the Kodiak small boat harbor entrance and then to the small boat harbor entrance;

(B) All Freshwater systems of Little Afognak River and Portage Creek drainage in Discoverer Bay;

(C) All water closed to commercial salmon fishing in Barbara Cove, Chiniak Bay, Saltery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Las Point to the tip of River Mouth Point of Afognak Bay;

(D) All waters 300 yards seaward of the terminus of Monks Creek;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All freshwater systems of Afognak Island;

(G) All waters of Ouzinkie Harbor north of a line from 57°55'10" N. lat., 152°36' W. long. to 57°55'03" N. lat., 152°29'20" W. long.

(vii) A subsistence fishing permit is required for taking salmon, trout and char for subsistence purposes. A subsistence fishing permit is required for taking herring and bottomfish for subsistence purposes during the commercial herring sac roe season from

May 1 through June 30. All subsistence fishermen shall keep a record of the number of subsistence fish taken each year. The number of subsistence fish shall be recorded on the reverse side of the permit. The record must be completed immediately upon landing subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game by February 1 of the year following the year the permit was issued.

(10) Cook Inlet Area.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Cook Inlet area.

(ii) Unless otherwise restricted or under the terms of a subsistence fishing permit, fish may be taken by gear, as specified in the definitions at § ____.26(b).

(iii) Smelt may be taken only with gill nets and dip nets. Gill nets used to take smelt may not exceed 50 feet in length and two inches in mesh size.

(iv) Whitefish may be taken only in the Tyonek River drainage and only under the authority of a permit issued by Alaska Department of Fish and Game.

(v) Gill nets may not be used, except for the taking of whitefish in the Tyonek River drainage.

(vi) Trout, grayling, char, and burbot may not be taken in fresh water, except that dolly varden may be taken in fresh water in the Port Graham Subdistrict.

(vii) Dolly varden may be taken in fresh water only under the authority of a subsistence fishing permit issued by the Alaska Department of Fish and Game; only one permit may be issued to a household each year. A subsistence fishing permit holder shall record daily dolly varden catches on forms provided by the Alaska Department of Fish and Game.

(viii) Dolly varden may be taken in fresh water for subsistence purposes in the Port Graham Subdistrict only from April 1 through May 31.

(ix) Dolly varden may be taken in fresh water only by beach seines not exceeding 10 fathoms in length.

(x) Salmon may be taken only under the authority of a subsistence fishing permit issued by the Alaska Department of Fish and Game; only one permit may be issued to a household each year. A subsistence fishing permit holder shall record daily salmon catches on forms provided by the department.

(xi) No person may operate or assist in the operation of subsistence salmon net gear on the same day that person operates or assists in the operation of commercial salmon gear.

(11) Prince William Sound Area.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Prince William Sound Area.

(ii) Salmon and freshwater fish species may be taken only under the authority of a subsistence fishing permit.

(iii) Only one subsistence fishing permit will be issued to each household per year.

(iv) Fish may be taken by gear, as specified in the definitions at § ____.26(b), unless restricted in this section or under the term of a subsistence fishing permit.

(v) Use of fishwheels.

(A) Fishwheels used for subsistence fishing may not be rented, leased, or otherwise used for personal gain.

(B) Subsistence fishwheels must be removed from the water at the end of the permit period.

(C) Each permittee may operate only one fishwheel at any one time.

(D) No person may set or operate a fishwheel within 75 feet of another fishwheel.

(E) No fishwheel may have more than two baskets.

(F) The permit holder must personally operate the fishwheel or dip net. A subsistence fishwheel or dip net permit may not be loaned or transferred except as permitted by this part.

(G) A wood or metal plate at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high, must be attached to each fishwheel so that the name and address are plainly visible.

(vi) Except as provided in this section, fish other than salmon and freshwater fish species may be taken for subsistence purposes with a subsistence fishing permit.

(vii) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted.

(viii) In locations open to commercial salmon fishing and in conformance with commercial salmon fishing regulations, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of one person;

(B) 30 salmon for a household of two persons;

(C) 10 salmon for each additional person in a household over two;

(D) No more than five king salmon may be taken per permit.

(ix) All tributaries of the Copper River and waters of the Copper River are closed to the taking of salmon.

(x) Crosswind Lake is closed to all subsistence fishing.

(xi) Salmon may be taken for subsistence purposes in the waters of the Southwestern District only as follows:

(A) Only pink salmon may be taken;

(B) Pink salmon may be taken by dip nets or by a line attached to a rod or pole;

(C) Salmon may be taken only from May 15 through September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) No fishing is allowed within the closed waters areas for commercial salmon fisheries;

(F) There are no bag and possession limits for this fishery;

(G) Permits may be issued only at Chenega Bay village.

(xii) Salmon may be taken for subsistence purposes in the waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point, only as follows:

(A) Only pink salmon may be taken;

(B) Pink salmon may be taken by dip nets or by a line attached to a rod or pole;

(C) Salmon may be taken only from May 15 through September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) No fishing is allowed within the closed waters areas for commercial salmon fisheries;

(F) There are no bag and possession limits for this fishery;

(G) Permits may be issued only at Tatitlek village.

(12) Yakutat Area.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Yakutat area.

(ii) Salmon may not be taken during the period commencing 48 hours before an opening until 48 hours after the closure of an open commercial salmon net fishing season. This applies to each river or bay fishery individually.

(iii) When the length of the weekly commercial salmon net fishing period

exceeds two days in any Yakutat Area salmon net fishery, the subsistence fishing period is from 6:00 a.m. to 6:00 p.m. on Saturday in that location.

(iv) Fish may be taken by gear, as specified in the definitions at § ____.26(b), unless restricted in this section or under the terms of a subsistence fishing permit.

(v) Salmon, trout, and char may be taken only under authority of a subsistence fishing permit.

(vi) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

(vii) Subsistence fishermen must remove the dorsal fin from subsistence caught salmon when taken.

(13) Southeastern Alaska Area.

(i) Salmon, trout, char and herring spawn on kelp may be taken only under authority of a subsistence fishing permit.

(ii) No person may possess subsistence-taken and sport-taken salmon on the same day.

(iii) Subsistence taking of steelhead trout is prohibited except that steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

(iv) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

(v) Subsistence fishermen shall immediately remove the dorsal fin of all salmon when taken.

(vi) Fish may be taken by gear, as specified in the definitions at § ____.26(b), except as may be restricted under the terms of a subsistence fishing permit and except as follows: set gill nets may not be used to take salmon except in the mainstream and side channels, but not the tributaries, of the Chilkat River from the terminus to one mile upstream of Wells Bridge.

(vii) From July 7 through July 31, sockeye salmon may be taken in the waters of the Klawock River, and Klawock Lake only from 8 a.m. Monday until 5 p.m. Friday

§ ____.27 Subsistence taking of shellfish.

(a) Regulations in this section apply to subsistence taking of dungeness crab, king crab, tanner crab, shrimp, clams, abalone, and other types of shellfish or their parts.

(b) Shellfish may be taken for subsistence uses at any time in any area of the public lands by any method unless restricted by the subsistence fishing regulations of this section or § ____.26.

(c) Methods, Means, and General Restrictions.

(1) The bag limit specified herein for a subsistence season for a species and the State bag limit set for a State general season for the same species are not cumulative. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified herein may not after that, take any additional shellfish of that species under any other bag limit specified for a State general season.

(2) Unless otherwise provided in this section, gear as specified in the definitions of § ____.26 is legal for subsistence taking of shellfish.

(3) It is prohibited to buy or sell subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified in this section.

(4) The use of explosives and chemicals is prohibited, except that chemical baits or lures may be used to attract shellfish.

(5) Each subsistence fisherman shall plainly and legibly inscribe their first initial, last name and address on a keg or buoy attached to unattended subsistence fishing gear. Subsistence fishing gear may not display a permanent Alaska Department of Fish and Game vessel license number.

(6) A side wall of all subsistence shellfish pots must contain an opening with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter. The opening must be laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread. Dungeness crab and shrimp pots may have the pot lid tiedown straps secured to the pot at one end by untreated cotton twine no larger than 120 thread, as a substitute for the above requirement.

(7) No person may mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(8) In addition to the marking requirements in paragraph (c)(5) of this section, keg or buoys attached to subsistence crab pots must also be inscribed with the name or U.S. Coast Guard number of the vessel used to operate the pots.

(9) No more than five pots per person and 10 pots per vessel may be used to take crab, except as specified in paragraph (f) of this section.

(10) In the subsistence taking of shrimp in the Glacier Bay National Preserve, no person may use more than 10 pots, and no more than 20 pots may be operated from a vessel. In the subsistence taking of shellfish other than shrimp in the Glacier Bay National Preserve, no person may operate more than five pots of any type, and no more than 10 pots of any type may be operated from a vessel.

(d) Subsistence Take by Commercial Vessels—No fishing vessel which is commercially licensed and registered for shrimp pot, shrimp trawl, king crab, tanner crab, or dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening until 14 days after the closure of a respective open season in the area or areas for which the vessel is registered.

(e) Unlawful Possession of Subsistence Shellfish. No person may possess, transport, give, receive or barter subsistence taken shellfish or their parts that the person knows or should know were taken in violation of a Federal or State statute or a regulation promulgated thereunder.

(f) Subsistence Shellfish Areas and Pertinent Restrictions.

(1) Southeastern Alaska-Yakutat Area. Shellfish may be taken for subsistence purposes in the Glacier Bay National Preserve only under the authority of a subsistence shellfish fishing permit.

(2) Cook Inlet Area. All waters within the boundaries of the Kenai National Wildlife Refuge are closed to the taking of shellfish for subsistence purposes.

(3) Kodiak Area.

(i) Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game before subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(iv) In the subsistence taking of king crab:

(A) The daily bag and possession limit is six crab per person and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) No more than five crab pots may be used to take king crab;

(D) King crab may be taken only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after open commercial fishing seasons for red king crab, blue king crab, or tanner crab in the location.

(v) In the subsistence taking of tanner crab:

(A) No more than five crab pots may be used to take tanner crab;

(B) From July 15 through February 10, the subsistence taking of tanner crab is prohibited in waters 25 fathoms or greater in depth, unless the commercial tanner crab fishing season is open in the location;

(C) The daily bag and possession limit is 12 crab per person and only male crab may be taken.

(4) Alaska Peninsula-Aleutian Islands area.

(i) Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(iv) In the subsistence taking of king crab:

(A) The daily bag and possession limit is six crab per person and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) Crab may be taken only from June 1 through January 31.

(v) The daily bag and possession limit is 12 tanner crab per person. Only male crab may be taken.

(5) Bering Sea Area.

(i) In waters South of 60° North latitude, shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit.

(ii) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots and ring net.

(iii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iv) In waters south of 60° North latitude, the daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(v) In the subsistence taking of king crab:

(A) In waters south of 60° North latitude, the daily bag and possession limit is six crab per person, and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) In waters south of 60° North latitude, crab may be taken only from June 1 through January 31.

(vi) In waters south of 60° North latitude, the daily bag and possession limit is 12 tanner crab, and only males may be taken.

Curtis V. McVee,

Chair, Federal Subsistence Board.

Michael A. Barton,

Regional Forester, USDA—Forest Service.

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federal register

Thursday
September 17, 1992

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research; Certain Rehabilitation Research and Training Centers; Funding Priorities for Fiscal Years 1993-1994; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Certain Rehabilitation Research and Training Centers; Proposed Funding Priorities for Fiscal Years 1993–1994

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for fiscal years 1993–1994 for certain Rehabilitation Research and Training Centers.

SUMMARY: The Secretary proposes funding priorities for Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1993–1994. The Secretary takes this action to focus research attention on areas of national need identified through NIDRR's long-range planning process. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before October 19, 1992.

ADDRESSES: All comments concerning these proposed priorities should be addressed to David Esquith, U.S. Department of Education, 400 Maryland Avenue, SW., room 3426, Switzer Building, Washington, DC 20202–2601.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: (202) 205–8801. Deaf and hearing-impaired individuals may call (202) 205–5516 for TDD services.

SUPPLEMENTARY INFORMATION: This notice contains 14 proposed priorities under the RRTC program. Ten of the priorities are in areas related to employment and vocational rehabilitation; two of the priorities are for research related to individuals with mental retardation; and two of the priorities are for research on issues related to families in which one or more members have a disability. NIDRR has published other proposed priorities for other RRTCs and other programs for fiscal years 1993–1994.

Authority for the RRTC program of NIDRR is contained in section 204(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762).

Under this program the Secretary makes awards to public agencies and to nonprofit and for-profit private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. The statute provides that RRTCs must be operated in collaboration with institutions of higher education.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

Description of the Rehabilitation Research and Training Center Program

RRTCs are established to conduct coordinated and advanced programs of rehabilitation research on designated rehabilitation problem areas and to provide training to researchers, service providers, and consumers. Each Center must disseminate and encourage the use of new rehabilitation knowledge and publish all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

The statute requires that each Center conduct training for providers of rehabilitation services at various levels, which may include undergraduate, in-service, and postgraduate education. Each RRTC also must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. NIDRR encourages all Centers to involve individuals with disabilities and minorities in clinical and research training.

Each Center must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers—including vocational rehabilitation service providers—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

To achieve the goals specified in the priority, the Secretary expects each RRTC to conduct a multifaceted program of research to develop solutions to problems confronted by individuals with disabilities. Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes; however, the regulatory selection criteria for the program (34 CFR 352.31) require that applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The regulations also require applicants to present a scientific methology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department of Education is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

NIDRR is in the process of developing a revised long-range plan focused on achieving six goals for individuals with disabilities (1) full integration into the community; (2) full employment; (3) independence and empowerment; (4) maximum human functioning and health; (5) improved vocational rehabilitation services; and (6) the translation of new knowledge and technology into practice. The priorities proposed in this notice are derived from the long-range planning process and are intended to achieve one or more of these six outcomes.

The Secretary will announce the final funding priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the final priorities, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications, and application materials are not available. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that

meet one of the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities:

Ten Priorities on Vocational Rehabilitation and Employment

The NIDRR long-range goals include facilitating increased employment and improved vocational rehabilitation services for individuals with disabilities. Achievement of these goals affects other NIDRR long-range goals of promoting community integration, independence, empowerment, and improved functioning. Testimony and deliberations of the NIDRR long-range planning process emphasized the need (1) to make meaningful work and rewarding careers accessible to all Americans with disabilities; and (2) to assist the State-Federal vocational rehabilitation (VR) system to provide more effective services to individuals who are members of previously under-served groups, including minorities, persons with severe disabilities, rural residents, persons with substance abuse disabilities, and persons with long-term mental illness or specified learning disabilities. NIDRR proposed an intensive and extensive program of 10 Rehabilitation Research and Training Centers to enhance the vocational rehabilitation service delivery system in order to improve the employment outcomes of persons with disabilities.

NIDRR requires that each Center conducting research in the areas of employment and vocational rehabilitation cooperate and coordinate with the relevant State VR agencies.

Proposed Priority 1—Enhancing Employability

Background

The employment status of persons with disabilities is well-documented—only about one-third of persons with disabilities of working age are employed, and only about one-fourth are employed full-time (Kraus and Stoddard, 1991). This priority focuses on improving the vocational skills and work behaviors that will enable individuals to obtain and retain suitable and satisfying employment in an increasingly demanding economy if they are (1) unemployed; (2) employed only part-time or part of the year when they seek full-time, year-round employment; or (3) employed below their skill level because they cannot obtain more suitable employment.

The International Center for the Disabled sponsored a survey of employers (Louis Harris and Associates, 1987) that revealed the importance of improving the vocational skills of persons with disabilities. The report on the survey concluded that the pool of qualified applicants with disabilities must be increased through improved education and appropriate job training. The report also indicated that employers generally do not have the in-service training capacity to assist employees in developing the skills needed for promotion. The report further suggested that current skills training programs are not meeting the needs of persons with disabilities who seek employment and, further, are not meeting their needs when they seek job advancement after initial employment has been achieved.

Persons with clear career goals are more likely to benefit from rehabilitation services than are clients without those goals (Sanderson, 1978). Career aspirations represent ambitions and motivations that are a central force in the attainment of educational and occupational achievements (Otto and Haller, 1979). Career exploration activities occur during adolescence or early adulthood. The limited research available suggests that youth with disabilities lag behind their non-disabled peers in the growth of career awareness and development of vocational interests (Chubon and Black, 1985; Simpson, 1986).

While there is a paucity of research on the career development of individuals with disabilities, there is even less information available on strategies that State vocational rehabilitation and educational agencies might use to place and maintain individuals with disabilities in jobs with opportunities for skill and salary advancement.

Overcoming barriers to opportunity and capitalizing on the increased access to employment provided by the Americans with Disabilities Act (ADA) require improvements in service delivery systems to increase the employability of individuals with disabilities.

An RRTC funded under this priority shall coordinate its efforts with the RRTCs that will be funded under Proposed Priority 2—Promoting Placement and Proposed Priority 3—Career Development and Advancement.

Priority

An RRTC on enhancing employability shall—

- Develop and evaluate model programs, involving collaborative efforts of multiple service delivery systems—including private and State rehabilitation agencies, independent living programs, and community facilities—to promote employment readiness, vocational skills, and positive work habits that will enhance the employability of individuals with disabilities;
- Identify, develop, and evaluate techniques to promote career awareness and career exploration in young persons with disabilities, using strategies that involve special education, secondary education, vocational education, transition programs, and youth manpower programs;
- Identify, develop, and evaluate the best practices for enhancing employability, involving special education, adult and vocational education, secondary education, transition programs, and other manpower training programs, and develop and test community-based employment planning and advancement strategies for all persons with disabilities, with emphasis placed on those individuals with various severe disabilities;
- Identify skills and knowledge required to empower consumers of employment-related services, and develop and demonstrate model services emphasizing consumer choice and self-advocacy in planning for and gaining access to education and training programs that can improve their employment status;
- Evaluate the effectiveness of new and emerging technology in improving vocational rehabilitation eligibility determinations, vocational assessment, job preparation, and job placement; and
- Collect and maintain research that has been conducted on issues related to the employability of all individuals with disabilities.

Proposed Priority 2—Promoting Placement

Background

In the past decade the population served by rehabilitation agencies has included more individuals who have severe cognitive, emotional, and physical disabilities. Accompanying this increase in the number of individuals with severe disabilities has been an increase in the technical and interpersonal complexities of jobs, a decrease in the supply of entry level jobs available to individuals with disabilities, and higher unemployment rates in those occupations in which individuals with disabilities traditionally have found work. Placement specialists have responded to these circumstances with training in marketing methods and job clubs (Greenwood and Johnson, 1985, 1987;

Schriner, Johnson, and Greenwood, 1988, 1991).

Rehabilitation counselors are being asked to place a larger number of persons with more severe disabilities in a more demanding and complex labor market. New placement techniques are needed to increase the number of placements. Providing rehabilitation counselors with training on these techniques will enable them to match the skills of their clients with the demands of the market.

An RRTC funded under this priority shall coordinate its efforts with the RRTCS that will be funded under Proposed Priority 1—Enhancing Employability and Proposed Priority 3—Career Development and Advancement.

Priority

An RRTC on promoting placement shall—

• Develop and evaluate placement models, with emphasis placed on persons with severe disabilities, using general marketing strategies and involving multiple service delivery systems, including private and State rehabilitation agencies, independent living programs, and community facilities;

• Develop methodologies to document best practices in placement and follow-up services for individuals, with emphasis placed on persons with severe disabilities;

• Identify and analyze concerns and practices of employers regarding their expectations and the contributions they are prepared to make in integrating individuals with disabilities into the workplace, with emphasis placed on persons with severe disabilities;

• Develop strategies to enhance VR agencies' use of technology and other job accommodation techniques to increase the number of appropriate placements into competitive employment, with emphasis placed on persons with severe disabilities, and to assist in matching client skills with market demands;

• Develop and maintain a national database on the number and type of placements made by VR agencies; and

• Provide technical assistance to VR agencies and rehabilitation educators in promoting job placement for persons with severe disabilities.

Proposed Priority 3—Career Development and Advancement

Background

Assisting individuals with disabilities to achieve vocational goals is the objective of vocational rehabilitation. However, the pressure to place individuals can compromise efforts of counselors to assist persons with disabilities to pursue vocations that offer opportunities for promotion and career development.

There has not been sufficient emphasis on career development and advancement for individuals with disabilities (Bagley, 1985). While there is a paucity of research on the career development of individuals with disabilities, there is even less information available on strategies that State vocational rehabilitation and educational agencies might use to place and maintain individuals with disabilities in jobs with opportunities for skill and salary advancement.

An RRTC funded under this priority shall coordinate its efforts with the RRTCs that will be funded under Proposed Priority 1—Enhancing Employability and Proposed Priority 2—Promoting Placement.

Priority

An RRTC on career development and advancement shall—

• Identify and analyze state-of-the-art career development practices for non-disabled individuals and develop and test, for individuals with disabilities, modifications that incorporate the latest knowledge on job training and job accommodations;

• Develop and evaluate career counseling techniques to assist clients with disabilities in identifying careers that most appropriately fit their individual interests and abilities;

• Develop research-based criteria to document best practices in aiding individuals with various disabilities to enter the careers they choose;

• Identify and analyze expectations, concerns, and practices of employers related to promoting the careers of individuals with disabilities;

• Develop standards and performance indicators that enable VR agencies, educational agencies, independent living centers, and individuals with disabilities and their families to assess the effectiveness of career development activities;

• Develop and maintain a national database on research on the career experiences of individuals with disabilities; and

• Provide technical assistance to VR agencies and to employers on expanding career options and professional development for persons with disabilities.

Proposed Priority 4—Supported Employment

Background

Since its inception in 1985, supported employment has evolved into an integral component of the State-Federal vocational rehabilitation program. The Survey of Supported Employment Implementation (Virginia Commonwealth University, 1991) indicated that approximately 70,000 individuals were receiving services through local supported employment programs in FY 1990. An estimated one-third of these individuals had never worked before, and those who had worked experienced 400-to-500 percent increases in their earnings after participation in supported employment (Virginia Commonwealth University, 1991). In addition to enhancing economic self-sufficiency, supported employment has also had a tremendous impact on the personal and social lives of individuals with severe disabilities.

There remains a considerable unmet need for supported employment services. In FY 1989 State VR agencies reported data on 51,992 consumers with severe disabilities who had been served in supported employment programs (Rehabilitation Services Administration, 1991). This represents a 600 percent increase from 9,876 served in fiscal year 1986 (OSERS News in Print, 1990). These agencies estimated that more than two million other clients need supported employment services.

Research on supported employment can expand the knowledge base about effective practices in order to maximize the usefulness of the resources that are available. In order to serve more persons, new supported employment techniques must be developed, evaluated, and disseminated.

Priority

An RRTC on supported employment shall—

• Develop and evaluate service delivery strategies and interventions that will enhance the capacity of supported employment programs to meet the employment needs of those who could benefit from these programs;

• Develop and evaluate strategies to leverage VR funds to attract additional resources from other sources for long-term support;

• Develop guidelines and provide technical assistance for the involvement of individuals with severe disabilities and their families in determining supported employment objectives and evaluating outcomes;

• Determine the most effective methods to augment existing resources in order to increase the number and diversity of individuals with severe disabilities in supported employment programs;

• Develop models to facilitate assessment of the effectiveness of supported employment programs;

• Develop strategies for tracking individuals in supported employment programs longitudinally, beyond the 18-month period of VR agency support;

• Examine operational costs and consumer benefits of supported employment in relation to those obtainable through other service alternatives in order to address unmet needs;

• Develop and maintain a national database on research involving supported employment, particularly that which relates to innovative practices and the creative use of resources to address unmet needs; and

• Provide technical assistance to VR agencies and to employers on expanding supported employment options for persons with disabilities through the creative use of resources.

Proposed Priority 5—Vocational Rehabilitation for Individuals with Substance Addiction Disabilities

Background

The implication of substance addiction for employment and vocational rehabilitation requires more intensive study. Data from the National Institute on Drug Abuse (NIDA) 1988 National Household Survey indicates that 70 percent of the people who use illegal substances are in the workforce. According to NIDA (June, 1990) this suggests that over 10 million employed people are current users of illicit drugs. Studies have shown that substance addiction impairs employee performance and productivity and also causes substantial increases in accident rates, absenteeism, and health care costs.

One major question facing service providers is whether substance rehabilitation techniques or traditional vocational rehabilitation methods provide the most effective approach to serving individuals with substance addiction disabilities. For the purpose of this priority, substance addiction is limited to substances other than alcohol, although alcohol addiction may be present, as well. Any RRTC to be funded under this priority shall distinguish between those individuals with substance addiction disabilities who are skilled and employed from those who are unskilled. unemployed, have a history of long-term drug abuse and may need more comprehensive treatment and rehabilitation services. In addition, any RRTC to be funded under this priority shall coordinate its efforts with any other drug-related center funded by NIDRR and with those of the National Institute on Drug Abuse and the Rehabilitation Services Administration.

Priority

An RRTC on vocational rehabilitation for individuals with substance addiction disabilities shall—

• Identify the vocational rehabilitation needs of individuals whose substance addiction has resulted in work disabilities;

• Develop, demonstrate, and evaluate effective models of vocational rehabilitation services for substance-addicted individuals that result in the achievement of vocational goals that are employer-responsive;

• Develop and evaluate vocational rehabilitation models for individuals having substance addiction problems;

• Develop and evaluate models of long-term support services as needed for substance-addicted persons placed in employment; and

• Provide training and technical assistance in the delivery of vocational rehabilitation services to this population.

Priority 6—Vocational Rehabilitation and Specific Learning Disabilities

Background

Specific learning disability (SLD) is an "invisible" disability, affecting an individual's ability to learn and process knowledge through traditional channels. It is a condition that may have severe manifestations that are often mistaken for lack of motivation and interest, psychological dysfunction, or mental retardation. Frequently, the functional and vocational limitations connected with SLD are masked by the traditional assessment approaches used by rehabilitation agencies (paper and pencil tests, psychometrics, vocational evaluations, or review of academic records).

In summarizing rehabilitation statistics in State VR programs, the Rehabilitation Services Administration reports that the percentage of clients with SLD as the primary disability rose from 1.3 percent in 1983 to an estimated 5 percent in 1990. During this same period, the percentage of persons with SLD as a secondary disability rose from 0.2 percent to 0.5 percent, making individuals with SLD the fastest growing disability population served in the State-Federal VR program. (Carney, 1991). This may be due to new developments in identifying and reporting learning disabilities rather than to an increase in the actual incidence of the impairment. Adults, including young adults, did not necessarily have the opportunity to receive special education, and particularly not the enhanced special education services guaranteed by P.L. 94-142, and therefore require special interventions to enhance their employability.

Although State VR agencies have been serving this new and challenging population with limited success, the varied approaches to training and service and the limited research activities that they have generated have not been integrated into a cohesive service model. (Berkeley Planning Associates, 1989). There is a serious gap in applied research on SLD rehabilitation issues.

Priority

An RRTC on vocational rehabilitation and specific learning disabilities shall—

• Improve techniques for vocational rehabilitation professionals to assess the functional and work limitations, rehabilitation needs, and vocational potential of individuals with SLD, with a special emphasis on adults;

• Develop and evaluate rehabilitation intervention strategies that will lead to better employment outcomes for individuals with SLD;

• Develop, demonstrate, and evaluate service delivery models that coordinate the services of secondary education—including special education—postsecondary education, and other human resource service providers—including community-based facilities—in order to optimize employment and career outcomes for individuals with SLD served or having the potential to be served by vocational rehabilitation agencies; and

• Develop techniques for staff development and training to increase the availability of rehabilitation service professionals trained to identify and meet the special vocational needs of individuals with SLD.

Proposed Priority 7—Improving Vocational Rehabilitation for Minority Populations

Background

Research on the prevalence of disabilities in minority populations (Anderson, 1988; Bowe, 1985; Hopkins, 1988) and the employment status of minority individuals with disabilities (Asbury, Walker, Malhomes, Rackley, and White, 1991) indicates the

importance of the vocational rehabilitation system in serving minority individuals with disabilities. In the early and mid-1980s, some researchers concluded that African-Americans were faring worse than their white counterparts in the rehabilitation process (Atkins and Wright, 1980; Johnson, 1983; Baldwin and Smith, 1984). While these studies raise serious issues concerning the status of African-Americans, their implications for the current vocational rehabilitation system are uncertain due to their limited size and scope, as well as the fact that the vocational rehabilitation system has undergone considerable change in the ensuing years (e.g., the growth of supported employment activities and the increasing utilization of assistive technology). In addition, the literature contains virtually no empirically-based research on the status of other minority populations such as Hispanic-Americans or Asian-Americans with disabilities in the vocational rehabilitation system.

While little quantitative current research exists regarding the status of minority populations with disabilities in vocational rehabilitation services as a whole, there is a substantial body of data, which is largely unanalyzed, about minority individuals who are eligible for services from the State-Federal vocational rehabilitation system. For example, the Rehabilitation Services Administration's Case Service Report contains considerable information on minority individuals served by the State vocational rehabilitation service system. Other databases such as the U.S. Current Population survey, the National Health Interview Survey, and the Survey of Income and Program Participation also include information about minority individuals with disabilities that may have significant implications for the future direction of vocational rehabilitation services to individuals with disabilities who are members of minority groups.

The RRTC funded under this priority will use the most recent databases on the status of minority individuals with disabilities as a starting point in order to conduct research that is national in scope and that addresses the common, as well as unique, vocational rehabilitation issues that may pertain to African-Americans, Hispanic-Americans, and Asian-Americans with disabilities. The RRTC funded under this priority shall not include American Indians with disabilities because Proposed Priority 8—Rehabilitation of American Indians with Disabilities—will conduct research in this area.

Priority

An RRTC on the vocational rehabilitation of minority populations shall be carried out in two phases. In the first phase, this RRTC shall—

- Analyze existing disability data to determine the relative prevalence of various disabling conditions among African-Americans, Hispanic-Americans, and Asian-Americans with disabilities;
- Analyze existing disability data, including data from the Rehabilitation Services Administration's Case Service Report, to compare the experiences within the vocational rehabilitation system of African-Americans, Hispanic-Americans, and Asian-Americans with disabilities to their white counterparts at major junctures of the vocational rehabilitation process, including analyses of data on acceptances, case closures, services provided, and employment outcomes;
- Analyze existing disability data to determine the extent to which African-Americans, Hispanic-Americans, and Asian-Americans with disabilities are recruited for positions as vocational rehabilitation practitioners and are appropriately trained for these positions;

Based on the needs identified by the above analyses, in the second phase, an RRTC on the vocational rehabilitation of minority populations shall—

- Design interventions to improve outreach and participation rates for African-Americans, Hispanic-Americans, and Asian-Americans with disabilities;
- Develop and test service delivery models for the most underserved minority populations that result in higher rates of services and better employment outcomes; and
- Identify those vocational rehabilitation policies, programs, or practices that contribute to improved employment outcomes for African-Americans, Hispanic-Americans, and Asian-Americans with disabilities.

Proposed Priority 8—Rehabilitation of American Indians With Disabilities

Background

The prevalence of disability is unusually high among American Indians. There is evidence that some disabling conditions are disproportionately represented in this population (Northern Arizona University; University of Arizona, 1987). Testimony presented to the NIDRR public hearings for long-range planning emphasized concern with the prevalence of fetal alcohol syndrome, spinal cord and traumatic brain injuries, substance abuse, and diabetes.

American Indian tribes have had discrete formal vocational rehabilitation service programs for a relatively short period of time. Traditionally, the needs of individuals with disabilities were considered the responsibility of the reservation governance, the rehabilitation programs within State agencies, the Indian Health Service, and the Bureau of Indian Affairs. In recent years individual tribes have become directly involved in the provision of vocational rehabilitation services to their members.

A report on the special problems and needs of American Indians with disabilities, both on and off the reservation, recommended the following action steps in improving the rehabilitation of American Indians with disabilities (1) address the cultural influences on rehabilitation service delivery; (2) provide rehabilitation services to young American Indians with disabilities; (3) address the variability in the distribution of disabling conditions; (4) facilitate Vocational Rehabilitation-Tribal relationships to improve service delivery to American Indians; (5) increase efforts to conduct cooperative interagency activities; (6) increase rehabilitation efforts for American Indians who are disproportionately represented in certain disability-related conditions; (7) improve the employment status of American Indians with disabilities; and (8) improve the database on American Indians with disabilities. (Northern Arizona University; University of Arizona, 1987).

Priority

An RRTC on rehabilitation of American Indians with disabilities shall—

- Develop, demonstrate, and evaluate culturally relevant vocational rehabilitation techniques for use in the development of more effective services to American Indians;
- Develop, demonstrate, and evaluate specialized interventions that effectively address disabilities of high prevalence among American Indians;
- Develop strategies to improve employment outcomes for American Indian clients of the VR service system, including higher rates of employment and more promising occupational placements;
- Develop strategies to increase the number of qualified American Indian professionals providing VR services through State and tribal agencies; and

• Develop models to improve rehabilitation and independent living services for American Indians in their communities.

Proposed Priority 9—Community-Based Rehabilitation Programs

Background

The nearly 7,000 rehabilitation community-based rehabilitation programs are faced with significant challenges, including the increased complexity and severity of the disabilities of individuals they serve, the increasingly diverse cultural backgrounds of their clients, and the potential of new technology for enabling clients to achieve many of their objectives. The changing nature of the client population, which numbers 800,000 on average per day, creates different expectations of these community-based service providers and their role in the rehabilitation process by individuals, families, and employers (Botterbusch, 1990; Menz, 1985, 1988, 1990; Thomas and Menz, 1990).

Nearly 90 percent of the individuals with disabilities who receive vocational rehabilitation services from community-based rehabilitation service providers are sponsored in part by public funds, and one-third are clients of the State-Federal vocational rehabilitation program, accounting for approximately 40 percent of vocational rehabilitation case service dollars. The primary focus in these programs continues to be on the independence, community integration, and vocational development of the individual.

Priority

An RRTC on improving community-based rehabilitation programs shall—

• Identify, evaluate, adapt, and demonstrate model community-based rehabilitation programs that reflect advances in rehabilitation practice, adapt to local labor market conditions, emphasize consumer self-direction in identifying effective rehabilitation and placement strategies, and promote community integration and quality employment;

• Develop techniques for community-based rehabilitation providers to access a variety of community resources, including non-traditional funding sources, to support ongoing rehabilitation services in the community;

• Develop training and technical assistance materials to increase the expertise of personnel of these programs in obtaining community-based employment for, and providing a wide range of services to, complex and diverse populations; and

• Develop and demonstrate methods to increase participation by individuals with disabilities in the management and operation of rehabilitation programs.

Proposed Priority 10—Management of Information and Information Systems in State VR Agencies

Background

Information systems can be useful to VR agencies in financial and program management, client tracking, job development and placement, and measuring performance and outcomes. Contemporary VR information systems may be difficult to use and may be inadequate for the purposes of managers, counselors, individuals with disabilities and their families, and policy makers in the public and private sectors (President's Committee on Employment of Persons with Disabilities, 1990).

Measuring progress, overcoming existing barriers to opportunity, and capitalizing on promising social and policy initiatives require a modern rehabilitation information system that, at a minimum (1) addresses well-defined objectives and serves the needs of specific users; (2) is both comprehensive and versatile; (3) is kept current through frequent updates, enabling it to document patterns and trends; (4) is user friendly to the extent that development, maintenance, and updating of the information system can be handled by existing staff; (5) is readily accessible to researchers, service providers, consumers, and others; and (6) provides timely response to requests from Federal policy-makers.

The RRTC funded under this priority shall coordinate its efforts with the Rehabilitation Services Administration's study "Assessment of Client Information Systems" and the longitudinal evaluation of the VR system.

Priority

An RRTC on management of information and information systems in State VR agencies shall—

• Develop systems to provide VR agencies with access to both private-sector and public-sector data—regarding economic trends and identification or prediction of long-term job and career opportunities—that can be used for aiding individuals with disabilities;

• Expedite the transfer of policy, program, and training information; and maintain special outreach and dissemination efforts, including an electronic bulletin board to reach professionals in State VR agencies, other Federal agencies, NIDRR grantees, independent living programs, and consumers;

• Evaluate all existing State Vocational Rehabilitation agencies' management information systems and identify exemplary practices; and

• Provide training on the establishment and operation of information systems to State-Federal VR personnel and other rehabilitation service providers.

Two Priorities Related to Mental Retardation

The deinstitutionalization of individuals with mental retardation, together with rising expectations for productive and rewarding lives among individuals with mental retardation and their families, creates demands for new and improved services in the community to meet the needs of this population. The service system must develop the capacity to assist and empower individuals with mental retardation and their families to choose from a range of options in work, living arrangements, education, and recreation. For the first time a significant and growing number of individuals with mental retardation are aging in community-based settings and experiencing a wider range of the typical problems of aging—exacerbated manifestations of their disability, new health impairments, and loss or aging of parents and other family members.

The following two priorities address the need for new service models to address the emerging problems related to community integration and aging with mental retardation.

Proposed Priority 11—Aging With Mental Retardation

Background

The process of aging is often accelerated among individuals with various forms of mental retardation. Some of the phenomena that have been observed include decline in physical strength and endurance and general health earlier than in the general population, earlier onset of dementia, and accelerated decline in cognitive functions and behavior. These additional functional losses may compromise the individual's ability to compensate or use other adaptive strategies to cope with the original functional loss.

Advances in medical technology and lifetime medical care have resulted in increased longevity for individuals with mental retardation. While data indicate that life expectancy is still somewhat shorter in individuals with mental retardation as a whole than in the

general population, it is not unusual for individuals with mental retardation to outlive their parents. Thus, the need for planning and provision of future services has become an important issue for parents and other family members. In addition, as a result of the deinstitutionalization of substantial numbers of individuals with mental retardation, many of these individuals will age in community living situations.

Although mental retardation is the single largest category of life-long disability in developed nations, most research and service attention has been concentrated on infants, children, and youth with mental retardation. There has been little study of older individuals with mental retardation, resulting in a need for research focused on the increasing number of these aging individuals who live and work in the community and who have expectations and needs for support services to enable them to remain in least restrictive environments.

In recent years, service providers, families, and individuals with disabilities have recognized the need for age-appropriate services for mentally retarded adults. Research is needed on how a new and expanded service continuum, including innovative technology, and enhanced self-determination skills can enable members of this population to achieve and maintain independence, productivity, community integration, and full citizenship.

Priority

An RRTC on aging with mental retardation shall—

- Develop models and assess techniques for empowering individuals aging with mental retardation to participate in decision-making processes of their future service plans, housing, life-planning, health care, and community participation;
- Acquire data on the medical conditions associated with aging with mental retardation;
- Increase the understanding of their families and service providers about the changing physical, psychological, vocational, and life-planning needs of this aging population;
- Demonstrate successful techniques, including assisitive technologies, that enable individuals aging with mental retardation to cope with and compensate for deteriorating physical and psychological functional capacities;
- Develop and evaluate counseling and other techniques to assist aging individuals with mental retardation to cope with and adjust to the death or incapacity of their parents or other caregivers; and
- Evaluate strategies and interventions to improve the retirement, financial security, health care, and independent living status of this aging population.

Proposed Priority 12—Community Integration for Persons With Mental Retardation

Background

Nearly four million Americans have mental retardation and other developmental disabilities of diverse levels and types, and with varied individual capabilities (U.S. Department of Health and Human Services, 1989). Of these four million persons, approximately one million may require an extensive array of services (Gettings, 1990). The number of individuals with mental retardation and other developmental disabilities in State institutions decreased by more than 50 percent, or more than 100,000 persons, during the two decades from 1967 to 1988 (Braddock and Hemp, 1990), thus leading to increased demands on community resources.

Consequently, individuals with mental retardation need to have opportunities and support to achieve full integration into the community, productive employment, and self-direction. Three areas of research have demonstrated particularly promising approaches to enhancing community integration—development of appropriate technologies; model services to cope with transitions and family support issues; and strategies to increase empowerment and self-advocacy for individuals with developmental disabilities.

During the past decade there has been an increase in assistive technology to aid individuals with disabilities to become more independent. There is a need to identify (1) the variables that contribute to the successful use of technology by individuals with mental retardation; and (2) the types of technology that will contribute to their community integration. Individuals with mental retardation and their families, service providers, vocational rehabilitation counselors, employers, and others need training in the benefits and uses of assistive technology that can promote maximum independence and community integration.

Successful community integration of persons with disabilities is dependent, in part, on the skills of family members. Moroney (1979) has stated that the limited options and minimal support currently provided to families of persons with mental retardation and other developmental disabilities is the result of public policies emphasizing *substitution* for the family rather than its *enhancement*. Very little research has been undertaken to determine how best to help families of persons with mental retardation, particularly those from minority, poor, rural, and non-traditional backgrounds (Testimony of the Association for Retarded Citizens, NIDRR Long-Range Plan Hearing, 1990).

Priority

An RRTC on community integration for persons with mental retardation shall—

- Demonstrate and evaluate models to improve use of technology for communication, self-management, employment, and home management by individuals with mental retardation;
- Develop and evaluate models to increase physical and social integration of individuals with mental retardation in their communities and in the workplace;
- Demonstrate and evaluate the effect of enhanced family participation in community integration of persons with mental retardation; and
- Demonstrate and evaluate models that result in more effective self-direction and self-representation by persons with mental retardation.

Two Priorities on Families of Individuals with Disabilities

Families that have members with disabilities can contribute significantly to an enhanced quality of life for those members. Throughout the long-range planning process, NIDRR was reminded of the importance of the family in attaining successful outcomes for both children and adults with disabilities. Because of the need for a significant volume of research on families, and because of some basic differences in the issues confronting families in which the disabled members are adults versus those in which disabled members are children, NIDRR has chosen to propose two Centers to focus separately on strategies to meet the needs of each of these two family configurations.

Proposed Priority 13—Families of Children With Disabilities

Background

The major goals of family support programs are to "deter out-of-home placements; enhance the care-giving capacities of the families; and enable persons to return to their families if they have been living in institutions" (Agosta and Bradley, 1985). There are several specific areas in which research and training could contribute to the

achievement of these family-centered goals. These include (1) the use of technology to enhance functioning and meet needs for care; (2) strategies to improve the service systems; (3) strategies to serve minority groups; (4) strategies to reduce the incidence of neglect and abuse; and (5) strategies to serve as effective advocates for themselves and their children in reforming policy and gaining access to appropriate services.

As many as 17,000 children rely on medical technology to perform vital life functions, and many thousands more could benefit from assistive technology for communications, adaptive seating, mobility, and interactions with the environment. Families need information on the potential and uses of technology and on resources to obtain technology. Public policy and financing practices may either facilitate or impede access to technology, and these effects must be better understood.

The existing services systems for families of children with disabilities have been developed with an imperfect understanding of or lack of focus on family needs. Many service delivery systems are still tied to the concepts of "family dysfunction or incapacity, with the child and family as the target for change" (Franke, 1988). There is a need to investigate the ways in which families can identify accurately their strengths, resources, and needs and a concomitant need to identify effective family-centered service delivery systems. Parents and service providers, as well as children with disabilities themselves, need training and technical assistance in effective self-representation and validated strategies to access family supports.

There is evidence that certain children may be at a higher risk for abuse and neglect than others. "Children who are difficult to manage and exacerbate already high stress levels in the family, or who are perceived as 'different' are more likely to become victims of maltreatment from high risk caretakers" (Ammerman, 1988). Indeed, a number of studies have found an over-representation of physically and mentally disabled children among samples of maltreated children (Kurland and Burgess, 1982). Researchers need to identify the factors that contribute to and are predictive of maltreatment of children with disabilities and develop appropriate interventions.

Priority

An RRTC on families of children with disabilities shall—

- Demonstrate and evaluate appropriate use of technology to facilitate in-home care and community integration for children with disabilities;
- Develop, demonstrate, and evaluate service delivery models that identify critical family needs and develop interventions to meet those needs;
- Develop, demonstrate, and evaluate an array of service delivery models that encourage families to serve as effective advocates for themselves and their children in reforming policy and gaining access to appropriate services;
- Develop, demonstrate, and evaluate service delivery models that meet the needs of all parents, regardless of their individual circumstances, for effectively parenting children with disabilities; and
- Develop, demonstrate, and evaluate service delivery models that reduce the incidence of neglect and abuse of children with disabilities.

Proposed Priority 14—Families of Adults with Disabilities

Background

Whether families are formed through marriage, birth, adoption, or other commitments, they are basic units in which the individuals have a commitment and shared responsibility to provide emotional, physical, and financial supports to maintain each member's well-being. While there is a growing body of literature on families with children with disabilities, less is known about families in which the disabled member is an adult. The challenges a family might face when an adult has a disability will vary greatly depending on the type of disability, the time of life in which it occurs, and the impact of the disability on need for care, ability to earn income, and life expectancy.

Problems of family function that may confront adults with disabilities and their families include, but are not limited to (1) establishing appropriate independence from parents; (2) creating and maintaining a marital relationship; (3) reproducing or adopting children or becoming foster parents; (4) parenting children; (5) caring for aging parents; (6) providing economic well-being and security for the family; (7) providing for personal care and assistance; and (8) planning for future economic and care needs in light of anticipated future diminution in functional capacity or reduced life expectancy. These problems may be common to all families, but individuals who have disabilities frequently need additional supports and technologies to enable them to solve these problems.

Priority

An RRTC on families of adults with disabilities shall—

- Identify and assess current options, and develop new options for individuals with disabilities to become parents; and develop strategies to effectively parent their children, including increased access to support services;
- Identify and assess current techniques, and develop new techniques to provide tangible and intangible supports to spouses and other members of families of adults with disabilities, particularly during crises caused by the onset of a disability or its significant exacerbation;
- Develop strategies that promote the ability of adults with disabilities to provide long-term financial support, insurance, health benefits, education, and other benefits for their families; and
- Promote appropriate assistive technology to enhance parenting, self-care, care by and of others, independence in the family, community integration, and work.

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3423, Mary Switzer Building, 330 "C" Street SW., Washington, DC, between the hours of 8 a.m. and 3:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR parts 350 and 352.

Program Authority: 29 U.S.C. 760–762

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: September 10, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–22460 Filed 9–16–92; 8:45 am]

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Part V

Department of Labor

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Prevailing Practice Determinations; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA93

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Prevailing Practice Determinations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration of the Department of Labor is amending the regulations for the temporary alien agricultural labor certification (H-2A) program. The amendment explains the standard for determining when or where a particular employment practice is prevailing in the occupation in the area of intended employment. Such determinations are made with respect to the provision by covered employers of family housing and transportation advances, and the frequency of such employers' wage payments to workers, and such employers' utilization of farm labor contractors.

EFFECTIVE DATE: October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Flora Richardson, Chief, Division of Foreign Labor Certifications, United States Employment Service, Telephone: 202-535-0163 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On February 12, 1991, the Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) published a Notice of Proposed Rulemaking (NPRM) to amend the regulations for the temporary alien agricultural labor certification (H-2A) program. 56 FR 5670. The proposed rule reflects program experience ETA has gained since the H-2A program interim final rule was published on June 1, 1987 (52 FR 20496), and since ETA Handbook No. 398 was published on June 13, 1988 (53 FR 22076). See also 20 CFR part 655, subpart B; 29 CFR part 501; and 54 FR 28037 (July 5, 1989). The NPRM explained the standard for determining when or where a particular employment practice is prevailing in the occupation in the area of intended employment.

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). ETA's regulations for the temporary employment of nonimmigrant aliens in agriculture in the United States are issued pursuant to the Immigration and Nationality Act (INA). 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188. One aspect of ETA's role in reviewing an employer's application for temporary alien agricultural labor (H-2A) certification is determining whether the benefits and working conditions offered by a prospective employer of H-2A workers are acceptable or would have an adverse effect on U.S. workers similarly employed in the area of employment. In evaluating an employer's job offer, ETA must determine if certain benefits and procedures are in accordance with the prevailing practice in the area and occupation.

To clarify the methodology utilized in determining whether it is prevailing practice to engage in a practice or offer a benefit, ETA proposed the following standard:

(1) A majority of employers of employees in an occupation in an area engage in the practice (or offer the benefit); and

(2) This majority of employers also employs a majority of U.S. workers in the occupation in the area.

If this standard is not met, the practice or benefit would not be determined to be prevailing. See also Employment and Training Administration Handbook No. 398 at II-6 and II-7; and 56 FR 5670 (February 12, 1991).

This standard is used for determining whether covered employers must offer to provide family housing and advance transportation, what the frequency of wage payments by such employers to workers shall be, and whether such employers must offer to use farm labor contractors. See 20 CFR 655.102(b)(1)(vi), (b)(5)(i), and (b)(10), 655.102(d), and 655.103(f). For determinations concerning family housing and frequency of payments, "the majority of employers" component of the measurement includes H-2A and non-H-2A employers in the area and the occupation. For determinations concerning transportation advances and utilization of farm labor contractors, the "majority of employers" component includes only non-H-2A user employers in the area and the occupation. The inclusion or exclusion of H-2A employers in these measurements is determined by pertinent statutory or regulatory descriptions of the particular practice or benefit.

In adopting the definition, ETA also examined two other approaches, considering a practice (or provision of a benefit) to be prevailing when:

(1) A simple majority of U.S. workers in an occupation and area receive a benefit, irrespective of the number of employers who provide the benefit; or

(2) A simple majority of employers of U.S. workers in an area engage in the practice or provide the benefit, irrespective of the number of workers who receive the benefit or are affected by the practice.

II. Comments Received on Proposed Rule

The NPRM invited interested parties to submit written comments on the proposed amendment on or before March 14, 1991. 56 FR 5670 (February 12, 1991). Comments by sixteen individuals and/or organizations were received by ETA. All of the comments were analyzed and considered in the preparation of this final rule.

Eight commenters supported the amendments as clarifying the procedures for prevailing practice determinations, stating either that the rule would maintain past practice or that it would clearly establish the most equitable process for the subject determinations. One commenter supported the amendment, but suggested additional clarifying language for other terms in the regulations.

Seven commenters opposed the amendment. Of those, six viewed it as being too restrictive and one viewed it as not being restrictive enough.

A discussion of the major comments received on the proposed definition, hereinafter referred to as "double majority," follows.

A. The Meaning of "Prevailing"

All of the commenters alluded to or discussed at some length the appropriateness of the proposed amendment's use of the word "prevailing," in terms of both its general or dictionary sense and the sense in which it has been commonly applied in prevailing practice determinations under the H-2A program.

ETA has determined from its analysis of the comments that a simple dictionary definition of "prevailing" cannot be relied upon for purposes of this rulemaking. In order to establish a rule which would be objective and unambiguous, the word "prevailing" should be quantified, and dictionaries do not universally quantify this word. See, *e.g.*, Webster's New Twentieth Century Dictionary of the English Language Unabridged (2nd ed., The World Publishing Company: New York,

NY, 1970): "predominant; widely existing; prevalent"; and Webster's New Collegiate Dictionary (G. & C. Merriam Company: Springfield, MA, 1979): "1. having superior force or influence. 2a. most frequent. b. generally current; common."

Various commenters proposed different standards as the threshold for a prevailing practice determination and showed no clear preference for applying a "predominant" or "most frequent" standard with respect to the number of employers and the number of workers surveyed. This alone is a clear indication that a dictionary definition is an insufficient basis for establishing the standard.

Some commenters referred to the 40-percent rule used in ETA Handbook No. 385 (prevailing wage determinations) as a potential standard. One commenter suggested at least 60 percent and preferably as high as 80 percent be established as the threshold to be utilized for a practice to be found prevailing. ETA believes that accepted usage strongly suggests that any percentage greater than 50 percent is "predominant" and "most frequent" and should continue to be the presumptive standard for a finding of prevailing.

B. Past ETA Policy

Several commenters expressed their views that DOL had already established its standard for determining when a benefit being provided or a practice being engaged in was prevailing. Of the five commenters who made assertions about past agency policy, three claimed that ETA had implemented a policy whereby a practice or benefit was found to be prevailing when engaged in or offered by a majority of employers, or if the practice or benefit affected a majority of employees. One commenter claimed that ETA's past procedure was to determine a practice as prevailing if a majority of employers (exclusive of employees) engaged in it. Another commenter stated that ETA's longstanding procedure was to determine a practice as prevailing if a majority of employees (exclusive of employers) were affected by it. None of the five commenters presented sufficient evidence to support their positions that would convince ETA that their preferred standards had indeed been past agency practices and should be continued.

One commenter asserted that an Administrative Law Judge (ALJ) decision (which is thereby the decision of the Secretary of Labor, see 20 CFR 655.112(a)(2)) found the policy of the Department to be that a practice is deemed to be prevailing when a majority of employers (exclusive of employees) engage in it. The referenced ALJ decision was issued in relation to a dispute involving ETA's interpretation of the meaning of the phrase "area of intended employment". See *Azor* v. *Hepburn*, Case No. 87-JSA-1 at 12. ETA has not been persuaded by this comment, since the decision ascribed more to the predecessor regulation at 20 CFR 655.202(b)(1) (1986 ed.) than was warranted. In the decision, the ALJ wrote:

> 20 CFR 655.202(b)(1) requires the employer to provide housing if the *majority* of growers in the area of intended employment provide it, *i.e.*, if the most *frequent* practice is to provide family housing.

The regulation cited makes, in fact, no reference to "majority of growers" or "most frequent practice." In its entirety, 20 CFR 655.202(b)(1) (1986 ed.) stated:

> The employer will provide the worker with housing without charge to the worker. The housing will meet the full set of standards set forth at 29 CFR 1910.142 or the full set of standards set forth at Part 654, Subpart E of this chapter, whichever is applicable under the criteria of 20 CFR 654.401; except that, for mobile range housing for sheepherders, the housing shall meet existing Departmental guidelines. *When it is the prevailing practice in the area of intended employment to provide family housing, the employer will provide such housing to such workers.* [Emphasis added.]

None of these comments have persuaded ETA that, prior to publication of ETA Handbook No. 398, the agency had ever generally and clearly articulated and published a formal policy on the standard for measuring "prevailing." One exception occurred in 1985, when a memorandum from ETA's National Office to the Regional Administrator of ETA in Philadelphia set forth double majority (majority of employers and majority of workers) as the standard by which the Regional Administrator should make a determination regarding the provision of family housing.

C. Adverse Effect Considerations

The six commenters who oppose double majority as too restrictive a standard all provide arguments based on the statutory and regulatory requirements under which DOL must ensure that "the employment of the alien * * * will not adversely effect the * * * working conditions of workers in the United States similarly employed." All six posit an obligation of the Department to choose regulatory options and establish labor standards which have the potential to provide the greatest benefits to U.S. workers. As discussed below, that stance has consistently been rejected by the courts, and must be rejected by DOL again in relation to this rulemaking. The INA did not establish the H-2A program as a means to attract workers to agricultural occupations. Instead, it is designed to protect workers, in part, from adverse effect.

The issue of "adverse effect" and its meaning under the INA was discussed at length by the U.S. Court of Appeals for the Seventh Circuit in *Industrial Holograph* v. *Brock*, 722 F.2d 1362 (1983), with respect to the related permanent alien labor certification program under INA sec. 212(a)(14) (now at INA 212(a)(5)(A)):

> The statute [INA] itself says nothing about how the Secretary should determine whether the alien's employment will have an adverse effect, and the legislative history offers little insight on this issue.

The language of section 212(a)(14) does little more than identify Congressional goals: aliens should not take jobs from "able, willing, qualified, and available" American workers, and an alien's employment should not "adversely effect" the wages and working conditions of American workers. The statute leaves to the Secretary the task of developing operational standards to effect the Congressional purpose. The breadth of the statutory language and the volume of decisions [certifications] virtually require the Secretary to develop systematic standards and procedures for deciding upon labor certification applications.

A complete and thorough analysis of all relevant factors affecting the impact of each individual alien's employment on the labor market is clearly out of the question. Sound administration and concern for consistency and fairness require simplified rules of general application for imposing the statutory standards. [722 F.2d at 1366-1367.]

Any perceived obligation imputed to the Department to establish standards designed to attract U.S. workers and enhance their employment opportunities was rejected by the U.S. Court of Appeals for the Fifth Circuit in *Williams* v. *Usery*, 531 F.2d 305 (1976):

> Even if desirable, the Secretary has no authority to set a wage rate on the basis of attractiveness to workers. [531 F.2d at 306.]
>
> * * * * *
>
> Williams' notion of a wage rate high enough to attract those domestic workers not otherwise willing to work [in sugar cane], jumps well beyond the discretionary authority of the Secretary. Clearly his authority to insure against a lowering of wages is hardly synonymous with the affirmative power to raise wages which Williams here proposes. "Attractiveness" is

the wrong test for measuring the Secretary's determination. [531 F.2d at 306.]

In support of an extended argument regarding possible adverse effect, one commenter included tables of probability based on the relative proportion of large and small employers in the particular benefit universe and those employers' share of total employment. While ETA found the analysis interesting, it also found it to be flawed in two respects. First, the table is mathematically based and posits random behavior on the part of employers. While there are numerous behaviors or events which have been shown to have certain patters at varying degrees of statistical reliability, there is no evidence adduced to show that these tables have any relation to actual work situations as they exist. As most of the commenters discussed, employers tend to be aware of their competitors' behavior and adjust their own accordingly. Thus, the tables which distribute behavior randomly do not reflect actual experience. Second, the tables presuppose a failure to find a practice prevailing as a definite loss to workers, and implies that most employers will abandon a practice not found to be prevailing. In the tables, this proposed scenario occurs most frequently when a small number of large employers employ a high percentage of the work force. It is unlikely that a large employer who has successfully recruited an adequate workforce for years would abandon a practice simply because a number of small employers did not offer a benefit. Even if the tables accurately reflected the likelihood of a benefit or practice, the court opinions cited above make clear that such likelihood of enhancement or greater attractiveness to U.S. workers is not an appropriate basis for rulemaking in this program.

D. Other Options for Consideration

Several commenters stated that, when proposing policy or changing policy, an agency should present possible options and provide a discussion of why other options were rejected. Some commenters faulted DOL for not considering and presenting more options to the methodology chosen. ETA reviewed other procedures, including those utilized by the Employment Standards Administration (ESA) in administering the Davis-Bacon Act, for making prevailing practice determinations and did not find any others which fit the conditions of agricultural employment covered by the H-2A program. ETA has concluded from its review and analysis of the comments that the two parties in an employment relationship—(1) employers in an area in an occupation and (2) employees in an area in the occupation—are the only appropriate categories for measurement. With those two categories as a starting point, ETA agrees that more options could have been listed, but views them as variations on the three set forth in the NPRM.

The six commenters who advocated a rule which maximized the likelihood of making a finding of a prevailing practice stressed that each of the practices at issue was likely to increase the attractiveness of an employer's job offer to U.S. workers. As discussed above, the Fifth Circuit in *Williams* v. *Usery* stated that it is beyond the authority of DOL under the INA. The U.S. Court of Appeals for the First Circuit dealt with the issue of a more attractive job offer in *Flecha* v. *Quiros*, 567 F.2d 1154 (1977), and rejected the requirement that an employer go beyond what is normal to attract U.S. workers:

> It is plaintiffs' [workers'] position that the U.S. conditions are merely a minimum, and that they neither forbid employers offering more, nor employees from seeking more. We agree with this, but it does not follow, as plaintiffs would seem to think, that if the workers are unwilling—or unable—to come unless they receive more, they meet the section 1182(a)(14)(A) definition. If they did, it requires but little reflection to see that the statute would be used to require employers to meet whatever demands might be made by domestic workers. The effect, indeed, the necessary effect would be that the alien market would never be reached—the employer would have to pay whatever the domestic workers sought, it being obvious that if there were no limit on the price that could be asked, workers could always be found. [567 F.2d at 1156.]

The test, then, for the rule should be whether it fairly identifies a prevailing practice, which then becomes the standard for any new employer-applicants to the H-2A program and remains the standard for all current employer users of the program.

1. A Standard Less Than a Majority

Earlier, in discussing the meaning of "prevailing", reference was made to a 40 percent standard used in determinations of prevailing wages in accordance with ETA Handbook No. 385. A number of commenters suggested the 40-percent standard for a prevailing wage in ETA Handbook No. 385 be applied to prevailing practice determinations. For the following reasons, in presenting the proposed rule, DOL specifically rejected applying the prevailing wage methodology to prevailing practice determinations and continues to do so.

All employers provide wages. An employer is not obliged to change the way in which it does business to pay such a wage. Unlike wages, each practice and benefit subject to the rule at issue here either exists with respect to an employer and occupation or employee, or it does not exist. A prevailing practice finding could make it necessary for an employer to establish a practice or offer a benefit it does not currently provide. In establishing a prevailing wage, one arrays a number of wages and establishes if there is a wage which is paid to 40 percent or more of the workers. Such a wage can realistically be said to be "predominant" or "most common." However, the prevailing wage methodology recognizes that there will not always be a wage which is paid to 40 percent or more of the workers in the survey. If no single rate or schedule accounts for 40 percent or more of the workers and the rates are all in the same unit of payment, the rates are arrayed in descending order and then the cumulative number of workers are counted, starting with the lowest rate in the array. The rate reached at the point that the cumulative number covers 51 percent of workers in the survey is the prevailing wage.

With a dichotomous variable, as in the area of prevailing practices, to say that 40 percent is prevailing when 60 percent do not engage in the practice is flawed on its face; this has never been the policy of the Department in determining prevailing practices under the H-2A program. The Department believes that any other variation which involves a standard below a majority is also defective.

2. A Single Majority Standard

Two commenters recommended that a majority of relevant employers should be the standard, and two others who supported the proposed double majority rule stated a strong preference for an employer-based determination should a single majority rule be chosen. After reviewing the comments, DOL finds no reason to revise its original position against a single majority of employers methodology for determining a prevailing practice.

The possibility exists and actually occurs in a number of occupations in various areas of the country where a large number of small employers employ far less than a majority of the workforce. To allow such a numerical majority of small employers to determine the standard when a number of large employers employ most of the workforce in an area and engage in practices and provide benefits which affect many more workers does not present a

realistic picture of conditions in an area and does not seem fair and equitable.

Only one commenter preferred a single majority of employees as the best methodological option, but those commenters who supported a single majority of employers or employees all chose the majority of employees standard as their second choice. ETA's concern in regard to a simple majority of workers methodology is that one or a very small number of large employers with a majority of employees and superior resources would inappropriately force a larger number of small employers to establish a practice in order to participate in the program.

A number of commenters criticized DOL's concern for small employers as inappropriate. However, the Regulatory Flexibility Act, Public Law 96–254, at sec. 2(b), states:

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulations.

Further, as a number of commenters point out, small entities often compete in a variety of ways to make themselves attractive to workers. Forcing small employers to match practices in which they are unlikely to do better than large employers may force the small employers to abandon those practices which they have used to recruit and retain workers.

3. A Majority of Either Employers or Employees

Three commenters recommended a standard which would determine a practice to be prevailing if either the majority of employers in an occupation in an area engaged in the practice or provided the benefit or the majority of employees of the relevant employers received the benefit. If both the single majority of employers or of employees are unacceptable as the basis for a determination, then it follows that an option which posits either of their conditions as establishing a prevailing practice is also unacceptable because such an option would be more likely than either single majority standard alone to determine unrepresentative practices as prevailing.

4. A Standard Greater Than a Majority

One commenter proposed that a standard above a majority, at least 60 percent or preferably 80 percent, be necessary to establish a truly prevailing practice. An option establishing a standard above 51 percent would represent a significant shift in policy, since a standard in excess of a majority has not been a criterion used by the Department in making a determination of "prevailing." The commenter who proposed such an option stressed the dictionary definition "predominant," and argued that a majority is not necessarily predominant. Since the proposed rule requires a double majority, the Department believes that it does require a threshold that would commonly be considered to be predominant.

5. Including or Excluding H–2A User Employers

The proposed regulation included H–2A employers in determinations concerning the provision of family housing and frequency of payment. Three commenters argue that H–2A employers should always be excluded from such determinations, stating that such employers always will choose employment practices unfavorable to workers. As noted in the proposed rule, the inclusion or exclusion of H–2A employers is determined by pertinent statutory or regulatory descriptions of the particular practice or benefit. Another problem with excluding H–2A employers is the fact that they often employ large numbers of U.S. workers. The commenters who oppose the rule framed their arguments as if H–2A employers employ only foreign workers. In fact, in a number of instances, H–2A employers employ the majority of U.S. workers in an area in an occupation.

E. Crewmember Prevailing Practice Distinguishable From Farmworker Prevailing Practice

In a comment submitted after the closing date for comments on the proposed rule, a commenter suggested that DOL's publication of an interim final rule pertaining to the use of alien crewmembers for longshore activities in U.S. ports under the Immigration Act of 1990 (56 FR 24648 (May 30, 1991)) supports a proposal made in an earlier submittal from the commenter. In that submittal, the commenter proposed a single majority rule for H–2A prevailing practice determinations, establishing "prevailing" with either a majority of employers or a majority of workers.

In response to this comment, it is appropriate to distinguish the standard for determining prevailing practice for the use of alien crewmembers in longshore work from that used with respect to certain employer-provided benefits to nonimmigrant alien farmworkers and similarly employed U.S. workers under the H–2A program. See 20 CFR part 655, subparts B, F, and G, and 29 CFR part 506, 56 FR 24648 (May 30, 1991). In the proposed rule on crewmembers, the Department stated that the prevailing practice standard it would use for the program was consistent with other immigration programs of the Department "which use the concept of a simple majority." 56 FR 16031, 16033 (April 19, 1991). That statement needs to be clarified, since it is not consistent with those immigration programs which do not use a simple majority, such as the H–2A program.

In the crewmember regulations, the Department accepts longshore work by alien crewmembers as prevailing in a port if:

(1) The majority of vessels used alien crewmembers for longshore work; or

(2) Over 50 percent of the workers in the port performing such work are aliens.

20 CFR 655.510(d)(1) and 29 CFR 506.510(d)(1), 56 FR 24648, 24657 (May 30, 1991).

The commenter has questioned the distinction, and asked whether the crewmember regulations will affect the H–2A regulations. In the Department's view, the unique nature of each of these two types of employment requires a standard reflecting of the nature of the industry.

Specifically, the Department could have taken two courses under the crewmember regulations. The legislative history of the crewmember program references "well-established" prevailing practices "long * * * accepted by all local interests concerned * * *." H.R. Conf. Rep. No. 101–955 at 124 and 125. The "all local interests concerned" language has been argued by some to support a double-majority test, as in the H–2A regulations. On the other hand, some commenters on the crewmember regulations have argued that the language in the INA stating that the measure for longshore prevailing practice is the permitting of alien crewmembers to do this work rather than the actual performance of the work by alien crewmembers, implies a somewhat looser standard in determining prevailing practice for crewmember longshore work (see 8 U.S.C. 1288(c)(1)(B)(i)).

In response to the proposed crewmember rule, some commenters sought a prevailing practice standard less than single majority. While the Department modified the methodology slightly in its interim final crewmember rule, by eliminating measurement of tonnage in the port worked on by alien workers, the Department did not effect a less-than-single-majority standard for the crewmember program, stating its

desire to be consistent with other immigration programs. 56 FR at 24650.

As in many rulemaking actions, the Department received comments on the crewmember rulemaking from various interests with opposing views. In that rulemaking, as in the H-2A rulemaking, the Department took into consideration the comments as well as the unique nature of the employment. For example, in the H-2A program, the number of employers using farmworkers in an area of intended employment and the number of farmworkers employed are generally relatively stable from year-to-year. To avoid having the practice of a number of small employers, or the practice of a small number of large employers, determine prevailing practice in an area, the Department, as described above, determined that it would be fairer under the farmworker program to require a double majority of both workers and employers as the standard for establishing a prevailing practice.

In the crewmember program, however, the variation in workforce size of affected employers is not as great as in agriculture, and application of a double majority standard is not necessary to provide prevailing practice protection to U.S. workers. The Department's experience is that in a labor market area where H-2A farmworkers are employed, such as picking apples, there may be as many as 70 or more agricultural workers on some farms engaged in the same crop activity and as few as 5 or less workers on others.

By contrast, the Department's experience is that the workforce-per-employer in the crewmember program varies much less. For example, it is fairly standard that refrigerator vessels carrying processed fish in Alaska have crews of 15 to 20 doing longshore work. Other area longshore employers, such as barge operators, employ 5 to 7 workers; and fish processors use only a fraction of their crews for longshore work. Thus, it is not necessary, and would be unduly burdensome administratively, for employers to have to attest to a double majority prevailing practice in the crewmember program.

Further, while U.S. longshore workers are, to a large extent, based in one location, alien crewmembers performing longshore work are a mobile workforce, as is true for many farmworkers under the H-2A program. In contrast to the H-2A program, however, and unlike most of the other immigration programs with which the Department is involved, the crewmember program also involves mobile employers. The same employers are not necessarily in a port on a repetitive, continuous, seasonal, or even annual basis. As such, the Department determined that the double majority approach was not necessary, too administratively burdensome, and inappropriate for the crewmember program.

F. Clarification for Situations Involving Survey Findings in Which the Categories (Employers and/or Employees) Divide Evenly

One commenter brought to ETA's attention an aspect of the proposed rule which needs to be articulated in the final rule to minimize future disagreements about the establishment of a prevailing practice. The instance cited was one in which a survey establishes that exactly 50 percent of a category (employers or employees) engage in or are subject to a practice or benefit. This is more likely to happen with the employer category, because it is generally a smaller universe, but it is theoretically possible in any instance in which the relevant universe is an even number. Therefore, ETA is providing in the final rule that a 50/50 split shall be decided in favor of "prevailing".

III. Conclusion

After review and analysis of all the comments submitted in response to the NPRM and further review of experience since the policy was published in ETA Handbook No. 398, the Department has determined that the proposed double majority is the most appropriate standard. It should produce more consistent results from year to year than the less rigorous options, since a finding under this standard is more likely to be firmly embedded as a practice among the employer community. It avoids the potential distortions of the other options as discussed above. It is clear and easy to establish and explain.

Any employer who wishes to use the H-2A program is required to provide the benefit or engage in a practice determined to be prevailing. If a practice or benefit is determined to be prevailing and an employer can not or will not provide it, that employer is denied access to the program. A general principle to be followed in adopting regulations is that, consistent with applicable statutes, a regulation should not create unnecessary burdens or erect barriers that permit only certain types or sizes of employers access to a program. As the court decisions cited above clearly state, rulemaking for the H-2A program is not a vehicle for change in industry practices; it is intended to protect against adverse effect, not attract workers to the occupations. The H-2A program has been operating under the current methodology since 1988. There is no evidence to show that employers have abandoned practices or stopped providing benefits simply because the benefit or practice was not determined to be prevailing.

The definition of prevailing practice chosen by ETA is an entirely reasonable interpretation of the plain meaning of the word "prevailing." For DOL to adopt a lesser standard of measurement would mean that a benefit or practice could be determined prevailing which was not provided by a majority of employers, or which was not received by a majority of workers. Either of those circumstances would violate common understanding of the meaning of the word "prevailing."

If only a majority of employers or a majority of employees were the standard, practices could be determined to be prevailing that would be excessively burdensome, as a practical matter, for some employers to provide. For example, farmers in close proximity to towns might have options that farmers in more remote areas do not have. The farmer in close proximity to a town may have a motel or no-cost public housing available to comply with a requirement to provide family housing. The farmer who is located near a stop for an interstate bus line can provide non-refundable bus tickets if he is required to provide advance transportation. The farmer who is located in a remote area may have much more difficulty in availing himself of workers through the H-2A system.

In most cases, where a practice applies to a majority of workers it is likely to be practiced by a majority of employers, and vice versa. However, it is precisely in those instances where this is not the case that the greatest potential exists for inappropriate determinations to be made as a result of unusual situations applicable only to smaller or larger employers. Although DOL's definition requiring a double majority will not prevent some employers from being blocked out of the H-2A program either through their choice or through economic or practical necessity, it will reduce the incidence of such cases while still assuring benefits to workers when such benefits are truly the prevailing practice.

Therefore, with the addition of the clarifying language regarding survey findings where the appropriate universe (employers and/or employees of those employers) is evenly divided (50/50), DOL adopts as its final rule the double majority standard proposed in the NPRM.

Regulatory Impact

This document affects only those employers using nonimmigrant alien

workers in temporary agricultural jobs in the United States (H-2A visaholders). It does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR, 1981 Comp., Page 127, 5 U.S.C. 601 note.

When the proposed rule was published, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document contains no paperwork requirements which mandate clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as number 17.02, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

Final Rule

Accordingly, part 655 of chapter V of title 20, Code of Federal Regulations, is amended as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182 (m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 665.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 303(a)(8), Pub. L. 102-232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note).

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

2. In § 655.100, paragraph (b) is amended by adding, between the definitions of "Positive Recruitment" and "Regional Administrator, Employment and Training Administration (RA)," a definition of "Prevailing," to read as follows:

§ 655.100 Overview of this subpart and definition of terms.

* * * * *

(b) * * *

Prevailing means, with respect to certain benefits other than wages provided by employers and certain practices engaged in by employers, that:

(i) Fifty percent or more of employers in an area and for an occupation engage in the practice or offer the benefit; and

(ii) This 50 percent or more of employers also employs 50 percent or more of U.S. workers in the occupation and area (including H-2A and non-H-2A employers for purposes of determinations concerning the provision of family housing, frequency of wage payments, and workers supplying their own bedding, but non-H-2A employers only for determinations concerning the provision of advance transportation and the utilization of farm labor contractors)

* * * * *

Signed at Washington, DC, this 11th day of September, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-22456 Filed 9-16-92; 8:45 am]

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