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Friday
September 18, 1992

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Presidential Documents

Title 3—

The President

Presidential Determination No. 92–45 of August 28, 1992

Extension of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination made by me on September 13, 1991 (56 FR 48415), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1992.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I extend for one year, until September 14, 1993, the exercise of those authorities with respect to countries affected by:

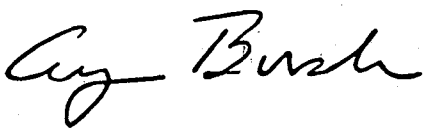
(1) the Foreign Assets Control Regulations, 31 CFR Part 500;

(2) the Transaction Control Regulations, 31 CFR Part 505;

(3) the Cuban Assets Control Regulations, 31 CFR Part 515; and

(4) the Foreign Funds Control Regulations, 31 CFR Part 520.

The Secretary of the Treasury is directed to publish this determination in the **Federal Register.**



THE WHITE HOUSE,
Washington, August 28, 1992.

[FR Doc. 92–22845
Filed 9–16–92; 3:45 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 6472 of September 16, 1992

National Breast Cancer Awareness Month, 1992

By the President of the United States of America

A Proclamation

As we Americans once again observe National Breast Cancer Awareness Month, we can be heartened by the progress that we have made in fighting this disease. In recent years, our knowledge of breast cancer has increased significantly. Researchers continue to develop new and better means of treatment, and expanded access to breast cancer screening is enabling more and more women to benefit from early detection and intervention.

While such trends are encouraging, the National Cancer Institute reports that as many as 180,000 American women will be diagnosed as having breast cancer this year. Although most women who are treated for breast cancer in its early stages can be cured, this disease remains the second leading cause of death by cancer among American women. Hence, this month we recognize the importance of ensuring that every woman is informed about breast cancer and about the importance of screening, early detection, and treatment.

Women can take an active role against breast cancer through monthly self-examination and through clinical examinations and mammography as recommended by their physicians. Mammography is invaluable: many breast cancers can be seen on a mammogram up to 2 years before they could be otherwise detected by a woman or her physician.

Because access to such screening is vital for all women, I am pleased to report that third-party reimbursement for mammography is increasing, allowing more women to benefit from this potentially lifesaving procedure. Through Medicare, the Department of Health and Human Services helps to cover the cost of screening mammography for women age 65 and older. Private insurers offer coverage for this procedure, and a major effort is underway to inform employers how businesses can provide screening mammography.

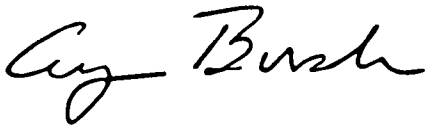
In addition to encouraging employers, insurers, and health care providers to voluntarily develop policies that expand access to affordable mammography, the Federal Government is also helping to lead the way in research against breast cancer. In a program that has the potential to save many lives in the future, women who are at high risk for breast cancer are participating in the first large-scale study to prevent the disease. We look forward to significant results from the Women's Health Initiative, the largest-ever research effort directed specifically at women. This comprehensive program will target the major causes of illness and death in older women, including breast cancer. In addition, the President's Cancer Panel this year established a Special Commission on Breast Cancer to undertake a comprehensive review of all aspects of the breast cancer problem and to make recommendations on how to accelerate progress against this disease.

Together with the Federal Government, private researchers, health care providers, members of breast cancer support groups, and other concerned Americans are working hard to ensure that women and their physicians are aware of each important advance in breast cancer research. This joint effort is saving lives, and during National Breast Cancer Awareness Month, we reaffirm our commitment to ensuring that it continues.

The Congress, by Senate Joint Resolution 303, has designated October 1992 as "National Breast Cancer Awareness Month."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1992 as National Breast Cancer Awareness Month. I invite the Governors of the States and the appropriate officials of all other areas under the jurisdiction of the United States to issue similar proclamations. I also encourage health care providers and other interested organizations and individuals to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-22862
Filed 9-16-92; 4:32 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6473 of September 16, 1992

Citizenship Day and Constitution Week, 1992

By the President of the United States of America

A Proclamation

On September 17, 1787, after 4 months of rigorous debate, study, compromise, and decision, delegates to the Federal Convention in Philadelphia signed our Constitution and submitted it to the States for ratification. Their hopes and prayers for a successful Convention had been answered. Today, more than 200 years later, we Americans continue to enjoy the blessings of liberty and self-government guaranteed by our Constitution.

When our Nation's Founders convened during the long, hot summer of 1787, leaving behind their farms and other personal interests in order to preserve our fragile Confederation of States, America looked very different from today. The United States has grown from a population of about 3,500,000 people who lived primarily along the Atlantic coast to a population of some 250,000,000 that now extends from the Great Lakes to the Gulf of Mexico, as well as to Alaska and Hawaii. In 1787 the primary means of transportation was the horse. The Constitution itself was carried from Philadelphia to the Confederation Congress in New York by stagecoach, on a journey that took Major William Jackson 2 days. Today, by contrast, one can travel the same distance within hours.

Despite such dramatic changes, our Constitution remains the guiding charter of American government. This great document is, therefore, both a tribute to the wisdom and foresight of its Framers and a symbol of our abiding commitment to liberty under law.

The Framers of our Constitution were well aware of the lasting significance of their actions, and James Madison expressed a commonly held sense of destiny when he suggested that the outcome of the Federal Convention would "decide forever the fate of republican government." Our Constitution thus codifies in law the timeless truths that were first set forth in our Declaration of Independence: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Generations of Americans have cherished our Constitution, and hundreds of thousands have given their lives to defend the principles it enshrines. We must continue to promote knowledge of, and reverence for, our Constitution if we are to preserve this great experiment in self-government and achieve further progress for America in the generations to come. As President Calvin Coolidge said: "If we wish to build new structures, we must have a definite knowledge of the old foundations. . . . We must frequently take our bearings from the fixed stars of our political firmament if we expect to hold a true course."

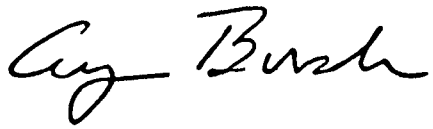
To become naturalized citizens, immigrants to the United States must pass an examination on the guiding tenets and basic institutions of American government, including those set forth in our Constitution. Yet the responsibilities of citizenship belong to each of us, native-born and naturalized Americans alike. We fulfill those duties when we study our Nation's history and strive to maintain the great moral and spiritual heritage that inspired our Founders' vision for America. Indeed, good citizenship goes hand in hand with traditional values of faith and devotion to family, honesty and hard work, personal

responsibility, and respect and concern for others. We also fulfill our obligations as a free people when we take advantage of our many opportunities to participate in the democratic process, including the consistent and prudent exercise of our right to vote.

In commemoration of the signing of our Constitution and in recognition of the importance of informed, responsible citizenship in our system of self-government, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 153), designated September 17 as "Citizenship Day." Also, by joint resolution of August 2, 1956 (36 U.S.C. 159), the Congress designated the week beginning September 17 and ending September 23 of each year as "Constitution Week."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 17, 1992, as Citizenship Day and call for the display of the flag of the United States on all government buildings on that day. I also proclaim the week of September 17 through September 23, 1992, as Constitution Week and urge all Americans to join in observing these occasions with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-22863
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

RIN 3206-AE63

5 CFR Parts 531, 536, and 550

Portability of Benefits for Nonappropriated Fund Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting as final the interim rule published in the **Federal Register** (57 FR 12403, April 10, 1992) on pay-setting and crediting of former nonappropriated fund (NAF) service for within-grade increases, grade and pay retention, and severance pay for certain former NAF employees under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 (Portability Act).

EFFECTIVE DATE: Final rules effective retroactively to January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Bernadette Christie, (202) 606-2858.

SUPPLEMENTARY INFORMATION: On April 10, 1992, OPM published interim regulations implementing the pay provisions of the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 providing that interested parties could file comments through June 9, 1992.

OPM received no comments on the substance of the interim regulations. However, a labor organization commented on a remark in the supplementary information addressing eligibility for grade retention of former NAF employees who move to civil service system positions under the provisions of the Portability Act. The labor organization objected to the statement that an employee moving from one employment system to another would not do so as the result of reduction-in-force or reclassification procedures and, therefore, would not be eligible for grade retention. The labor organization indicated that movement from one pay system to another would require a change in the employee's job classification in order to include the position in the gaining classification system. The supplementary information was correct. An employee moving from the NAF employment system to the civil service employment system does not simply have his or her position reclassified. Rather, he or she moves to a position in a different employment system. The purpose of the Portability Act is to give the employee credit for previous service in his or her former employment system. The final regulations credit the employee's NAF service for the purpose of grade retention, should the employee be reduced in grade after moving to the civil service employment system.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR 531, 536, and 550

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, the interim rule amending 5 CFR parts 531, 536, and 550 which was published at 57 FR 12403 on April 10, 1992, is adopted as a final rule without change.

[FR Doc. 92-22585 Filed 9-17-92; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 870 and 890

RIN 3206-AF20

Federal Employees' Group Life Insurance Program and Federal Employees Health Benefits Program; Benefits for Hostages in Iraq, Kuwait, and Lebanon

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to amend its existing regulations to reflect the provisions of Public Law 102-138 (The Foreign Relations Authorization Act, Fiscal Years 1992-1993) that amend Pub. L. 101-513 (the Hostage Relief Act of 1990). Public Law 101-513 extended coverage under the Federal Employees' Group Life Insurance (FEGLI) Program and the Federal Employees Health Benefits (FEHB) Program to certain U.S. hostages in Iraq, Kuwait, and Lebanon while they were in hostage status and for 12 months thereafter. Pub. L. 102-138 provides for the continuation of FEGLI and FEHB coverage for up to 60 months after hostage status in Lebanon ended and 12 months after hostage status ended in Iraq and Kuwait. It also changes the earliest possible effective date of coverage for hostages in Lebanon from January 1, 1990, to June 1, 1982 (or as soon thereafter as they become eligible for benefits).

DATES: Interim regulations are effective September 18, 1992.

Comments must be received on or before November 17, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: Under these interim regulations, FEGLI and FEHB coverage for hostages in Lebanon and their families may continue for up to

60 months after hostage status ended and for hostages in Iraq and Kuwait, for up to 12 months after hostage status ended, unless the hostage cancels the coverage earlier. In the case of individuals who were hostages in Lebanon before January 1, 1990, coverage may begin as early as the date that hostage status began, but no earlier than June 1, 1982, subject to the determination of the U.S. Department of State. The U.S. Department of State continues to have the responsibility for determining the eligibility of individuals under Public Law 101-513, as amended, and the appropriate date for coverage to begin.

These interim regulations also provide that FEHB coverage for survivors of hostages who die before the 60-month or 12-month period ends may continue for the full period following the end of the hostage status.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The amendments to Public Law 101-513 were effective retroactive to the date of enactment of Public Law 101-513, November 5, 1990. Therefore, there is no purpose in delaying the effective date of these interim regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals who were hostages in Iraq, Kuwait, and Lebanon during a specific period of time.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, OPM is amending 5 CFR parts 870 and 890 as follows:

PART 870—BASIC LIFE INSURANCE

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2); subpart J is also issued under section 599C of Pub. L. 101-513, 104 Stat. 2064, as amended.

2. In § 870.1002, the definition of "period of eligibility" is revised to read as follows:

§ 870.1002 Definitions.

* * * * *

Period of eligibility means the period beginning on the effective date set forth in § 870.1004 and ending 60 months after hostage status ended for hostages in Lebanon and 12 months after hostage status ended for hostages in Iraq and Kuwait.

3. Section 870.1004 is revised to read as follows:

§ 870.1004 Effective date of coverage.

Unless the U.S. Department of State determines that a later date is appropriate, coverage under this subpart was effective on August 2, 1990, for hostages in Iraq and Kuwait and on the later of the date hostage status began or June 1, 1982, for hostages in Lebanon.

4. In § 870.1006, paragraph (a) is revised to read as follows:

§ 870.1006 Termination of coverage.

(a) Coverage of an individual under § 870.1003(a) terminates 60 months after hostage status ended for hostages in Lebanon and 12 months after hostage status ended for hostages in Iraq and Kuwait, unless the individual cancels the coverage earlier.

* * * * *

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

5. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, Stat. 2064, as amended.

6. In § 890.1202, the definition of "period of eligibility" is revised to read as follows:

§ 890.1202 Definitions.

* * * * *

Period of eligibility means the period beginning on the effective date set forth in § 890.1204 of this subpart and ending 60 months after hostage status ended for hostages in Lebanon and 12 months after hostage status ended for hostages in Iraq and Kuwait.

7. In § 890.1203, paragraph (d) is revised to read as follows:

§ 890.1203 Coverage.

* * * * *

(d) Eligible surviving family members of an individual covered under this subpart whose hostage status ended because of death or who dies during the 60 months or 12 months following the end of hostage status are eligible to continue enrollment under this part. The enrollment terminates no later than 60 months or 12 months after hostage status ended.

* * * * *

8. Section 890.1204 is revised to read as follows:

§ 890.1204 Effective date of coverage.

Unless the U.S. Department of State determines that a later date is appropriate, coverage under § 890.1203(b) is effective on August 2, 1990, for hostages in Iraq and Kuwait and on the later of the date hostage status began or June 1, 1982, for hostages in Lebanon.

9. In § 890.1207, paragraph (a) is revised to read as follows:

§ 890.1207 Termination of coverage.

(a) Coverage of an individual under § 890.1203(b) terminates 60 months or 12 months after hostage status ended unless the individual cancels the coverage earlier.

* * * * *

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5 CFR Part 890

RIN 3206-AF19

Federal Employees Health Benefits Program; an Opportunity To Change to a Family Enrollment

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to allow separating employees to change from a self only to a family enrollment under the Federal Employees Health Benefits (FEHB) Program during the final pay period if the employee or the employee's spouse is pregnant. The purpose of this regulation is to give employees an opportunity to elect family coverage before separation so that the health care costs of a child born during the 31-day temporary extension of coverage

following the separation from Federal service would be covered through the end of the 31-day period of the temporary extension of coverage. Although these employees may elect a family enrollment under the temporary continuation of coverage (TCC) provisions, the TCC enrollments do not begin until the temporary extension expires.

DATES: Interim regulations are effective October 19, 1992. Comments must be received on or before November 17, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minnicar, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: Under FEHB law and OPM regulations, Federal employees may change from a self only enrollment to a family enrollment within 60 days after the birth of a child. The change is effective retroactively to the first day of the pay period during which the child was born. Therefore, the health costs of a child born to a Federal employee become covered though the employee has self only coverage at the time of the birth.

The FEHB law provides for a temporary extension of coverage for conversion to a nongroup policy following the termination of an enrollment due to separation from Federal service. Regulations specify that the temporary extension of coverage is for 31 days. There is no cost to the separated employee for this extended coverage since it is merely an extension of the coverage that existed when the employee separated. No change of enrollment can occur during that period.

When an enrolled Federal employee separates from Federal service, he or she is also eligible to enroll for TCC for up to 18 months, unless the separation is involuntary due to gross misconduct. The separating employee may choose either a self only or family enrollment under TCC regardless of the type of enrollment he or she had at separation. That is, a pregnant employee with self only coverage at the time of separation can elect a family enrollment under TCC in order to cover the child when it is born. By law, the TCC enrollment begins when the 31-day temporary extension of coverage expires. After the TCC enrollment begins, a former employee whose initial TCC enrollment was for self only coverage may change to family coverage within 60 days after the birth of a child and the change will be retroactive, just as it is for employees with regular FEHB coverage. In both cases, the birth must occur after the enrollment begins.

However, there is no provision by which a child born to an employee with self only coverage during the 31-day temporary extension can acquire coverage before the TCC enrollment begins. In most cases, of course, an employee can time his or her separation so that the TCC coverage begins before the child is born. Occasionally, however, a child is born during the 31-day temporary extension either because the birth occurs early or because the employee had no control over the date of separation. In these cases, the child's health care costs are not covered from the date of birth until the TCC coverage begins.

For these reasons, OPM is revising its regulations to allow an employee to change from self only to family coverage during his or her final pay period if the employee or the employee's spouse is pregnant. If the separating employee chooses to change enrollment under this regulation, the change would be effective on the first day of the employee's final pay period. Thus, the coverage terminated by the separation would be a family enrollment and any child born during the 31-day extension of that coverage would be covered. In addition, those few employees who are barred from enrolling under TCC because of the circumstances of their separation could make this change in order to have the opportunity to convert to a nongroup contract for the family.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The interim regulations simply allow certain parents to ensure health coverage for infants born during the 31-day period before temporary continuation of FEHB coverage begins. Delaying the effective date of these regulations would be contrary to the public interest and would serve no useful purpose.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Pub. L. 101-513, 104 Stat. 2064, as amended.

2. In § 890.301, a new paragraph (dd) is added to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(dd) *Separating employees.* An employee may change enrollment from self only to self and family during the pay period in which the employee's coverage terminates due to separation if the employee or the employee's spouse is pregnant. The employee must supply medical documentation of the pregnancy.

3. In § 890.306, a new paragraph (m) is added to read as follows:

§ 890.306 Effective dates.

* * * * *

(m) *Separating employees.* The effective date of a change in enrollment under § 890.301(dd) is the first day of the pay period in which the health benefits registration form is received by the employing office.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 87-005-2]

RIN 0579-AA21

Importation of Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising certain importation prohibitions, restrictions and procedural requirements contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products." We believe these revisions are necessary due to changes in the distribution of plant pests known to be present in certain foreign countries, and due to reevaluations of the risks that these pests could be inadvertently introduced into the United States. These revisions will affect the types of nursery stock and related articles allowed to be imported into the United States, and the procedures required for their importation.

DATES: Final rule effective October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Cooper, Senior Operations Officer, Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-3249.

SUPPLEMENTARY INFORMATION:

Background

The Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*) authorize us to prohibit or restrict the importation into the United States of any plants, roots, bulbs, seeds, or other plant products in order to prevent the introduction into the United States of plant pests.

Regulations promulgated under this authority include, among others, 7 CFR 319.37 through 319.37-14, "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" (the regulations). These regulations govern the importation of living plants, plant parts, and seeds for or capable of propagation, and related articles. Other sections of part 319 deal with articles such as cut flowers, or fruits and vegetables intended for consumption.

The Federal Plant Pest Act defines "plant pest" as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants." The regulations in 7 CFR 319.37-1 contain a similar definition of "plant pest." We use the term "plant pests" in many places in the regulations, to refer to these living stages. Occasionally, where the intent of the regulations is to address certain types of pests and exclude others, we use more specific terms, e.g., "plant diseases" where we discuss virus indexing procedures useful in detecting plant diseases but not other types of plant pests.

The regulations prohibit or restrict the importation of most nursery stock, plants, roots, bulbs, seeds, and other plant products. These articles are classified as either *prohibited articles* or *restricted articles.*

A *prohibited article* is an article that the Deputy Administrator for Plant Protection and Quarantine (PPQ) has determined cannot feasibly be inspected, treated, or handled to prevent it from introducing plant pests new to or not widely prevalent or distributed within and throughout the United States, if imported into the United States. Prohibited articles may not be imported into the United States, unless imported by the United States Department of Agriculture for experimental or scientific purposes under specified safeguards.

A *restricted article* is an article that the Deputy Administrator for PPQ has determined can be inspected, treated, or handled to eliminate the risk of its spreading plant pests if imported into the United States. Restricted articles may be imported into the United States if they are imported in compliance with restrictions that may include permit and phytosanitary certificate requirements, inspection, treatment, or postentry quarantine.

Comments on the Proposed Rule

On February 15, 1991, we published in the **Federal Register** a proposed rule (56 FR 6297-6315, Docket No. 87-005) that proposed to change the regulations by: (1) Adding certain articles to the list of prohibited articles; (2) changing the conditions under which certain restricted articles may be imported into the United States; and (3) changing certain operating procedures regarding inspections, certification, permits, and agreements. The proposed rule invited comments to be submitted on these proposed changes until April 16, 1991. We also held a public hearing, announced in the proposed rule, on March 28, 1991, in Washington, DC.

We received 53 written comments prior to the closing date of the comment period. At the public hearing, 13 speakers presented comments. These comments and our responses to them are discussed below. We have made changes to the proposed rule in response to some of the comments, and these changes are also identified and discussed below.

We received numerous comments on this proposal after the closing date of the comment period. The great majority of these comments concerned our proposal to require postentry quarantine growing for rose plants from Canada. For the most part, these comments expressed concern for the economic impact of the proposed change. None of these late comments provided biological or pest risk reasons to justify withdrawing the proposal to require postentry quarantine for rose plants from Canada. However, we have received information which was not submitted as a comment on the proposed rule, which has caused us to withdraw the proposal to require postentry quarantine for roses from Canada. See "Withdrawal of Postentry Quarantine Requirement For Roses From Canada," below.

Comments on Lists of Countries, Plant Pests, and Prohibited and Restricted Articles

Comment: In *Prunus* seed listing in § 319.37-2, the language needs to be clarified by placing "(almond, apricot, nectarine, peach, plum, prune)" immediately behind the "*Prunus* spp." heading and then following with "(except species in subgenus Cerasus)."

Response: We agree that the listing for *Prunus* needs clarification, and are changing it to read "*Prunus* ssp. seed only (almond, apricot, nectarine, peach, plum and prune, but not species in subgenus Cerasus) not meeting the conditions for importation in § 319.37-5(j)". This should make it clear that *Prunus* seed is prohibited import unless it is seed of the subgenus Cerasus, or is accompanied by a certificate in accordance with § 319.37-5(j) certifying that the nursery or country of origin is free of plum pox (Sharka) virus.

Comment: APHIS should reconsider the survey data relied on to propose removing Israel from the list requiring certification for potato cyst nematode, because it is bordered by countries (Egypt and Jordan) with the pest.

Response: The European and Mediterranean Plant Protection Organization (EPPO), which provided the data evaluated by APHIS in making this decision, is a recognized regional plant health organization which provides standards for use by any member country prior to EPPO's acceptance and announcement that a member country is free from a specific organism. In addition, at present, the bordering Arab countries have sanctions that prohibit commercial trade with Israel.

Comment: In the list of plant diseases in § 319.37–5(b)(2), entry (xxxvii), "Grapevine yellows disease bacterium," is a misnomer. Yellows is a general term that includes flavescence-doree, bois-noir and other diseases that appear to be caused by a mycoplasma-like organism, not a bacterium.

Response: Mycoplasma-like pathogens have been associated with flavescence doree and other yellows type diseases. Collectively, these diseases are often referred to as "yellows." However, a bacterium has also been associated with yellows symptoms in Germany and Greece. It is this bacterium that we are referring to by the name "grapevine yellows disease bacterium."

Comment: The list of prohibited articles and countries suggests there is a lack of focus on arthropods. For example, *Liriomyza huidobrensis* should be listed as a pest for Chrysanthemums.

Response: In general, the life stages of most arthropods, including *L. huidobrensis*, and the damage they cause are consistently detectable by visual inspections at ports of entry or plant inspection stations. Therefore, the minimum regulation required to protect U.S. agriculture from the introduction of these pests is inspection and treatment, or postentry quarantine, or rejection of infested shipments. Since prohibition is unnecessary for successful exclusion in most cases, few arthropods are named in the list of plant pests in § 319.37–2.

Grapevine From Germany

The proposal to add a new § 319.37–5(h) to allow importation of *Vitis* spp. from German nurseries that meet certain conditions elicited a large number of comments. Commenters identified three significant problems with the proposal, and we do not currently see any practical way to resolve these problems in the final rule. Therefore, we are eliminating proposed § 319.37–5(h) from the final rule.

The three issues that convinced us to withdraw this proposed change may be summarized as follows:

1. The proposal required the German nurseries to propagate the *Vitis* in soil fumigated with methyl bromide, but regulations of the German government prohibit the nurseries from employing most fumigants, including methyl bromide.

2. German land use restrictions require the nurseries to grow *Vitis* on the same land year after year. This re-use of the same land greatly increases the risk that nematodes carrying viruses can be established and spread in *Vitis* grown on the land.

3. The German nurseries are located in a flood plain and have been subjected to flooding in recent years. Flooding greatly increases the risk of spreading material containing nematodes that may carry grape viruses into the fields where the nurseries grow *Vitis*.

In addition to these problems identified by commenters, reports from the Canadian plant protection service indicate that *Vitis* material recently imported into Canada from German nurseries involved in this program was found to be infected with prohibited viruses.

Although we are withdrawing proposed § 319.37–5(h), we are responding below to some additional comments objecting to the proposal. Some of these comments apply to importations of *Vitis* or other materials in general, and some bring up objections that we do not consider valid.

Comment: Vitis from Europe should be given a hot water treatment to destroy leafhoppers that could carry the agents for flavesence doree, Bois noir, or other mycoplasma-like organism diseases. Most German rootstock is grown in Italy, Greece, or France, where the agents spread naturally through leafhoppers; therefore indexing alone is not enough protection.

Response: The flavescence doree pathogen has been identified as a mycoplasma-like organism that was originally described in France and is transmissible by the leafhopper *Scaphoideus littoralis*. Based on reports of plant pest occurrence submitted to APHIS by foreign plant protection services and in the scientific literature, the flavescence doree organism has not been shown to occur in Germany. The pathogen of the yellows disease called Vergilbungskrankheit in Germany has not been identified or shown to be transmitted by any insect and is not affected by the application of insecticides. If rootstocks and scions originate in Germany, the use of any treatment to destroy leafhoppers or the flavescence doree pathogen cannot be justified.

If the rootstocks or scions originate in France or Italy, there is a possibility the flavescence doree pathogen could spread to these grapes and eventually be exported to the United States where the leafhopper vector occurs. This pathogen does not consistently cause symptoms each year, so visual inspections of the German nursery may not always detect its presence. A hot water treatment for 72 hours at 30 °C can be used to treat this pathogen in grapevines, but this treatment may not be 100% effective. Therefore, scions and rootstocks originating in Germany, but not in France or Italy, can be considered free of this pathogen.

If a treatment to eliminate leafhoppers is considered desirable, the biology of *S. littoralis* must be evaluated. Limited information indicates this leafhopper overwinters as eggs on grapevines. Eggs are not a potential threat, because flavescence doree and the other grapevine yellows pathogens are not known to be transmitted from an infected adult leafhopper through the egg to their progeny. However, overwintering nymphs and adults on dormant plant material or nymphs and adults on green vines represent a threat because the flavescence doree pathogen can be transmitted by *S. littoralis* for life after acquisition. In this case, inspections and treatments, even mandatory treatments, to eliminate leafhoppers would be advisable.

Comment: The bacterial blight pathogen, *Xylophilus ampelinus*, can be easily transmitted in dormant wood, and U.S. Thompson Seedless varieties are particularly susceptible. Hot water treatment may help reduce *X. ampelinus* populations in *Vitis* imported from Europe.

Response: The bacterial blight pathogen, *Xylophilus ampelinus*, has not been reported to occur in Germany. However, it does occur in France and Italy; consequently, the use of French or Italian rootstocks or scions increases the risk of importing this pathogen. The risk of importing this pathogen is another reason for insisting that both the scions and rootstocks of exported grapevines must be of German origin. The symptoms caused by this bacterium should be obvious either in Germany before export or during postentry quarantine in the U.S., but if introduced this pathogen would be difficult to eradicate. Grapevines imported into Australia are treated with hot water before growing in quarantine to prevent introduction of this pathogen, and APHIS may evaluate details of this treatment if we consider importation of German *Vitis* at some time in the future.

Comment: The U.S. should adopt a *Vitis* postentry system like that of Canada, which includes woody, herbaceous, and serological indexing of samples from each nursery in their international program.

Response: If at any time in the future APHIS approves importation of certified German grapevines into postentry quarantine, the conditions would likely require that a sample of each variety from each nursery be taken at the appropriate inspection station and shipped to the National Plant Germplasm Quarantine Center in Beltsville, Maryland, for testing by sap transmission, grafting and serological techniques. A similar system has been used to monitor commercial shipments of apple, pear, and stone fruit trees imported from Europe into the U.S. under postentry quarantine.

Comment: The U.S. does not have the infrastructure to test and treat grape materials under controlled quarantine conditions. Such test facilities would be the only way to assure safe *Vitis* imports.

Response: Neither the USDA, nor the universities, nor the State departments of agriculture have the capacity to test commercial quantities of imported grapevines for all exotic pests under controlled quarantine conditions. However, as with many other commercial crops, a foreign certification program operated under safeguards agreed to by APHIS and the foreign plant protection service can provide commercial quantities of plants free of hazardous pests that do not occur in the United States. These cooperative efforts between APHIS and foreign officials have been successful for decades in assuring the safe importation of fruits and vegetables, bulbs, ornamentals in growing media, and fruit trees.

Comment: All imported *Vitis* materials should be subjected to quarantine and indexing prior to release, unless they supply certification similar to the Foundation Plant Material service provided by the USDA/UC National Grape Importation and Clean Stock Facility at Davis, California.

Response: Any program for *Vitis* imports that APHIS might propose in the future likely require the *Vitis* to be accompanied by a phytosanitary certificate with an added declaration stating that the grapevines meet U.S. entry requirements, which would likely include indexing in the country of origin. If the certificate did not have the added declaration or is improperly completed, the grapevine in that shipment would not be admitted.

Comment: Importation of German *Vitis* without absolute assurance that the materials are disease free could devastate the U.S. grapevine industry.

Response: Absolute assurance of freedom from disease is impossible to establish. We agree that if certain grapevine diseases became established in the United States they could devastate the domestic grapevine industry, and the goal of our program with regard to *Vitis* is to minimize that possibility. We agree that the proposed system for allowing German *Vitis* imports could not be followed in Germany and therefore could not sufficiently minimize the risk associated with importing German *Vitis*, which is why we have withdrawn the proposal.

Comment: There will be no way to verify that German *Vitis* nurseries fumigate their soil and use virus free materials.

Response: We believe that the withdrawn proposal and normal APHIS operating procedures would have ensured that these conditions were met. Under the withdrawn proposal, the phytosanitary certificate that must accompany the grapevines destined for postentry quarantine must contain an added declaration by the German plant protection service that the fumigation was performed and that the parent stock had been indexed for listed viruses and other pathogens. The postentry quarantine requirement was designed to provide a check on the health of the imported grapevines. A sample of each shipment would have been tested by APHIS personnel to monitor the health of the German grapevines. State or federal inspectors would periodically observe the growing grapevines for obvious diseases during the two growing seasons that the German grapevines are held in postentry quarantine. Diagnostic evaluations on grapevines with suspicious symptoms would also have been performed by APHIS or State personnel. The German participants knew that if a hazardous pest is detected or introduced, the program and their export market could be canceled, so they had some incentive to follow phytosanitary procedures agreed upon.

Comment: Vitis imports should follow the technical guidelines for safe movement of grape germplasm outlined in the WRCC24 report on Grape Pests and diseases (August 7, 1988) and the FAO–IBPGR Report (1990).

Response: The technical aspects of the German program have been reviewed by scientists both inside and outside APHIS. The parent plants in the German program have been tested for pathogens by internationally accepted procedures, and the progeny of these parent plants have been maintained in a manner designed to minimize the possibility of infection by local pathogens.

Comment: Vitis imports should be tested and indexed at a facility like the USDA/UC National Grape Importation and Clean Stock Facility at Davis, California.

Response: The National Grape Importation and Clean Stock Facility being built in Davis, California, is being designed to test small quantities of commercial cultivars and some germplasm which are prohibited entry in commercial quantities from various countries. This facility will not be designed or staffed to process commercial quantities of grapevines from any country. In fact, just the demand for prohibited commercial cultivars and germplasm is overwhelming present resources committed to quarantine activities. Instead of inundating this program with grapevines to process, we proposed to accept and monitor the importation of only certified grapevines from a foreign certification program which we have carefully evaluated to determine that it can provide grapevines of comparable health to those produced by U.S. certification programs.

Comment: German nurseries should re-test *Vitis* after it is planted in their fields.

Response: A requirement to retest grapevines in the nursery fields without reasonable cause is inconsistent with our certification standards for other foreign certification programs and is not mandatory for U.S. certification programs which produce plants for export. However, under the withdrawn proposal, if suspicious symptoms were detected by German inspectors in grapevines before export, the affected grapevines would not be certified unless the cause can be determined as abiotic in origin. After arrival in the United States, a sample of each cultivar from each nursery would have been tested by APHIS personnel to monitor the health of the German grapevines.

Comment: Imported *Vitis* should be accompanied by adequate documentation showing the complete origin and growing history, to prevent import of vines with a "German address" regardless of the country in which they were grown.

Response: The current regulations require each shipment of restricted articles to be accompanied by a phytosanitary certificate of inspection issued by the plant protection service of the country where the articles were grown.

We believe this certificate constitutes adequate documentation to inform

inspectors at the port of first arrival in the United States where the articles were grown.

Comment: European laws allow growers up to 15% off type vines; there should be zero tolerance for off type vines for import into the U.S.

Response: The laws administered by APHIS authorizing the regulation of imported plants and plant parts were enacted to prevent the introduction of hazardous pests with this imported plant material. These laws do not require or authorize efforts to insure genetic homogeneity or trueness-to-type of imported plant material. These are quality control issues which must be negotiated between the U.S. buyer and the foreign seller in the same way the U.S. buyer would do with a U.S. seller.

Comment: Specific German *Vitis* indexing procedures and test protocols must be reviewed by APHIS and made available for U.S. industry review.

Response: As discussed below in the response to a comment about the definition of "indexing," we rely on foreign plant protection services to evaluate the effectiveness of indexing protocols that are used as the basis for issuing phytosanitary certificates for regulated articles. Although they are not specifically required to do so under the regulations, these services sometimes consult with APHIS regarding the effectiveness of new indexing protocols before they begin to issue certificates based on the protocol.

Comment: Even assuming adequate German indexing and testing of *Vitis*, some pests could be introduced through error and negligence, and could spread from postentry quarantine sites through vectors known to occur in the U.S.

Response: If we propose a *Vitis* import procedure in the future, safeguards would be implemented both before export and during postentry quarantine in the U.S. to minimize the possibility of pest introduction. However, error and negligence are always possible when human beings are involved. If grapevines infected with an exotic pest are imported, symptoms on the growing vines should alert the importer or State inspector early enough so that eradication is possible. The only exotic obscure German pathogens with known vectors are the nepoviruses. In many cases, the European nepoviruses cannot be transmitted by American nematode species. Even if a domestic nematode species in the area can transmit the introduced nepovirus, the nematode will not move the virus far beyond the originally infected vines.

Comment: USDA lacks the resources to effectively monitor the large number of *Vitis* imports expected, as evidenced by the recent call for a limit on the number of plants allowed to enter California under postentry quarantine.

Response: We are working on methods to improve the procedures for monitoring postentry quarantine material, and are considering proposing regulations to address improved methods for postentry quarantine management.

Comments on Definitions

Comment: The proposed revision of the definition of "indexing" is too vague and broad and constitutes a relaxation. The current definition is valuable because it allows only the use of sensitive indicator plants for pathogen detection. If tests such as serology or nucleic acid hybridization are used, the regulations must state this and must include the protocol and specific antisera or probes and controls to be employed in performing the test.

Response: During recent years, the use of the term "indexing" in scientific research and certification programs has evolved to include not only inoculation of indicator plants but also serology, electron microscopy and nucleic acid hybridization. The actual tests used in the indexing of each crop will differ with the crop and will change as technology improves. Therefore, it would be impractical to specify all specific protocols, antisera or probes that would be acceptable for indexing.

Foreign plant protection services evaluate the effectiveness of indexing protocols used as the basis for issuing phytosanitary certificates for regulated articles. Before they agree to issue phytosanitary certificates attesting to the results of indexing, the foreign plant protection services ensure that protocols use scientifically valid procedures and materials that will effectively detect the plant diseases in question. Foreign plant protection services also consult with APHIS regarding the effectiveness of new indexing protocols before they begin to issue certificates based on the protocol.

We believe that protocols used by laboratories performing indexing are effective, because foreign plant protection services evaluate each protocol before its use, and because the foreign plant protection services and APHIS monitor the use of the protocols in the laboratories. Foreign plant protection services have an interest in the accuracy of the indexing they certify in phytosanitary certificates. These foreign plant protection services operate some indexing laboratories directly, and supervise or monitor the indexing performed in other, private laboratories. In this area, as in many other areas of our plant import regulations, APHIS relies to some extent on the activities of foreign plant protection services. Finally, exporters have a commercial interest in ensuring that their products are effectively indexed to protect their export markets.

We agree that because the proposed definition of "indexing" is more inclusive than the old definition, it could be considered vague or overly broad. The proposed definition could lead some readers to believe that any procedure, regardless of accuracy, would be accepted by APHIS as indexing.

Therefore we are changing the definition to list the approved indexing procedures, which may be employed using any protocols acceptable to the plant protection service that issues phytosanitary certificates based on them. The revised definition also describes the purpose for which indexing is used in the regulations, and states which indexing procedures may be used with each plant genus that requires indexing. The experience of USDA, foreign plant protection services, and research facilities in using these procedures has demonstrated that the procedures authorized for each genus effectively detect the relevant pests for the genus.

As revised in response to this comment, the definition reads as follows:

Indexing. A procedure for using plant material or its extracts to determine the presence or absence of one or more pests in or on the tested plant material. For the purposes of this subpart, indexing is performed in foreign countries to test the parent stock of designated articles that must meet special foreign inspection and certification requirements in accordance with § 319.37–5 to be eligible for importation into the United States. The results of indexing tests are used by the plant protection services of foreign countries to issue phytosanitary certificates declaring plant articles free of specified diseases. The following indexing procedures are authorized for use with the specified plant genera, if the procedures are performed using protocols acceptable to the plant protection service that issues phytosanitary certificates based on them: Mechanical transmission of the pest to an indicator plant for *Dianthus, Malus, Prunus, Rubus,* and *Syringa;* graft transmission of the pest to an indicator plant for *Chaenomeles, Cydonia, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* serology for *Dianthus, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* electron microscopy for *Dianthus* and *Prunus,* and nucleic acid probes for *Chaenomeles, Cydonia, Malus,* and *Pyrus.*

Comment: The term "disease" should be used correctly. The term "pathogen" should be used to define the causal agent that causes the disease which is

being regulated. The term "pest" should be exclusive of all organisms defined as causing disease.

Response: We recognize that the term "disease" as used in the regulations in not in accord with generally accepted scientific usage. However, the term is used in the regulations with the same meaning given to the term in the Plant Quarantine Act, which is the primary statutory authority for 7 CFR part 319. A pending act of Congress, the Plant Protection Act, would correct this discrepancy.

Comments on Canadian Greenhouse-Grown Articles and Imports From Canada

Comment: APHIS should spot check shipments from Canada to be certain that transhipping does not take place.

Response: As it has in the past, APHIS will continue to spot check shipments from Canada to ensure that the articles comply with regulatory requirements. This checking is inspection in accordance with § 319.37-4(b) of the regulations, which states that any restricted article "may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown * * *" In addition, we consider the certificate and labeling requirements for restricted articles from Canada, which must indicate that they are "from" Canada in accordance with the definition of "from" contained in § 319.37-1, to be an effective means of preventing transshipment.

Comment: APHIS should add a requirement that growers in Canada keep records of "date of receipt" of greenhouse-grown plants for shipment to the United States.

Response: We agree, and we have changed the regulations concerning the Canadian greenhouse program to state that Agriculture Canada, in a written agreement with each grower, will require the grower to maintain records of the date of receipt, as well as the origin, kinds, and quantities of plants grown for shipment to the United States (see § 319.37-4(c)(1)(ii) and (c)(2)(i)). We feel that this requirement is needed to help ensure that the greenhouse plants shipped to the United States meet the regulatory requirements.

Comment: Does the working regarding the placement of labels, "so as to be readily visible to inspectors and customs officials," mean that APHIS has checked with the United States Customs Service regarding their country of origin labeling requirements, contained in 19 CFR part 134? If not, the need for two labels could be confusing to both APHIS and Customs, and burdensome to the shipper.

Response: Our requirement was not meant to meet U.S. Customs Service county or origin labeling requirements. Customs Service and APHIS labeling requirements differ because the purposes of the two agencies' regulations and certain basic definitions used in them differ, and it is not feasible to meet both sets of requirements in a single label. The APHIS label is meant to identify the grower of the article, not its country of origin, and to inform U.S. Customs Service or APHIS officials that the article is eligible for importation into the United States in accordance with the requirements of 7 CFR 319.37-4(c). As the label will not specify country of origin, we do not feel that it will confuse U.S. Customs Service or APHIS officials seeking country of origin information. We also believe that the burden of using this label is slight, and is significantly less burdensome than using certificate forms or other alternatives.

Comment: In the Canadian greenhouse program in § 319.37-4, the standards for the inspection or review used to justify the statement that a green-house "is believed from injurious plant pests" should be spelled out, including frequency of inspection. The Statement " is believed to be free" is insufficient certification for entry into Washington State.

Response: The rule requires that the Plant Protection Division of Agriculture Canada "inspect greenhouses and the plants being grown in them using inspection methods and schedules approved by Plant Protection and Quarantine." Plant Protection and Quarantine, APHIS, will specify to the Plant Protection Division of Agriculture Canada the nature and frequency of inspections that we consider necessary to justify the statement that a greenhouse "is believed free from injurious pests," based on our experience with initial shipments under the Canadian greenhouse program. If we develop standards of general applicability regarding what is necessary to justify this statement, we will publish these standards in future rulemaking.

Comment: In § 319.37-4, who will ensure that labels are controlled, that growing season inspections are performed and that plant material shipped under this program is of Canadian origin?

Response: The Plant Protection Division of Agriculture Canada, subject to monitoring by APHIS, will ensure that labels are controlled, inspections are performed, and that the plants shipped under the program are of Canadian origin. Under § 319.37(c)(2)(i), all grower records of the kinds, quantities, and origin of the plants shipped will be available for APHIS review.

Comment: Postentry quarantine is required for *Rosa* spp. imported from Canada. We would support an exemption for rose bushes from the United States that are moved to Canada for further growth and then returned to the United States, if Agriculture Canada is capable of enforcing the exception and keeping foreign-grown roses from entering the U.S. in this less restrictive manner.

Response: This suggestion is outside the scope of the changes APHIS proposed in the proposed rule, and further, we have decided to withdraw the proposed provisions affecting importation of rose bushes from Canada. See "Withdrawal of Postentry Quarantine Requirement for Roses From Canada," below.

Comment: Vitis from Canada should not be allowed to be imported with a certificate statement, in lieu of indexing, that certain pests do not occur in Canada. Because Canada allows direct import of *Vitis* from France, *Vitis* from Canada should be indexed for European pests. The certificate should state that the article is free of specified diseases based on visual examination and indexing of the parent stock and inspection of the nursery where it was grown.

Response: Whenever certification programs of foreign countries are reviewed for compliance with U.S. entry requirements, the foreign plant protection service is allowed to certify absence of a pest on the basis that the pest does not occur in the exporting country. Other countries, including Canada, allow us to do the same for our exports. Up to this date, Canada has not reported the detection or introduction of any of the exotic European pests in certified grapevines imported under the new agreement with France.

If an exotic European pest is introduced into Canada in the future, we will reevaluate our entry requirements for Canadian grapevines. At the present time, a requirement to test grapevines of Canadian origin for European pests not known to occur in Canada would be inconsistent with the regulations' requirements for other articles that present similar risk levels.

Comments on the Basis for and Background of the Proposed Rule

Comment: The basis that the proposed rule cites for revising the regulations (that it is necessary due to changes in the distribution of plant pests known to

be present in certain foreign countries, and due to reevaluation of the risks that these plant pests could be inadvertently introduced into the U.S.), is weak, because there is relatively little comprehensive information on pest distribution.

Response: We agree that there is a paucity of information on world pest distribution in general. However, we proposed new prohibitions on the basis of positive reports of particular pests occurring in particular countries. We believe this action is logical and results in better quarantine protection for American agriculture. Proposals to remove certain prohibitions or restrictions were based on specific information about particular pests and plants. These proposals are well-supported by data on distribution of particular pests provided to APHIS by national plant protection organizations, despite the general scarcity of information on world pest distribution.

Comment: A current pest distribution listing is essential if APHIS is going to make decisions that will affect United States agriculture. Such lists cannot be put together for minor crops in the document.

Response: We agree that there is a paucity of information on the pests of minor crops. Current pest distribution listings would be invaluable tools for APHIS, but we can and must make decisions affecting United States agriculture based on the best available scientific information. We believe this approach is logical and legally defensible. The proposed changes in the regulations represent our best efforts to protect United States agriculture from the introduction of hazardous foreign pests.

Comments on Packing Materials

Comment: There is a problem with rock wool as a packing material. Recycled rock wool infested with *Pythium* may be used as a packing material. APHIS should take steps to ensure that rock wool used as packing material is not used for other purposes prior to that use.

Response: All packing materials are required to be new (not to have been recycled and/or used previously as a packing material or otherwise; see § 319.37–9).

Comment: Plant materials can be packed in packing materials that may in fact become the rooting medium. Geranium cuttings may be put into a rooting sponge two weeks before shipment; there is no control on the conditions under which the plant is grown from the time the cutting is stuck until it is shipped. Nematodes will move between substrates in just a few weeks. If the "intent" is to cause roots to develop in the "packing material," then the plant species and "rooting media" in question should be put through the APHIS pest risk analysis program.

Response: We must assume that cuttings are continuously growing and that, therefore, some internal microscopic root initiation begins soon after a cutting is placed into the packing material. If the plants are then held in a pestiferous area, infestation of the plant and/or packing material might occur. This is true regardless of the kind of plant or packing material. Therefore, we are adding a provision to § 319.37–9 that "plants are to be packed in approved packing material immediately prior to shipment." This requirement should help reduce the possibility of infestation of the plant or packing material.

Comment: "A Study of Pest and Disease Risks Associated with the Importation of Potted Ornamental Plants Into the United States," a study submitted to APHIS in May of 1984, shows there are plant pathogenic fungi and nematodes in peat. Therefore peat should be removed from both the list of approved packing materials and growing media.

Response: The cited study lists three species and six genera of nematodes found in soil-free media such as peat. These species and genera are widespread in the United States, and thus cannot be regulated under the Plant Quarantine Act. In order to prohibit peat under the Act, we would have to have information that peat frequently contains injurious insects or dangerous plant diseases new to or not theretofore widely prevalent or distributed within and throughout the United States.

Comments Regarding Executive Order 12291 and Regulatory Flexibility Act

Comment: Why is the economic analysis of the proposed rule not based on the 1987 agricultural census instead of older data?

Response: At the time the proposed rule was drafted, 1987 Census of Agriculture data were not available. We have updated the economic analysis and incorporated 1987 data. Please see the "Executive Order 12291 and Regulatory Flexibility Act" section of this document.

Comment: The economic analysis that concludes a negligible effect from *Vitis* imports does not take into account that the German production cost per vine is 50% of the U.S. cost, and that German production is 18–20 million vines/year versus German demand of only 12 million vines/year. The effect of increased German *Vitis* imports would be a European takeover of the small ($15 million) U.S. grape nursery industry. The economic analysis should also address the probability that German nurseries would undercut U.S. prices and claim superior clonal material, causing enormous losses to U.S. nurseries.

Response: As discussed above, due to pest risk considerations we are withdrawing the proposal to allow importation of *Vitis* from German nurseries that meet specified conditions. Therefore we will not respond to this comment about potential economic impacts of the withdrawn proposal. Should we publish a proposal to allow importation of *Vitis* from German nurseries in the future, we would publish updated economic analysis information at the time of the proposal.

Comment: Exotic pest, like *Thrips palmi*, have the potential to damage a wide range of agricultural commodities. The economic analysis does not consider this possibility. As a result the estimates for economic loss are understated.

Response: Our economic analysis recognizes that introduction of exotic plant pests could have harmful economic effects, and indeed the basic purpose of the regulations is to prevent such introductions. When analyzing the economic impacts of the regulations, we focus primarily on the effects that occur when the regulations operate as planned and achieve their purpose of pest exclusion. If we assume that the regulations fail to exclude pests, then we could very quickly invent a scenario in which United States agriculture suffers massive economic losses. These losses would be the result of *pest introduction*, not effects of the regulations. The economic analysis deals with such scenarios as low-probability events that could occur despite the regulations, not as possible effects of the regulations.

Comment: APHIS predicts that the domestic floriculture industry will suffer an estimated annual loss in total revenue of 3 to 8 percent when additional plant genera in growing media enter the country. This is a direct loss of $65 to $172 million to the domestic industry. These estimates do not consider the potential loss from the unforeseen introduction of a new plant pest. These are unacceptable costs that the regulations should prevent.

Response: Cash receipts for nursery and floriculture crops in the United States totaled $6.4 billion in 1987. We have not predicted an annual loss of 3 to 8 percent of this figure as a result either of this final rule or of possible future proposed rules addressing importation

of plants established in growing media. That 3 to 8 percent range was discussed as a possibility in various informal APHIS documents, but does not represent an official APHIS conclusion about economic impacts. Potential economic impacts of the regulations are discussed in the Executive Order 12291 and Regulatory Flexibility Act section of this document, and future proposed rules concerning importation of plants in growing media will discuss estimated economic impacts of those proposals, in conjunction with preparation of a Regulatory Impact Analysis covering those proposals.

Comment: Economic factors will hurt American industry because of lax use of agricultural chemicals in Europe resulting in resistant pests being imported, unidentified pests reported in Germany, shipment of New Zealand and Australia plants to Europe and then to the United States under the current program. U.S. growers are at a big disadvantage economically because our temperatures are generally lower. European growers have a more cohesive research and sales program, and better access to capital.

Response: APHIS has found no evidence to support the conclusion that use of agricultural chemicals in Europe is resulting in new varieties of chemically resistant pests being imported into the United States. Regarding the economic competitiveness of United States growers, we do not agree that they are at a disadvantage with regard to European growers, but in any event we are not authorized to regulate importation of nursery stock in such a way as to address perceived market inequities. The Federal Plant Pest Act and the Plant Quarantine Act require us to address the risk of introducing plant pests, not economic competitiveness.

Comment: Has adequate consideration been given to the fact that the economic impact of pathogens and pests is often unpredictable, especially if they are introduced into a new environment without their natural enemies?

Response: We are aware that the economic impact of pests is often unpredictable. Non-pests may become pests, or pests in one location may cause little trouble in another location. In attempting to predict the impact of plant pests, we apply the standards of the Plant Quarantine Act, which tells us to address those organisms which are recognized as plant diseases and injurious insect pests, and which are new to or not widespread in the United States.

Comments on Proposal To Allow Chestnut (Castanea) Imports Without Postentry Quarantine

Comment: APHIS should retain restrictions on *Castanea* imports to protect commercial industry in California, Oregon, and Washington that would be harmed by introduction of chestnut blight, gall wasp, chestnut weevils and other pests, including unknown pests. While many chestnut pests (such as gall wasp) exist in other areas of the U.S., they are kept out of California, Oregon and Washington by State quarantines. This will not be possible with large imports of foreign chestnuts occurring. Chestnut pests that exist in the U.S. could be strengthened and made more harmful by allowing exotic pests of the same species but with greater genetic diversity to enter the U.S.

Response: Upon further consideration of this issue, after examining information submitted by commenters, we have decided that to prevent the introduction of plant pests, no *Castanea* plants should be allowed to enter the United States, not even under conditions of postentry quarantine. Therefore, we are withdrawing the proposal to allow *Castanea* to enter without postentry quarantine, and we are instead adding *Castanea* (except seeds) to the list in § 319.37–2(a), as an article prohibited importation from all places, including Canada.

Chestnut blight (caused by *Cryphonectria parasitica* (Murrill) Barr) is a significant disease problem and has all but eradicated the American chestnut from the eastern United States. However, many western States are not affected, or are only minimally affected by this disease. For example, Oregon and Washington are not infested, and California and Wisconsin have only a few localized infestations. The causal organism, or its host, is the subject of quarantine action by some States. The westward movement of the disease has been hindered by these quarantines and by natural barriers. However, if large-scale importation of *Castanea* were allowed, these quarantines and natural barriers would probably not be sufficient to prevent the disease from moving into western States.

The gall wasp (*Dryocosmus kuriphilus* Yasumatsu) is currently a serious introduced pest in parts of Georgia and Alabama and is spreading north and west at a rate of about 15 miles a year. The ultimate limit of this spread is unknown. The host range of the wasp includes several varieties of *Castanea* (*C. mollisima, C. dentata,* and *C. pumila*). The wasp lays eggs in dormant buds in June, and the first instar larvae overwinter in the buds without producing the usual characteristic gall symptoms until bud-break occurs the following spring. This makes it unlikely that inspection could detect presence of the organism in *Castanea* at an inspection station. In addition, eradication or control measures for the organism in the field are currently uncertain and expensive. Therefore, large-scale importation of *Castanea* would likely hasten the spread of this pest throughout the United States. For these reasons, we are prohibiting the importation of *Castanea* (except seeds).

Comment: The proposed rule's list in § 319.37–7 no longer lists *Dianthus* as requiring postentry quarantine.

Response: The amendatory language of the proposed rule only contained text that was being added or changed, which is the usual method for Federal Register documents proposing to amend regulations. The proposed rule's list in § 319.37–7 contained numerous rows of asterisks, indicating Code of Federal Regulations text that was not repeated in the proposal because it was not being changed. The listing for *Dianthus* is one of the many articles already listed in § 319.37–7 that the proposal did not propose to change. Therefore, *Dianthus* remains listed as an article that requires postentry quarantine growing if imported.

Comments on Special Certification and Treatment Requirements

Comment: Methyl bromide cannot be used in the Netherlands as required by proposed § 319.37–5(i) to fumigate soil where *Syringa* spp. (lilac) would be grown for export to the United States; therefore this provision should be deleted. An alternative can be realized.

Response: Soil fumigation was specified in order to minimize the possibility that lilacs for export would be infected with European nepoviruses by viruliferous nematodes present in the soil. Any treatment that effectively reduces the populations of nematode vectors of viruses to below a detectable level would be acceptable. Certification that nematode vectors of viruses were not detectable in fields where lilacs were grown for export would also be acceptable if we define the level of sampling required to make such a certification. APHIS is willing to consider any proposal for either an alternative soil fumigant or a soil virus vector sampling scheme for *Syringa* imports, if we are provided with further data indicating how such alternatives are effective and practical.

Comment: Elm mottle virus has been detected in pollen of infected *Syringa;* therefore, the proposed requirement that *Syringa* for import be separated by three meters from the nearest non-indexed plant may not be adequate to prevent transmission.

Response: Elm mottle virus has not been transmitted from infected lilac to healthy lilac by pollination with infected pollen. In fact, in the German publication [1] usually cited as evidence for the occurrence of this virus in lilac pollen, the virus was not recovered from pollen in any of the tests. Therefore, precautions to prevent spread of this virus by pollen from lilacs separated by 3 meters from the nearest non-indexed plant cannot be justified.

Comment: Regarding the special certification requirement in proposed § 319.37–5(m) for maple due to maple variegation virus, research in the Netherlands has proven that the variegation symptoms in *Acer palmatum* or *Acer japonicum* are not caused by this virus. There is no risk of introduction and no reason to include the prohibition.

Response: In view of the trade and widespread planting of ornamental maples, it is difficult for us to accept the assertion that all of the variegation symptoms observed in maple trees in the Netherlands, now and in the future, are caused by nonpathogenic factors. Therefore, the testing of parent trees and controlled propagation from these tested trees are prudent requirements to prevent the introduction into the U.S. of European maple pathogens. APHIS would consider a proposal for the plant protection service of the Netherlands for review of a maple certification program using *Acer palmatum* and *A. japonicum* clones previously tested for maple variegation agent as parent plants.

Comment: In § 319.37–5, the change to require that certificates accompany certain articles "at the time of arrival at the port of first arrival" rather than "at the time of importation or offer for importation" fails to address security between the time of importation and the time of arrival at the port of first arrival. Material in transit to the port of first arrival should be in sealed containers.

Response: Due to standard shipping practices, most plant material is shipped in closed containers. In addition, restricted articles subject to a permit requirement under the regulations must enter the United States at a designated port for clearance at a plant inspection station where the material is safeguarded prior to release.

Comment: Changes to special foreign inspection and certification requirements in § 319.37–5 exclude numerous herbaceous and vegetable pathogens that should be included.

Response: We cannot respond to this non-specific comment. If the commenter had provided specific names of pathogens and hosts of concern, we could have addressed them in our response.

Comment: In § 319.37–6(c), the decision to drop treatment for *Verticillium* seeds because industry uses resistant varieties ignores the high cost of developing such varieties and the fact that pathogens often develop new strains to overcome resistant lines of plants.

Response: Verticillium is borne internally within the seed, whereas the required fungicide treatment is applied externally. If APHIS is presented with evidence that there are exotic and highly virulent strains of this fungus on alfalfa, we will consider proposing additional restrictions.

Comment: APHIS should not remove the seed treatment required by the former regulations for hosts of *Phakopsora pachyrhizi.* The proposal said the treatment is not necessary due to commercial cleaning applied to seeds for import. However, much of the seed from germplasm collections is hand-harvested and not commercially cleaned, and could easily carry debris that harbors inoculum.

Response: APHIS experience inspecting seed shipments at the port of entry has shown that germplasm of the affected genera is free or nearly free of debris. If debris is present, it is removed by hand.

Comments Regarding Coconut Imports

Comment: Coconuts from Jamaica and Costa Rica could jeopardize the date industry in California and elsewhere by introducing diseases. Has it been conclusively shown that the varieties can not serve as symptomless carriers of lethal yellowing?

Response: The lethal yellowing mycoplasma-like organism (MLO) has not been shown to be transmitted by seed to the progeny of any susceptible palm species. Consequently, prohibition of nut importation because of this pathogen is not justified at this time.

Comment: If coconuts are to be allowed importation from Costa Rica, a phytosanitary certification program is needed for such imports due to the red ring nematode (*Bursaphelenchus cocophilus*) and the palm weevil vector (*Rhynchophorus palmarum*). Fumigation of nuts on arrival in the United States should be required for *R. palmarum,* and postentry quarantine should be required to check nuts for *B. cocophilus.* Red ring nematode could also be handled by careful and thorough samplings of coconut plantations on the Atlantic side of Costa Rica, and with a nematicide dip treatment with phenamiphos. The University of Costa Rica has the qualified personnel and facilities to help carry out such a program.

Response: We consider the risk of coconut seed introducing *Bursaphelenchus cocophilus* (red ring nematode) to be low. Nuts on infected trees often fall prematurely, and would not be imported. Only on rare occasions do nematodes invade the inflorescence so as to be found in immature fruit. Several literature references [2] state that red ring nematode has not been recovered from nuts from diseased trees. In studies, artificial infection of seednuts did not produce the red ring disease in grown plants.

With regard to the palm weevil (*Rhynchophorus palmarum*), feeding takes place on the palm stem, and punctures may be made on the undamaged surfaces of immature nuts. Nuts on infected trees often fall prematurely. Typically, oviposition by the female weevil is made on the internodal stem region, at the bases of young petioles, in the fibers running from the sides of the petioles around the stems, and in the endosperm of damaged mature nuts. The immature nut is not the normal oviposition site for the female weevil. The coconuts would be inspected at the port of entry for exotic pests. If *R. palmarum* is present, the appropriate actions will be taken to exclude the pest.

Based on these facts, we believe the risk of moving the red ring nematode and the palm weevil is minimal and does not warrant additional safeguards.

Miscellaneous Comments

Comment: Risks associated with importing many herbaceous and vegetable seeds are neglected. The current standards for visual inspection and entry without permit are inadequate to detect numerous serious foreign seed-borne pathogens such as cowpea mottle, lucerne transient streak, and peanut clump virus.

Response: Potato, lentil and peanut seeds are vegetable seeds prohibited under § 319.37 because of foreign pathogens. However, we recognize the

[1] Citations available on request to the staff identified above in FOR FURTHER INFORMATION CONTACT.

[2] Citations available on request to the staff identified above in "FOR FURTHER INFORMATION CONTACT."

need for a comprehensive study of seed-borne pathogens, and we encourage research in this area. Future changes in the entry status of various vegetable seeds would probably result from such a study.

Comment: Certain plants offered for import unrooted or in medium should be put through culture virus indexing and culture indexing procedures before exportation when such procedures are normally used in the crops in question in the United States, e.g., chrysanthemums tested for chrysanthemum stunt and wilt. This would afford maximum protection to domestic growers and help maintain the integrity of existing culture virus indexing and culture indexing programs in this country.

Response: If plants imported in growing media are shown by research to be natural hosts of an exotic pest, future rulemaking will require safeguards to minimize the possibility of pest importation. In the case of exotic viruses or other small pathogens, indexing of the parent plants and precautions to prevent infection after indexing will be required.

Comment: Persons who export contaminated articles to the United States should be held accountable for damage caused by exotic pests that accompany the articles to the United States.

Response: Under the Federal Plant Pest Act foreign exporters may be accountable for plant pests that are in their shipments. There are criminal and civil penalties for violation of the Act or regulations issued thereunder, and the Act specifically prohibits any person from knowingly moving any plant pest from a foreign country into or through the United States. Further, importers have legal recourse in this area, and can negotiate it in their contracts. Also, if APHIS finds repeated pest infestations from one source, actions we might take would include refusing further shipments from a particular grower or exporter, or prohibiting importation of a restricted article from a particular country until we receive evidence that steps have been taken to reduce the threat that hazardous plant pests will accompany shipments from that country.

Comment: Peanuts from peanut stripe virus countries (e.g., Peoples Republic of China) are being imported. Transshipments with rebagging and retagging are taking place. Blanching after importation is not an answer since major blanching volume is found in the U.S. peanut belt. Therefore, impose an immediate quarantine on all propagable non-U.S. origin peanuts.

Response: If transshipment is occurring by rebagging and/or retagging, the phytosanitary certificates accompanying these shipments are inaccurate. Our inspectors are aware of these possible misrepresentations. APHIS will present reports of misrepresentation to the plant protection service of the country where this occurs with a stern warning that prohibition will result unless this situation is corrected. Only after reasonable efforts fail to correct the problem should peanuts be prohibited, but only from that particular country. Prohibition of all non-U.S. peanuts for propagation because of the actions or negligence of a few countries is not justifiable.

Comments Outside the Scope of the Proposed Rule

Some commenters submitted comments that did not address the changes we proposed to "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products." These comments are not addressed in this final rule. The majority of these comments were anticipatory of future rulemaking actions concerning importation of plants established in growing media in accordance with 7 CFR 319.37–8.

As we announced in the proposed rule, APHIS intends to propose several more amendments to "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" during the next three years. Primarily, these amendments will consist of changes to the list of plants allowed to be imported established in growing media (7 CFR 319.37–8). APHIS has received requests to allow more than 60 additional genera and families of plants established in growing media to be imported into the United States.

To prevent unnecessary delay in the publication of regulations, APHIS has decided to publish revisions to § 319.37–8 in several phases. Each time APHIS completes the pest risk analysis and decision-making process for 5–15 genera, we intend to publish a proposed rule proposing to permit entry of those genera we believe can be safely imported.

Comments submitted to proposed rule 87–005 that concern the upcoming proposals to change § 319.37–8 will be reviewed by APHIS staff developing those proposals. Additional opportunity for public comment will occur when each proposal is published. As we announced in an Advance Notice of Proposed Rulemaking published on October 7, 1991 (Docket No. 91–036, 56 FR 50523), the first five genera of plants for which we are developing a proposal are *Anthurium, Alstroemeria, Ananas, Nidularium,* and *Rhododendron.*

Withdrawal of Postentry Quarantine Requirement for Roses From Canada

The list in § 319.37–7(a) of the current regulations requires postentry quarantine for *Rosa* spp. (rose bushes) if they are imported from any place except Australia, Canada, Italy, and New Zealand. In the proposed rule, we stated:

> We propose to remove Canada from this listing in § 319.37–7(a) and require postentry quarantine for *Rosa* spp. from Canada because Canada does not restrict the entry of *Rosa* spp. from any foreign place, and it is therefore possible that *Rosa* spp. imported from Canada may spread rose wilt, through either re-export of rose stock imported into Canada or infection of Canadian rose stock by stock imported from other foreign places. [56 FR 6306]

Since the proposed rule was published, APHIS has received information that indicates the symptoms ascribed to the disease "rose wilt" may actually be caused by one or several common rose disease agents that currently exist in the United States. These agents are *Verticillium*, the *Prunus* necrotic ringspot virus, and the crown gall bacterium.

At present, there is no conclusive evidence in the scientific literature that rose wilt is caused by any of these pathogens or any pathogen that is already present in the United States. Research over the next few years may confirm or disprove this theory.

However, the information indicating this possibility caused APHIS to reexamine its basis for requiring postentry quarantine for *Rosa* from Canada because of rose wilt. After the reexamination, we have concluded that we should withdraw the proposal to require postentry quarantine for *Rosa* from Canada, pending availability of research results concerning the agents responsible for rose wilt.

Therefore, we are withdrawing the proposal to require postentry quarantine for *Rosa* from Canada. We will continue to evaluate reports concerning the agents responsible for rose wilt, and will evaluate any reports concerning rose wilt symptoms in Canadian *Rosa*. If we determine in the future that importing Canadian *Rosa* presents a significant pest risk, we will publish rulemaking addressing that risk.

Executive Order 12291 and Regulatory Flexibility Act

We are promulgating this rule in conformance with Executive Order 12291, and we have determined that the cyclical review and revisions of 7 CFR 319.37, including both the current final rule and future proposals that will

concern additions to the list of plants allowed entry established in growing media, constitute a "major rule," within the broad intent of the Executive Order. Based on information compiled by the Department, we have determined that the amendments proposed for the first phase of this rulemaking, contained in this proposed rule, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We have prepared a preliminary Regulatory Impact Analysis (RIA) and a preliminary Regulatory Flexibility Analysis (RFA) concerning the cyclical review and revisions of 7 CFR 319.37, including both the current rule and future proposals that will concern additions to the list of plants allowed entry established in growing media. The exact content of future rules to be proposed in this area, including the final list of plants proposed to be allowed entry established in growing media, will not be known until APHIS completes pest risk analysis and decision-making processes necessary for the development of these proposed rules. Therefore, the preliminary RIA and RFA take a broad approach and make certain necessary assumptions in order to form a preliminary estimate of economic effects. The RIA and RFA assume that APHIS will propose to allow entry of all plants in growing media for which we have received requests for entry, and make generic assumptions about safeguards and precautionary procedures that may be required for entry of some genera. However, it is unlikely that APHIS, after conducting pest risk analyses, will propose to allow entry of all requested plants. In addition, the safeguards and precautionary procedures necessary for safe entry of some genera will be developed and refined later in the rule development process. Therefore, precise information on these areas will not be available for the preliminary RIA and RFA.

Therefore, the preliminary RIA and RFA will be revised and extended to achieve greater specificity as rulemaking continues. Each proposed rule that is published concerning additions to the list of plants allowed entry established in growing media will include a discussion of changes made to the earlier versions of the RIA and RFA, addressing more complete and specific economic impacts as data and program decisions become available.

Copies of the RIA and RFA may be obtained by sending a written request to the Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

This final rule prohibits the importation of certain nursery stock and other articles that are currently allowed importation and allows importation of certain nursery stock and other articles that are now prohibited. The businesses that may be affected by this rule include importers of nursery stock, domestic growers of these articles, and sellers of these articles. The total number of articles affected is small compared with the millions of articles imported each year. Since dealers in nursery stock normally deal in a wide variety of articles, and have numerous domestic and foreign sources available as alternatives, we do not expect the rule to have a substantial effect on either large or small entities of the nursery stock industry.

We estimate that the changes to the regulations made by this final rule will minimally affect the importation of live plants and propagative plant materials (nursery stock, roots, bulbs, seeds, and other plant products). Revisions to the regulations are necessary to insure that the $6.4 billion domestic floriculture industry is protected from the threat of exotic pests and diseases.

Plants and propagative plant materials are imported into the United States from many different nations. In 1987, the United States imported nursery stock with an estimated total value of $132 million and field and garden seed at an estimated total of $154 million. Foreign nursery products accounted for about two percent of the total value of nursery stock sold in the United States over the past three years. Shipments from The Netherlands and Canada constituted approximately 82 percent of the total dollar value for imported nursery stock. Seed imports include vegetable, flower, garden, grass, trees and shrubs, and some grains. Canada and The Netherlands contribute approximately 50 percent of the field and garden seeds available in the U.S. market.

The changes made by this rule should have a minor economic impact on both domestic producers and importers of plants and propagative plant materials. Each of the changes will only impact a relatively small segment of the U.S. nursery and floriculture crop industry. The potential impacts for each of the proposed revisions are addressed below. A descriptive analysis was applied to cases where information was not available.

We estimate the total value of imports of plants and propagative plant materials covered by the final rule to be about $286 million per year. It is also estimated that approximately 323.9 million propagative plant materials were imported into the United States during 1989. Changes made by the final rule will only prevent approximately 30 plant shipments or 16,579 plants and other plant materials from entering the country in any given year. The estimated prohibition of 30 plant shipments per year would not have a profound adverse economic impact on the U.S. nursery industry. APHIS estimates that the dollar value loss resulting from the prohibited imports would range between $10,000 to $20,000 per year.

In the short-run, a few domestic plant wholesalers would be faced with limited foreign supplies of the articles prohibited by the final rule. However, the restrictions on foreign imports should not have a major impact on the domestic supply given the relatively small number of plants involved. A price change would also be unlikely, due to the small quantity of imported nursery stock that would be affected and the availability of substitute nursery crops. Most of the prohibited plant genera are grown domestically or in other countries that would not be impacted by the proposed import restrictions.

The final rule also relaxes import restrictions on the entry of previously prohibited articles from certain countries, and changes certification requirements for some plant genera. These revisions require exporting countries to ensure that specific precautions are taken that ensure plants and plant products shipped to the United States are free of exotic pests and diseases. Potential benefits from these proposed changes would include greater access to foreign suppliers of some plant genera, stimulation of competition in the U.S. import market, and lower shipping charges for some packaged items. Relaxation of import restrictions for some plants and plant products from certain countries will likely offset the economic loss caused by new prohibitions for shipments from other countries.

The proposal to allow grapevine imports from the Federal Republic of Germany, and the proposal to require

postentry quarantine for rosebushes from Canada, have been withdrawn.

Changes in the certification requirements for certain plants, which would require exporting countries to take extra precautions and observe specific growing conditions for certain shipments, would have a negligible effect on U.S. dealers, due to the small number of plant genera involved and the very small incremental cost increase associated with this change.

The addition of five approved packing materials may slightly reduce the cost of shipping some plants, and may enhance the survival of some plants that could benefit from being shipped packed in the new materials.

Finally, the addition of five packing materials permits more flexibility for firms importing live plants and propagative plant materials.

To summarize the effects of this final rule, the proportion of nursery stock affected by it is too small to have a major impact on current wholesale plant markets. The rule will have some impacts on small business entities and some regional effects, discussed below.

Census of Agriculture statistics state that approximately 35,000 domestic commercial firms or entities produce nursery and floriculture crops. Most of these entities have diversified production operations consisting of multiple combinations of bedding plants, bulbs, sod, plant seeds, foliage and flowering plants, and other greenhouse products.

Criteria established by the Small Business Administration classify small entities in this industry as those firms having a sales volume of less than $0.5 million annually. Based on Census of Agriculture data on farm receipts by income group, it is estimated that approximately 96 percent or 34,000 farms that produce nursery and floriculture crops would be classified as small entities. These 34,000 small farms accounted for 39 percent of the total sales volume for the industry.

The 12 year period from 1976 through 1987 witnessed a high rate of expansion in the domestic production of nursery and floriculture crops. Grower cash receipts increased at an annual average rate of 11 percent, from $2 billion in 1976 to $6.4 billion in 1987. Nursery products accounted for approximately two-thirds of the total domestic production and consist mainly of greenhouse crops such as annuals, perennials, bulbs, woody and herbaceous plants, flower seeds, turfgrass, and other plant stock. Floriculture products accounted for the remaining one-third and consist of cut flowers, potted flowering plants, foliage plants, bedding plants, and cut decorative greens.

Approximately one half of the total value of U.S. floriculture crops and nursery products is produced in three States: California (22 percent in 1987), Florida (14 percent), and Texas (6 percent). California produced the largest volume of potted flowering and bedding plants, while Florida is the main producer of foliage plants.

During 1987, live plant imports rose to $67 million, an increase of 7 percent from 1986. Canadian plant imports exceed those from all other countries, and doubled in value and quantity between 1978 and 1987. Current regulations allow Canada to ship many kinds of plants, otherwise restricted from other countries, in most types of growing media.

Other countries that export large quantities of plants to the United States include The Netherlands, Belgium-Luxembourg, Germany, and Israel. Shipments of plants in growing media from The Netherlands and Israel totaled 3.5 million in 1988. In addition, Costa Rica and Guatemala ship three-fourths (73 percent) of all propagative plant material imports. The majority of imported orchids are shipped from The Netherlands, Thailand, Taiwan, and Germany.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Upon adoption of this rule: (1) All State and local laws and regulations regarding nursery stock imported under this rule while the nursery stock is in foreign commerce will be preempted; (2) no retroactive effect will be given to this rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579-0049.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Transportation, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37-14, would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ff, 154, 155, 157, 159, 160, 162, and 164a; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 319.37 is revised to read as follows:

§ 319.37 Prohibitions and restrictions on importation: disposal of articles refused importation.

(a) No person shall import or offer for entry into the United States any prohibited article, except as otherwise provided in § 319.37-2(c) of this subpart. No person shall import or offer for entry into the United States any restricted article except in accordance with this subpart.

(b) The importer of any article denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, as prescribed by an inspector to prevent the introduction into the United States of plant pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the article, whether the article is a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the article.

(c) No person shall remove any restricted article from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector that the restricted article

has satisfied all requirements under this subpart.

§ 319.37-1 [Amended]

3. In paragraph (b) of the definition of "From" in § 319.37-1, the phrase "or (g)" is removed, and the phrase "(g), (h), (i), (j), (k), (l), or (m)" is added in its place.

4. In § 319.37-1, the definition of "Indexing" is revised as follows and a definition of "Port of first arrival" is added in alphabetical order:

§ 319.37-1 Definitions.

* * * * *

Indexing. A procedure for using plant material or its extracts to determine the presence or absence of one or more pests in or on the tested plant material. For the purposes of this subpart, indexing is performed in foreign countries to test the parent stock of designated articles that must meet special foreign inspection and certification requirements in accordance with § 319.37-5 to be eligible for importation into the United States. The results of indexing tests are used by the plant protection services of foreign countries to issue phytosanitary certificates declaring plant articles free of specified diseases. The following indexing procedures are authorized for use with the specified plant genera, if the procedures are performed using protocols acceptable to the plant protection service that issues phytosanitary certificates based on them: mechanical transmission of the pest to an indicator plant for *Dianthus, Malus, Prunus, Rubus,* and *Syringa;* graft transmission of the pest to an indicator plant for *Chaenomeles, Cydonia, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* serology for *Dianthus, Malus, Prunus, Pyrus, Rubus,* and *Syringa;* electron microscopy for *Dianthus* and *Prunus,* and nucleic acid probes for *Chaenomeles, Cydonia, Malus,* and *Pyrus.*

* * * * *

Port of first arrival. The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territory of the United States, and where inspection of articles is carried out by inspectors.

* * * * *

§ 319.37-2 [Amended]

5. In § 319.37-2(a), the table headings are revised to read as follows: the listings for *Acer, Aesculus, Althaea, Chaenomeles, Chrysanthemum, Cocos nucifera, Cydonia, Eucalyptus, Euonymus, Gladiolus, Hibiscus, Jasminum, Larix, Ligustrum, Malus, Mangifera,* Mulbery mosaic virus, *Oryza, Prunus, Pyrus, Ribes nigrum, Rosa, Solanum* spp. true seed, *Sorbus, Syringa, Vitis,* and *Zizania* are removed, and the following are added in alphabetical order:

§ 319.37-2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Abelmoschus spp. (okra)	Africa	Cotton leaf curl agent.
	Brazil	Cotton Anthocyanosis agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
	Ivory Coast, Nigeria	Okra mosaic virus.
	Iraq	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago	Okra mosaic agents.
* * *	* * *	* * *
Acer spp. (maple) (except *Acer palmatum and Acer japonicum* meeting the conditions for importation in § 319.37-5(m).	Japan	*Xanthomonas acernea* (Ogawa) Burk.
	Europe, Japan	Maple mosaic or variegation diseases.
* * *	* * *	* * *
Aesculus spp. (horsechestnut)	Czechoslovakia, Federal Republic of Germany, Romania, United Kingdom.	Horsechestnut variegation or yellow mosaic diseases.
Aiphanes spp. (coyure, ruffle, and spine palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
* * *	* * *	* * *
Althaea spp. (althaea, hollyhock)	Africa	Cotton leaf curl agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
Arachis spp. (peanut) seed only (all other *Arachis* articles are included under Fabaceae).	India, Indonesia, Japan, People's Republic of China, Philippines, Taiwan, Thailand.	Peanut stripe virus.
	Ivory Coast, Senegal, Upper Volta	Peanut clump virus.
	India	Indian peanut clump virus.
* * *	* * *	* * *
Blighia sapida (*akee*)	Nigeria, Ivory Coast	Okra mosaic virus.
* * *	* * *	* * *
Castanea spp. (chestnut)	All	*Cryphonectria parasitica* (Murrill) Barr (chestnut blight); *Dryocosmus kuriphilus* Yasumatsu (gall wasp).
* * *	* * *	* * *
Chaenomeles spp. (flowering quince) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for *Chaenomeles* in § 319.37-5(b)(1).
* * *	* * *	* * *
Chrysanthemum spp. (chrysanthemum)	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
Cocos nucifera (coconut) (including seed) (Coconut seed without husk or without milk may be imported into the United States in accordance with § 319.56).	All except from Jamaica or Costa Rica if meeting the conditions for importation in § 319.37-5(g).	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Crocosmia spp. (montebretia)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladiolibuettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Cydonia spp. (quince) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for *Cydonia* in § 319.37-5(b)(1).
* *	* * *	* *
Dendranthema spp. (chrysanthemum)	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
* *	* * *	* *
Eucalyptus spp. (eucalyptus)	Europe, Sri Lanka, and Uruguay	*Pestalotia disseminata* Thuem. (parasitic leaf fungus).
Euonymus spp. (euonymus)	Europe, Japan	*Euonymus* mosaic diseases.
Fabaceae (=Leguminosae) (herbaceous spp. only)	All except Canada	A diversity of diseases including but not limited to: African soybean dwarf agent, alfalfa enation virus, azuki bean mosaic virus, bean golden mosaic virus, cowpea mild mottle virus, French bean mosaic virus, groundnut chlorotic leaf streak virus, groundnut chlorotic spotting virus, groundnut rosette agents, groundnut witches broom MLO, horsegram yellow mosaic virus, Indonesian soybean dwarf virus, lima bean mosaic virus, lucerne Australian symptomless virus, lucerne vein yellowing virus, mung bean yellow mosaic virus, peanut stripe virus, red clover mottle virus, and soybean dwarf virus.
* *	* * *	* *
Gladiolus spp. (gladiolus)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladiolibuettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
* *	* * *	* *
Hibiscus spp. (kenaf, hibiscus, rose mallow)	Africa	Cotton leaf curl agent.
	Brazil	Cotton anthocyanosis agent.
	India	Hibiscus leaf curl agent.
* *	* * *	* *
Hyophorbe spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
* *	* * *	* *
Jasminum spp. (jasmine)	Belgium, Federal Republic of Germany, Great Britain	Jasmine variegation diseases.
	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
	Philippines	Sampaguita yellow ringspot mosaic diseases.
* *	* * *	* *
Larix spp. (larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	*Lachnellula willkommii* (Harteg) Dennis (European larch canker).
	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
* *	* * *	* *
Leersia spp. (cutgrass) seed only (all other *Leersia* articles are included under *Poaceae*).	All	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.
* *	* * *	* *
Leptochloa spp. (sprangletop) seed only (all other *Leptochloa* articles are included under *Poaceae*).	All	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.
Ligustrum spp. (privet)	Europe	*Ligustrum* mosaic diseases.
* *	* * *	* *
Malus spp. (apple, crabapple) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for *Malus* in § 319.37-5(b)(1).
Mangifera spp. (mango) seed only	All except North and South America (excluding Barbados, Dominica, French Guiana, Guadeloupe, Martinique, and St. Lucia).	*Cryptorhynchus mangiferae* F. (mango weevil).
* *	* * *	* *
Morus spp. (mulberry)	India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.	Mulberry dwarf or mulberry mosaic diseases.
* *	* * *	* *
Neodypsis spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* * *	* * *	* * *
Poaceae (vegetative parts of all grains and grasses)	All except Canada	A wide diversity of plant diseases, including but not limited to: banana streak virus, barley yellow mosaic virus, barley yellow striate mosaic virus, brome streak mosaic virus, cereal chlorotic mosaic virus, cocksfoot mild mosaic virus, corn stunt spiroplasma, Cynodon chlorotic streak virus, cynosurus mottle virus, Echinochloa ragged stunt virus, European aster yellows MLO, European wheat striate mosaic virus, Iranian maize mosaic virus, maize bushy stunt MLO, maize chlorotic mottle virus, maize mosaic virus, maize mottle/chlorotic stunt virus, maize rough dwarf virus, maize streak virus, maize stripe virus, northern cereal mosaic virus, oat red streak mosaic virus, oat sterile dwarf virus, rice dwarf virus, rice gall dwarf virus, rice tungro virus, rice wilted stunt virus, rice yellow mottle virus, rice yellow dwarf agent, yellow dwarf agent, sugarcane white leaf MLO, wheat yellow leaf virus, and wheat yellowing stripe bacterium.
* * *	* * *	* * *
Prunus spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for *Prunus* in § 319.37-5(b)(1).
Prunus spp. seed only (almond, apricot, nectarine, peach, plum, and prune, but not species in subgenus *Cerasus*) not meeting the conditions for importation in § 319.37-5(j).	All	Plum pox (Sharka) virus.
Pseudolarix spp. (golden larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	*Lachnellula willkommii* (Harteg) Dennis (European larch canker).
* * *	* * *	* * *
Pyrus spp. (pear) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those listed for *Pyrus* in § 319.37-5(b)(1).
* * *	* * *	* * *
Ravenea spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
Ribes spp. (currant, gooseberry)	Europe	Black currant reversion agent.
Rosa spp. (rose)	Australia, Bulgaria, Italy, and New Zealand	Rose wilt virus.
* * *	* * *	* * *
Solanum spp. true seed (tuber bearing species only—Section Tuberarium).	All except Canada and New Zealand	Andean potato latent virus, potato virus T, tobacco ringspot virus (Andean potato calico strain).
Sorbus spp. (mountain ash)	Czechoslovakia, Denmark, Federal Republic of Germany.	Mountain ash variegation or ringspot mosaic disease.
Syringa spp. (lilac) not meeting the conditions for importation in § 319.37-5(i).	Europe	Elm mottle virus.
Theobroma spp. (cacao)	All	A diversity of diseases and pests including but not limited to: cocoa swollen shoot virus, cocoa mottle leaf virus, cocoa yellow mosaic virus, cocoa necrosis virus, *Crinipellis perniciosa* (Stahel) Singer (witches broom fungus), *Monilia roreri—Moniliophthora rorei* (CiF.) H.C. Evans *et al.* (watery pod rot), cocoa isolates of *Ceratocystis fimbriata* Ellis and Halst (wilts), *Trachysphaera fructigena* Tabor and Bunting (mealy pod agents of cushy gall disease), *Oncobasidum theobromae* Talbot and Keane (vascular streak die-back), *Xyleborus* spp. beetles and *Acrocercops cramella* (Snellen) (cocoa moth).
* * *	* * *	* * *
Vitis spp. (grape) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to those specified for *Vitis* in § 319.37-5(b)(1).
Watsonia spp. (bugle lily)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladiolibuettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	*U. transversalis* (Thuem.) Wint. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Zizania spp. (wild rice) seed only (all other *Zizania* articles are included under Poaceae).	All except Canada	*Xanthomonas campestris* pv. *oryzae* (Ishiyama) Dye.

6. In § 319.37-2, paragraph (b), the introductory text is amended by removing the phrase "countries and localities" and inserting the word "places" in its place, and by revising paragraph (b)(6) to read as follows:

§ 319.37-2 Prohibited articles.

* * * * *

(b) * * *

(6)(i) Plants (other than stem cuttings, cactus cuttings, artificially dwarfed plants such as bonsai, and palms and plants whose growth habits simulate

palms) exceeding 460 millimeters (approximately 18 inches) in length from soil line (top of rooting zone for plants produced by air layering) to the farthest terminal growing point and whose growth habits simulate the woody habits of trees and shrubs, including but not limited to cacti, cycads, yuccas, and dracaenas.

(ii) Palms and plants whose growth habits simulate palms, that exceed a total length (stem plus leaves) of 915 millimeters (approximately 36 inches) in length.

* * * * *

7. Section 319.37-2 is amended by removing from paragraph (c)(4) the phrase "tree, plant, or fruit diseases, injurious insects, and other".

§ 319.37-3 [Amended]

8. Section 319.37-3 is amended by revising paragraph (a)(3) to read as follows:

(a) * * *

(3) Bulbs of *Allium sativum* spp. (garlic), *Crocosmia* spp. (montebretia), *Gladiolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily); true seed of *Solanum* spp. (tuber bearing species only—Section Tuberarium) from New Zealand;

* * * * *

§§ 319.37-5, 319.37-6, 319.37-7, and 319.37-13 [Amended]

9. In § 319.37-13, Footnote 10 and its reference are redesignated as Footnote 11; Footnote 9 and its reference are redesignated as Footnote 10; in § 319.37-6, the first Footnote 8 and its reference in paragraph (a) are redesignated as Footnote 9 and revised to read "(See Footnote 6 in § 319.37-4)", and the second Footnote 8 and the references to Footnote 8 in paragraphs (b) and (f) are removed; and in § 319.37-5, Footnote 7 and its reference are redesignated as Footnote 8 and revised to read "Such testing is done under a Raspberry Plant Certification Program of Canada."; and Footnote 6 and its reference are removed.

10. Section 319.37-4 is revised to read as follows:

§ 319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection or, in the case of greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section, a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in the Plant Protection and Quarantine Treatment Manual [6] that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Protection Division of Agriculture Canada signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation if the following conditions are met:

(1) The Plant Protection Division of Agriculture Canada shall:

(i) Eliminate individual inspections and phytosanitary certification of each shipment of articles exported in accordance with this section;

(ii) Enter into written agreements with, and assign a unique identification number to, each greenhouse grower participating in the greenhouse program;

(iii) Inspect greenhouses and the plants being grown in them using inspection methods and schedules approved by Plant Protection and Quarantine to ensure that the criteria of this subsection are met;

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Protection Division, Agriculture Canada." The Plant Protection Division, Agriculture Canada shall also ensure that the label is placed on the outside of each container of articles exported under the agreement and that the grower's label is placed on an airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

(v) Ensure that only plants that are not excluded shipment by the criteria of this subsection are shipped.

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Protection Division of Agriculture Canada in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants, keep the records for at least one year after the plants are shipped to the United States, and make the records available for review and copying upon request by either the Plant Protection Division of Agriculture Canada or an authorized representative of the Secretary of Agriculture.

(ii) Apply to the outside of each carton of plants grown in accordance with this subsection, so as to be readily visible to inspectors and customs officials, and to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States, a label issued by Agriculture Canada including the identification number assigned to the grower by the Plant Protection Division of Agriculture Canada and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Protection Division, Agriculture Canada."

(iii) Apply labels in accordance with paragraph (c)(2)(ii) of this section solely to cartons of plants that meet requirements of this chapter for import of these plants from Canada into the United States; and

(iv) Use pest control practices approved by Plant Protection and Quarantine and the Plant Protection Division of Agriculture Canada to exclude pests from the greenhouses.

§ 319.37-5 [Amended]

11. In paragraphs (a), (c), (d), (e), (f), and (g) of § 319.37-5, the phrase "importation or offer for importation into" is removed and the phrase "arrival at the port of first arrival in" is added in its place each time it appears.

12. In § 319.37-5(a) Israel is removed from the list of places, and the following countries are added in alphabetic order to the list of places: Australia, Bulgaria, Costa Rica, Crete, Cyprus, Egypt, Hungary, Jordan, Malta, Morocco, Pakistan, the Philippines, and Tunisia.

13. Section 319.37-5 is amended by revising paragraph (b)(1) to read as follows:

[6] The Plant Protection and Quarantine Treatment Manual is incorporated by reference in the Code of Federal Regulations. For further information on the content and availability of this manual, see 7 CFR 300.1, "Materials incorporated by reference."

§ 319.37-5 Special foreign inspection and certification requirements.

* * * * *

(b) (1) Any of the following restricted articles (except seeds) at the time of arrival at the port of first arrival in the United States must be accompanied by a phytosanitary certificate of inspection which contains an additional declaration that the article was grown in a nursery in Belgium, Canada, Federal Republic of Germany, France, Great Britain, or The Netherlands and that the article was found by the plant protection service of the country in which grown to be free of the following injurious plant diseases listed in paragraph (b)(2) of this section: For *Chaenomeles* spp. (flowering quince) and *Cydonia* spp. (quince), diseases (i), (ii), (iv), (xviii), (xix), (xx), and (xxi); for *Malus* spp. (apple, crabapple), diseases (i), (ii), (iii), (vi), (vii), (xxii), and (xxiii); for *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), diseases (i), (ix) through (xvii), and (xxii); and for *Pyrus* spp. (pear), diseases (i), (ii), (iv), (v), (xviii), (xix), (xx), (xxi) and (xxii); and for *Vitis* spp. (grape) from Canada, diseases (xiv) through (xvii) and (xxiv) through (xliii). The determination by the plant protection service that the article is free of these diseases will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified diseases.[7] An accurate additional declaration on the phytosanitary certificate of inspection by the plant protection service that a disease does not occur in the country in which the article was grown may be used in lieu of visual examination and indexing of the parent stock for that disease and inspection of the nursery.

* * * * *

[7] *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Pyrus* spp., and certain *Prunus* spp. (i.e., *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*) can be certified from government operated nurseries (research stations) and private nurseries in Belgium, Germany, Great Britain, and The Netherlands. Species of *Prunus* not immune to plum pox virus (i.e., those not listed above) from these four countries can only be certified from the government operated nurseries (research stations) where the original parent stock is indexed for the appropriate national fruit tree certification program. *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Prunus* spp., and *Pyrus* spp. from France can only be certified from the government operated nurseries (research stations) where the original parent stock is indexed for the national fruit tree certification program.

14. In § 319.37-5 paragraphs (b)(2)(xxiv) through (b)(2)(xliii) are added in numerical order as follows:

* * * * *

(b) * * *

(2) * * *

(xxiv) The following nematode transmitted viruses of the polyhedral type: Artichoke Italian latent virus, Grapevine Bulgarian latent virus, Grapevine fanleaf virus and its strains, and Hungarian chrome mosaic virus.

(xxv) Grapevine asteroid mosaic agent.

(xxvi) Grapevine Bratislava mosaic virus.

(xxvii) Grapevine chasselas latent agent.

(xxviii) Grapevine corky bark "Legno riccio" agent.

(xxix) Grapevine leaf roll agent.

(xxx) Grapevine little leaf agent.

(xxxi) Grapevine stem pitting agent.

(xxxii) Grapevine vein mosaic agent.

(xxxiii) Grapevine vein necrosis agent.

(xxxiv) Flavescence-doree agent.

(xxxv) Black wood agent (bois-noir).

(xxxvi) Grapevine infectious necrosis bacterium.

(xxxvii) Grapevine yellows disease bacterium.

(xxxviii) *Xanthomonas ampelina* Panagopoulas.

(xxxix) *Peyronellaea glomerata* Ciferri.

(xl) *Pseudopeziza tracheiphila* Muller-Thur-gau.

(xli) *Rhacodiella vitis* Sterenberg.

(xlii) *Rosellinia necratrix* Prill.

(xliii) *Septoria melanosa* (Vialla and Ravav) Elenk.

* * * * *

15. In § 319.37-5(c), the phrase "of *Chrysanthemum* spp. (chrysanthemum) from Great Britain or from any other country or locality except Europe (other than Great Britain)" is changed to read "of *Chrysanthemum* spp. (chrysanthemum) or *Dendranthema* spp. (chrysanthemum) from any foreign place except Europe,"; the phrase "Canary Islands, Chile, Colombia" is added immediately following the word "Canada,"; and the phrase "Uruguay, Venezuela," is added immediately following the phrase "Republic of South Africa,".

16. In § 319.37-5(e), "Ontario," is removed; the phrase "rubus stunt virus" is removed, and the phrase "*Rubus* stunt agent" is added in its place.

17. In § 319.37-5(f), the phrase "rubus stunt virus" is removed and the phrase "*Rubus* stunt agent" is added in its place.

18. In § 319.37-5(g) the phrase "Costa Rica or of" is added immediately before the word "Jamaica".

19. In § 319.37-5, newly designated paragraphs (h) through (m) are added to read as follows:

§ 319.37-5 Special foreign inspection and certification requirements.

* * * * *

(h) [RESERVED]

(i) Any restricted article of *Syringa* spp. (lilac) from the Netherlands is prohibited as specified in § 319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Syringa* spp. (lilac) contains an accurate additional declaration that stipulates that the parent stock was found free of plant diseases by inspection and indexing and that the *Syringa* spp. (lilac) to be imported were propagated either by rooting cuttings from indexed parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least three meters from the nearest non-indexed *Syringa* spp. (lilac).

(j) (1) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*) from Belgium, France, Federal Republic of Germany, The Netherlands, or Great Britain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(i) The seeds are from parent stock grown in a nursery in Belgium, France, Federal Republic of Germany, The Netherlands, or Great Britain that is free of plum pox (Sharka) virus; and

(ii) The seeds have been found by the plant protection service of the country in which grown to be free of plum pox (Sharka) virus based on the testing of parent stock by visual examination and indexing.

(2) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*), from all countries except those in Europe, Cyprus, Syria, and Turkey shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that plum pox (Sharka) virus does not occur

in the country in which the seeds were grown.

(k) Any restricted article of *Feijoa* (feijoa, pineapple guava) from New Zealand shall undergo postentry quarantine in accordance with § 319.37-7 unless the article, at the time of arrival at the port of first arrival in the United States, is accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that New Zealand is free of *Monilinia fructigena*.

(1) Any restricted article of *Gladiolus, Watsonia* or *Crocosmia* spp. from Luxembourg or Spain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(1) The plants were grown in a disease free environment in a greenhouse;

(2) The plants were subjected to 12 hours of continuous misting per day with water at 15-20 degrees Celsius on 2 consecutive days; and

(3) The plants were inspected by a plant quarantine official of the country where grown 20 days after the completion of the misting and were found free of gladiolus rust.

(m) Any restricted article of *Acer palmatum* or *Acer japonicum* from the Netherlands is prohibited unless the article is accompanied, at the time of arrival at the port of first arrival in the United States, by a phytosanitary certificate of inspection, containing an accurate additional declaration that the article is of a nonvariegated variety of *A. palmatum* or *A. japonicum*.

20. In § 319.37-6 paragraphs (c), (d), and (e) are removed, paragraph (f) is redesignated as (c), and new paragraphs (d), (e), and (f) are added to read as follows:

§ 319.37-6 Specific treatment and other requirements.

* * * * *

(d) Seeds of *Guizotia abyssinica* (niger seed) from any foreign place, at the time of arrival at the port of first arrival, shall be heat treated for possible infestation with *Cuscuta* spp. in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

(e) Seeds of all species of the plant family *Rutaceae* from Afghanistan, Andaman Islands, Argentina, Bangladesh, Brazil, Burma, Caroline Islands, Comoro Islands, Fiji Islands, Home Island in Cocos (Keeling) Islands, Hong Kong, India, Indonesia, Ivory Coast, Japan, Kampuchea, Korea, Madagascar, Malaysia, Mauritius, Mexico, Mozambique, Nepal, Oman, Pakistan, Papua New Guinea, Paraguay, Peoples Republic of China, Philippines, Reunion Island, Rodriquez Islands, Ryukyu Islands, Saudi Arabia, Seychelles, Sri Lanka, Taiwan, Thailand, Thursday Island, United Arab Emirates, Uruguay, Vietnam, Yemen (Sanaa), and Zaire, at the time of arrival at the port of first arrival in the United States shall be treated for possible infection with citrus canker by being immersed in water at 125 °F (51.6 °C) or higher for 10 minutes, and then immersed for a period of at least 2 minutes in a solution containing 200 parts per million sodium hypochlorite at a pH of 6.0 to 7.5.

(f) Seeds of *Castanea* and *Quercus* from all countries except Canada and Mexico at the time of arrival at the port of first arrival in the United States shall be treated for possible infestation with *Curculio elephas* (Cyllenhal), *C. nucum* L., *Cydia* (*Laspeyresia*) *splendana* Hubner, *Pammene fusciana* L. (*Hemimene juliana* (Curtis)) and other insect pests of chestnut and acorn in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.

§ 319.37-7 [Amended]

21. In § 319.37-7(a)(2) the listings for *Acer, Aesculus, Althaea, Chrysanthemum, Eucalyptus, Euonymus, Gladiolus, Hibiscus, Jasminum, Larix, Ligustrum, Morus, Ribes nigrum, Rosa, Sorbus,* and *Syringa* are removed, and the following entries are added in alphabetical order:

§ 319.37-7 Postentry quarantine.

(a) * * *

(2) * * *

Restricted articles (excluding seeds)	Foreign place from which imported
Abelmoschus spp. (okra)	All except Africa, Bangladesh, Brazil, Canada, India, Iraq, Papua New Guinea, Sri Lanka, and Trinidad and Tobago.
* * *	* * * *
Acer spp. (maple)	All except Canada, Europe, and Japan.
* * *	* * * *
Aesculus spp. (horsechestnut)	All except Canada, Czechoslovakia, Federal Republic of Germany, Romania, and the United Kingdom.
Althaea spp. (althaea, hollyhock)	All except Africa, Bangladesh, Canada, India, and Sri Lanka.
* * *	* * * *
Blighia sapida (akee)	All except Canada, Ivory Coast, and Nigeria.
* * *	* * * *
Chrysanthemum spp. (chrysanthemum) meeting the conditions in § 319.37-5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
* * *	* * * *
Crocosmia spp. (montebretia) (except bulbs) not meeting the conditions for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
* * *	* * * *
Dendranthema spp. (chrysanthemum) meeting the conditions in § 319.37-5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
* * *	* * * *
Eucalyptus spp	All except Canada, Europe, Sri Lanka, and Uruguay.
Euonymus spp. (euonymus)	All except Canada, Japan, and Europe.
* * *	* * * *
Gladiolus spp. (gladiolus) (except bulbs) not meeting the condition for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
Hibiscus spp. (kenaf, hibiscus, rose mallow)	All except Africa, Brazil, Canada, and India.
* * *	* * * *
Jasminum spp. (jasmine)	All except Canada, Belgium, Federal Republic of Germany, Great Britain, India, and the Philippines.
* * *	* * * *
Larix spp. (larch)	All except Canada, Japan, and Europe.

Restricted articles (excluding seeds)	Foreign place from which imported
Ligustrum spp. (privet)	All except Canada and Europe.
* * *	* * *
Morus spp. (mulberry)	All except Canada, India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.
* * *	* * *
Pseudolarix spp. (golden larch)	All except Canada, Japan, and Europe.
* * *	* * *
Ribes spp. (currant, gooseberry)	All except Canada and Europe.
Rosa spp. (rose)	All except Australia, Bulgaria, Canada, Italy, and New Zealand.
* * *	* * *
Sorbus spp. (mountain ash)	All except Canada, Czechoslovakia, Denmark, and Federal Republic of Germany.
Syringa spp. (lilac)	The Netherlands, if the articles meet the conditions for importation in § 319.37-5(i), and all other places except Canada and Europe.
* * *	* * *
Watsonia spp. (bugle lily) (except bulbs) not meeting the conditions for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
* * *	* * *

22. In paragraph (b) of § 319.37-7, the listings "*Blighia*—akee", "*Bouea*—kundangan", "*Calocarpum*—sapote", "*Carya*—hickory, pecan", "*Castanea*—chestnut", "*Coccoloba*—sea grape, pigeon plum", "*Pouteria*—lucuma", "*Ribes* (other than *Ribes nigrum*)—red currant, white currant, gooseberry", and "*Theobroma*—cacao" are removed and the listing "*Feijoa*—feijoa, pineapple guava" is changed to read "*Feijoa*—feijoa, pineapple guava (except from New Zealand if accompanied by a phytosanitary certificate of inspection in accordance with § 319.37-5(k))".

§ 319.37-8 [Amended]

23. Paragraph (b) of § 319.37-8 is revised to read as follows:

§ 319.37-8 Growing media.

* * * * *

(b) A restricted article from Canada, other than from Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road, may be imported in any growing medium.

* * * * *

§ 319.37-9 [Amended]

24. In § 319.37-9, the introductory text is amended by adding the phrase "the plants were packed in the packing material immediately prior to shipment;" immediately following the word "unless", and the following is added in alphabetical order to the list of approved packing materials:

§ 319.37-9 Approved packing materials.

* * * * *

Baked or expanded clay pellets

* * * * *

Perlite

* * * * *

Rock wool

* * * * *

Volcanic rock

* * * * *

25. In the first sentence of § 319.37-13, the phrase "the inspector" is removed and the phrase "a Plant Protection and Quarantine inspector" is added in its place.

Done in Washington, DC, this 10th day of September 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-22245 Filed 9-17-92; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC-100 (Sub-No. 7)]

Single State Insurance Registration—1993 Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its regulations pertaining to registration of certificates and permits with the States on an interim basis by eliminating the so-called "bingo card" system (whereby States issue stamps to be affixed to cab cards) while retaining and augmenting existing rules permitting State regulatory agencies to assign motor carriers identification numbers. This action is necessary to relieve the trucking industry of undue administrative burdens that the current registration system imposes. Consistent with Congressional intent and the public interest, the rules are intended immediately to alleviate burdens while the ICC formulates single State insurance registration rules to take effect in 1994.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz (202) 927-5316 or Richard B. Felder (202) 927-5610 (TDD for hearing impaired: (202) 927-5721)

SUPPLEMENTARY INFORMATION: Congress has determined that the "bingo card" program embraced in the ICC's regulations at 49 CFR Part 1023 is inefficient and has been an administrative burden on the trucking industry and the States. Therefore, in section 4005 of title IV of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240), Congress acted to benefit interstate carriers and, ultimately, the public by replacing the present "bingo card" program with a simplified insurance registration system under which States no longer may require carriers to register or identify specific vehicles operated.

In Ex Parte No. MC-100 (Sub-No. 6), Single State Insurance Registration (not printed), decision served May 8, 1992, and Advance Notice of Proposed Rulemaking published at 57 FR 20072-20073 on May 11, 1992, the Commission examined the new law and requested the trucking industry and State regulatory agencies to participate in the formulation of revised regulations. The record in that proceeding has been completed, and the Commission is formulating proposed regulations.

In the meantime, believing that it would be consistent with the Congressional intent and the public interest to take immediate action to alleviate the burdens that the present registration system imposes, the ICC proposed transitional rules to govern filings for the 1993 registration year. In Ex Parte No. MC-100 (Sub-No. 7), Single State Insurance Registration—1993 Rules (not printed), decision served June 16, 1992, and Notice of Proposed Rulemaking published at 57 FR 27009-27010 on June 17, 1992, the ICC proposed

rules that would eliminate the "bingo card" system while retaining and augmenting existing provisions permitting State regulatory agencies to assign motor carriers identification numbers.

The Commission has reviewed the public comments it received, primarily from motor carrier interests and State regulatory agencies, and has found that, on balance, the public interest would best be served by the ICC's adopting the proposed rules, but with minor modifications. First, the Commission is adding language making it clear that carriers must continue to file for "bingo stamps" under the predecessor rules until December 31, 1992. Second, the ICC is revising time frames specified in the rules to comport with those specified in the predecessor rules. In this connection, the ICC is removing the 3 week limit for State action on carrier filings. Finally, in recognition that not all carriers are corporations, the ICC is deleting the word "corporate" from the provision concerning the place at which carriers must maintain receipts.

Additional information is contained in the Commission's decision. To obtain 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) 298-4357/4359. [TDD for the hearing impaired (202) 927-5721.]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. The purpose and effect of our action is to reduce regulation. The impact on small entities, if any, will be to reduce administrative burdens.

List of Subjects in 49 CFR Part 1023

Insurance, Motor carriers, Surety bonds.

Decided: September 3, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emm., Vice Chairman McDonald and Commissioner Simmons dissented with separate expressions.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1023 of the Code of Federal Regulations is amended as follows:

PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES

1. The authority citation for part 1023 continues to read as follows:

Authority: 49 U.S.C. 11506.

2. Section 1023.32 is revised to read as follows:

§ 1023.32 Registration and identification.

(a) On or before December 31, 1992, but not earlier than October 1, 1992, such motor carrier shall apply to the Commission of such State for the assignment of an identification number for the registration and identification of the vehicle or vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of such State during the ensuing year. The motor carrier may thereafter file one or more supplements to its application for the purpose of registering and identifying additional vehicles or driveaway operations if the need therefor arises or is anticipated. Notwithstanding the provisions of this part governing the 1993 registration year, until December 31, 1992, the States may require carriers to apply for, and affix to uniform cab cards, identification stamps covering vehicles operated during the 1992 registration year.

(b) If the State Commission determines that the motor carrier has complied with all applicable provisions of these standards, the Commission shall assign the motor carrier an identification number.

(c) An identification number assigned under the provisions of this subpart shall be used for the purpose of registering and identifying a vehicle or driveaway operations as being operated or conducted by a motor carrier under authority issued by the Interstate Commerce Commission, and shall not be used for the purpose of distinguishing between the vehicles operated by the same motor carrier. A motor carrier receiving an identification number under the provisions of this subpart shall not knowingly permit the use of same by any other person or organization.

(d) The registration and identification of a vehicle or driveaway operations under the provisions of this subpart and the number evidencing same shall become void on the date or dates to be designated in the subsequent amendments to this part to take effect by January 1, 1994, unless such registration is terminated prior thereto.

3. Section 1023.33 is revised to read as follows:

§ 1023.33 Form and execution of application for identification number.

The application for the issuance of such identification number shall be in the form set forth in Form B appended to this part and made a part of this part. The application shall be printed on a rectangular card or sheet of paper 11 inches in height and 8½ inches in width. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by the fee, if any, prescribed by the law of such State. The fee shall, as pertinent, either equal the flat fee or be calculated by using the per vehicle fee (not to exceed $10 per vehicle), collected by the State as of November 15, 1991, for the issuance of identification stamps or an identification number under the former provisions of this part.

4. Section 1023.34 is revised to read as follows:

§ 1023.34 Form of identification number.

Any identification number issued by a State Commission under the provisions of this subpart shall be specified on a written receipt or other document issued by the State Commission. The receipt or document shall specify the name of the State Commission, the name of the carrier, the carrier's ICC MC number, the amount of fees paid the State by the carrier, and the carrier's identification number. The carrier shall maintain the receipt or document at its principal offices.

5. Section 1023.35 is revised to read as follows:

§ 1023.35 Form of evidence of payment of fees.

Beginning February 1, 1993, each carrier shall maintain in each of the vehicles it operates pursuant to the provisions of this part a copy of a list setting forth the States to which the carrier has paid a fee under this subpart and the identification number issued the carrier by each such State. No State shall require a carrier to display a decal, sticker, or emblem or otherwise maintain evidence of payment except as provided under this part. However, each carrier shall continue to maintain a cab card in each of its vehicles, covering registration for the 1992 registration year, until February 1, 1993.

§§ 1023.36 and 1023.37 [Removed]

§§ 1023.38, 1023.39 [Redesignated as §§ 1023.36 and 1023.37]

6. Sections 1023.36 and 1023.37 are removed, and §§ 1023.38 and 1023.39 are redesignated as new §§ 1023.36 and 1023.37 respectively and revised to read as follows:

§ 1023.36 Use of list in driveaway operations.

In the case of a driveaway operation, a copy of the list specified in § 1023.35 shall be maintained in the cab of the vehicle furnishing the motive power for the driveaway operation whenever such an operation is conducted under the authority of the carrier identified on the list. A cab card shall be maintained in the cab, covering registrations for the 1992 registration year, until February 1, 1993.

§ 1023.37 Inspection of list.

A copy of the list specified in section 1023.35 shall, upon demand, be presented by the driver to any authorized Government personnel for inspection. Until February 1, 1993, a cab card covering registrations for the 1992 registration year must be presented.

§§ 1023.40–1023.42 [Removed]

7. Sections 1023.40, 1023.41, and 1023.42 are removed.

§ 1023.101 [Removed and Reserved]

8. Section 1023.101 is removed and reserved.

[FR Doc. 92–22638 Filed 9–17–92; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 920246–2229]

National Marine Fisheries Service; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Final rule.

SUMMARY: NMFS changes the total allowable catch (TAC), allocations and quotas for the Gulf of Mexico migratory group of king mackerel, changes the bag limits from the Atlantic and Gulf migratory groups of king and Spanish mackerel, and changes the maximum sustainable yield (MSY) for cobia in accordance with the framework procedure of the Fishery Management Plan for the Coastal Migratory Pelagic Resources (FMP). This final rule for the Gulf migratory group of king mackerel, increases: The TAC and allocations, and in the western area (off Texas) and central area (off Louisiana, Mississippi, and Alabama), removes the three-fish alternative bag limited available for persons fishing from charter vessels; for the Atlantic migratory group of king mackerel, changes the daily bag limit applicable to the southern area (off Florida), from five per person to the limit applicable to Florida's waters, but not to exceed five per person; for the Gulf migratory group of Spanish mackerel, changes the daily bag limit applicable to (a) the eastern area (off Florida) from five per person to the limit applicable to Florida's waters, but not to exceed ten per person; and (b) the western area (off Texas) from three per person to the limit applicable to Texas' waters, but not to exceed ten per person; for the Atlantic migratory group of Spanish mackerel, changes the daily bag limit applicable to the southern area (off Florida), from five per person to the limit applicable to Florida's waters, but not to exceed ten per person; and for cobia, increases the MSY from 1.0 to 2.2 million pounds (m. lb.). The intended effects are to protect the mackerels and cobia from overfishing and continue stock rebuilding programs while still allowing catches by important recreational and commercial fisheries dependent on these species.

EFFECTIVE DATE: September 18, 1992.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

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

In accordance with the FMP and its implementing regulations, the Councils recommended and NMFS published a proposed rule containing changes in TACs, allocations, quotas, and bag limits for king and Spanish mackerel and the MSY for cobia (57 FR 33924, July 31, 1992). That proposed rule (1) described the framework procedures of the FMP through which the Councils recommended changes in TACs, allocations, quotas, bag limits, and MSY; (2) specified the recommended changes, and (3) described the need and rationale for the recommended changes. Those descriptions are not repeated here.

No comments were received on the proposed rule. Accordingly, the proposed rule is adopted as final. However, one change has been made to the final rule to clarify that the rule's incorporation of the Florida and Texas bag limits automatically will include any future amendments to those States' bag limits.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this final rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The Councils prepared a regulatory impact review for this action, the conclusions of which were summarized in the proposed rule and are not repeated here.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, the preparation of a regulatory impact analysis is not required.

The increased allocations and quotas for the Gulf migratory group of king mackerel in this final rule are effective for the fishing year that began July 1, 1992. Delay in implementing these allocations and quotas may cause unnecessary closures of the commercial fisheries and/or reductions of the bag limits to zero when the existing, lower allocations and quotas are reached. Removal of the alternative bag limit, currently available for persons fishing for king mackerel from charter vessels in parts of the Gulf of Mexico, in combination with other measures, is expected to prolong the recreational fishery. Delay in implementation will unnecessarily reduce that benefit. The bag limit changes in this final rule simplify the regulations and foster compatibility of Federal and state limits. Delay in implementation will unnecessarily prolong incompatible Federal/state bag limits for Spanish mackerel off Texas. Accordingly, the Assistant Administrator finds for good cause, namely, to provide effective conservation and management of the coastal migratory pelagic resources, that it is impracticable and contrary to the public interest to delay for 30 days the effective date of this rule under the provisions of section 553(d)(3) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 11, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

§ 642.21 [Amended]

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

Paragraph	Removed	Added
(a)(1), first sentence	1.84	2.50
(a)(1)(i)	1.27	1.73
(a)(1)(ii)	0.57	0.77
(b)(1)	3.91	5.30

3. In § 642.28, paragraphs (a)(1)(i) through (a)(1)(iv) and (a)(3) are revised to read as follows:

§ 642.28 Bag and possession limits.

(a) * * *

(1) * * *

(i) *King mackerel Gulf migratory group.* Possessing two king mackerel per person per day.

(ii) *King mackerel Atlantic migratory group.*

(A) *Northern area.* Possessing five king mackerel per person per day.

(B) *Southern area.* Possessing the limit specified by Florida in Rule 46–12.004, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed five king mackerel per person per day.

(iii) *Spanish mackerel Gulf migratory group.*

(A) *Eastern area.* Possessing the limit specified by Florida in Rule 46–23.005, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed ten Spanish mackerel per person per day.

(B) *Central area.* Possessing ten Spanish mackerel per person per day.

(C) *Western area.* Possessing the limit specified by Texas in Rule 31–65.72, Texas Administrative Code, or as subsequently amended, but in any event not to exceed ten Spanish mackerel per person per day.

(iv) *Spanish mackerel Atlantic migratory group.*

(A) *Northern area.* Possessing ten Spanish mackerel per person per day.

(B) *Southern area.* Possessing the limit specified by Florida in Rule 46–23.005, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed ten Spanish mackerel per person per day.

* * * * *

(3) *Areas.* For the purpose of paragraph (a)(1) of this section:

(i) The boundary between the northern and southern areas is a line extending directly east from the Georgia/Florida boundary (30°42'45.6" N. latitude) to the outer limit of the EEZ;

(ii) The boundary between the eastern and central areas is a line extending directly south from the Alabama/Florida boundary (87°31'06" W. longitude) to the outer limit of the EEZ (identical to the boundary between the eastern and western zones in the commercial fishery); and

(iii) The boundary between the central and western areas is an extension of the boundary between Louisiana and Texas, namely, a line from point A (on the seaward limit of Texas' waters) at 29°32.1' N. latitude, 93°47.7' W. longitude to point B (on the outer limit of the EEZ) at 26°11.4' N. latitude, 92°53' W. longitude.

* * * * *

[FR Doc. 92–22578 Filed 9–17–92; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure to directed fishing.

SUMMARY: NMFS is establishing a directed fishing allowance and is closing the directed fishery for Pacific cod in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to prevent exceeding the total allowable catch (TAC) for Pacific cod in the BSAI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), September 17, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907/586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Pacific cod initial TAC in the BSAI was established by the final notice of specifications (57 FR 2844, February 3, 1992) and increased by a release from the non-specific reserve to 176,700 metric tons (mt) effective September 11, 1992 (published in the Federal Register September 16, 1992).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific cod TAC will soon be reached. Therefore, NMFS is establishing a directed fishing allowance of 173,700 mt, and is setting aside the remaining 3,000 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod in the BSAI, effective from 12 noon, A.l.t., September 17, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 14, 1992.

David S. Crestin,

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

[FR Doc. 92–22609 Filed 9–15–92; 10:18 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 182
Friday, September 18, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies; Associate Development Company Program

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the regulations governing the 503 development company program by requiring a probationary period for newly certified 503 companies. It also provides for a class of entities designated as Associate Development Companies which do not have full 503 company status. Insufficiently active existing 503 companies may be converted into this new class of development companies so that they may continue to serve economic development needs in a more efficient manner.

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

ADDRESSES: Comments should be sent to LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 3rd Street SW., suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, Telephone (202) 205-6485.

SUPPLEMENTARY INFORMATION: The proposed rule would provide for an Associate Development Company (ADC) designation to increase program availability in underserved areas by allowing organizations that do not have the interest or ability to be a full fledged 503 company to play a role in program delivery. An ADC would be permitted to provide information to potential borrowers and to form a relationship with a fully certified 503 company under which it would contract to do some part of development company loan processing, although only certified 503 companies would be eligible to receive SBA guarantees and would be responsible for loans made to small businesses with the proceeds of those guarantees. This approach allows maximum flexibility to permit a variety of organizations to assist in program delivery, but at the same time allows SBA to focus its full regulatory efforts on 503 development companies that are ultimately responsible for processing, making, and servicing loans. An ADC will not be subjected to the degree of regulatory oversight necessary for an organization that is responsible for loan making.

The proposed rule would also amend the existing 503 development company rules to provide for a probationary period for new certified 503 companies. If a new 503 company is unable to deliver the 504 program during the probationary period, its exit from the program will be automatic. Such development company will have the option of transferring to status as an ADC, which will allow it to continue to provide information to local borrowers while being relieved of the burden of loan delivery. If the development company successfully delivers the 504 program, SBA may provide permanent status under § 108.503.

Lastly, the proposed regulation provides for transfer of a 503 company not meeting the activity requirements to a classification as an ADC. Once again, SBA's goal is to eliminate burdensome regulation of organizations that do not efficiently provide loan delivery while still encouraging avenues for information to reach small businesses.

Compliance With Executive Orders 12291, 12612, and 12778, the Regulatory Flexibility Act and the Paperwork Reduction Act

SBA has determined that this proposed rule, if promulgated in final, would not constitute a major rule for the purposes of Executive Order 12291. The annual effect of this rule on the national economy cannot attain $100 million because it addresses the oversight of essentially non-loan producing CDCs. While the creation of this new classification of ADCs has as its goal an increased number of projects due to greater program visibility, such increase is unlikely to result in more than $40 million because it is unlikely that there will be one additional loan created as a result of the existence of each ADC.

These proposed rules, if promulgated in final, would not result in a major increase in costs or prices to consumers, individual industries, Federal, state and local government agencies or geographic regions, and would not have adverse effects on competition, employment, investment productivity, or innovation.

SBA certifies that this proposed rule, if promulgated in final, would not warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

For the purpose of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final, would not have a significant economic impact on a substantial number of small entities for the same reason that it is not a major rule.

For purposes of the Paperwork Reduction Act, Public Law 98-115, 44 U.S.C. ch. 35, SBA certifies that § 108.507 will impose a new reporting requirement. SBA is presently seeking clearance for this paperwork requirement from the Office of Management and Budget.

List of Subjects in 13 CFR Part 108

Equal employment opportunity, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, part 108 of title 13 of the Code of Federal Regulations is amended as follows:

PART 108—[AMENDED]

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.503-2 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 108.503-2 Certification.

* * * * *

(d) *Probationary period.* All 503 companies certified after [INSERT EFFECTIVE DATE OF FINAL RULE] will be subject to a probationary period

of two (2) years from the date of certification. No later than two (2) months prior to the end of the probationary period a 503 company may: Petition for permanent status under § 108.503; petition for a one time only, one year extension of the probationary period; or petition for status as an Associate Development Company (ADC) under § 108.507. Failure to file a petition prior to the end of the probationary period shall be considered an automatic election of expiration of status under this part 108. If the third option is elected, or if no petition is filed, all documents related to funded and/or approved loans shall be transferred to a 503 company in good standing, SBA, or another servicer pursuant to instructions form SBA.

(e) *Transfer of certification to associate status.* Any 503 development company which does not meet the activity requirement of § 108.503–3(c) on average for any two (2) consecutive fiscal years shall be transferred to status as an ADC pursuant to § 108.507. SBA shall provide written notice of such determination at least ten (10) business days prior to the effective date of such action. Such notice shall inform the 503 development company of the opportunity for a hearing pursuant to part 134 of this chapter. During the period of any proceedings under part 134 of this chapter, the action of the SBA shall remain in effect.

* * * * *

3. Section 108.503–3(c) is revised to read as follows:

§ 108.503–3 Operational requirements for 503 companies.

* * * * *

(c) *Levels of activity.* In order to meet the needs of small business in its area of operations, a 503 company shall conduct active operations. For the purposes of this paragraph, such company shall be presumed to be inactive if, during any full fiscal year, it has not provided financing under Title V of the Small Business Investment Act to at least two small concerns.

* * * * *

4. A new undesignated center heading, § 108.507 and §§ 108.507–1 through 108.507–5 are added to read as follows:

Associate Development Companies

§ 108.507 Program objectives.

This section establishes policy and procedures for the designation and administration of Associate Development Companies (ADCs), created for the purpose of assisting in the promotion of the development company programs provided for in this part 108. ADCs shall foster economic development in both urban and rural areas by assisting those organizations qualified under § 108.503 to deliver long term, fixed asset financing. SBA shall not guarantee financing by organizations designated under § 108.507.

§ 108.507–1 Permissible functions of an ADC.

An ADC shall provide information about SBA programs to small businesses, financial institutions, and others participating in economic development activities, and may contract with a 503 company to aid the 503 company in the provision of financial assistance to small concerns if such ADC meets the staff requirements of § 108.507–2(d) and administers an existing portfolio of loans to small businesses.

§ 108.507–2 Eligibility requirements.

An applicant shall demonstrate to SBA's satisfaction that it has:

(a) *Status and purpose.* A state charter as a non-profit organization which, at least in part, supports local economic development efforts.

(b) *Management.* Adequate management ability in its board of directors, officers and professional staff to direct and administer its functions prudently. An executive director or other person managing day-to-day operations is considered an officer of the ADC.

(c) *Board of directors.* The board of directors shall be composed of individuals chosen from the membership by the stockholders or members. Such board shall meet at least quarterly to make management decisions for the company.

(d) *Professional staff.* Each ADC shall have a full-time professional staff and professional management ability. The number of personnel may vary, but there must be at least one qualified person available during regular business hours. Such staff shall be adequate and qualified by training and/or experience satisfactory to SBA to market the 503 program. For ADCs contracting with a 503 company to assist in processing a 504 loan, the staff must possess small business lending experience acceptable to SBA. Any contract for these functions, other than contracts for employment of individuals, shall require SBA's prior written approval, shall be approved annually by SBA and shall prohibit self-serving actions which would increase costs to a small business borrower. Compensation under such contracts shall be reasonable and customary for like services by like organizations. Such contracts shall be subject to audit by SBA at no cost to the ADC.

(e) *Management services.* Where an ADC provides management advice and services to small concerns, such services provided pursuant to a contract for other than employment of individuals shall be subject to audit by SBA at no cost to the ADC.

(f) *Financial capability.* An ADC shall have the ability to sustain its operations on a continuous basis from reliable sources of funds. An ADC shall submit a budget or copy of financial statements for its operations which demonstrates that adequate resources will be available to perform the ADC functions.

§ 108.507–3 Operational requirements for ADCs.

An ADC shall provide assistance to small concerns pursuant to § 108.507–1, maintain the eligibility requirements set forth in § 108.507–2 of this part, and meet the following operational requirements:

(a) *Records.* The ADC shall develop a system to ensure and document the dissemination of SBA-related information. Documents, or a photographic copy thereof, relating to its operations shall be made available to SBA.

(b) *Reporting requirements.* The requirements of §§ 108.4(c), 108.5(c), (d), (e), and (f) apply to an ADC, and in addition, each ADC shall submit to the SBA an annual report, in duplicate, containing financial statements, and operational and management information. SBA may require, within a stated period, additional or interim reports of a similar nature. The Report shall be prepared in accordance with the Guide for Preparation of the Annual ADC Report (SBA Form _____).

(1) The operational and management part of the annual report shall contain an explanation of the ADC's activity and accomplishments for the year then ended and plans for the next year.

(2) In addition to the required Form 1081, personal resumes of new officers, directors and professional staff employed by the ADC shall be promptly filed with the SBA office servicing the area where the development company's headquarters are located. The requirement for a personal resume and form 1081 may be waived by SBA if such documents have been previously filed with SBA under a development company program, and no significant changes have occurred.

(c) *Training.* The ADC shall provide evidence that staff members are receiving appropriate training.

§ 108.507-4 Fees which may be received by the ADC.

(a) *Charges and fees.* An ADC may contract with a 503 company to perform some or all of the loan packaging and non-legal staff functions related to a loan. Such contract shall specify the responsibilities of the ADC and identify the amount and schedule of compensation to be paid by the 503 company to the ADC. The 503 company shall be solely responsible to SBA for the processing, closing, and servicing of a loan.

(b) *Service fee paid by small concern.* Use of an ADC shall not result in any greater cost charged by a 503 company to a small business concern.

§ 108.507-5 Oversight and evaluation; suspension and revocation.

(a) *Operational review.* An ADC shall be subject to an operational review by SBA. The ADC shall cooperate with SBA by making its staff, records, and facilities available.

(b) *Compliance audit.* Each development company shall be subject to compliance audits conducted, supervised or coordinated by the SBA Office of the Inspector General pursuant to the Investor General Act (5 U.S.C. App., section 1, *et seq.*).

(c) *Revocation, suspension and other corrective actions.*—(1) *Corrective Actions.* SBA reserves the right to suspend temporarily the eligibility of any ADC, or to require any other corrective action for a violation of law or SBA regulation, or the terms of any agreement with SBA, or any inability to meet the operational requirements set forth in this part.

(2) *Revocation and appeal of suspensions.* Revocation proceedings and appeals of suspension actions shall be conducted in accordance with the provisions of Part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of §§ 134.32(b)(6) and 134.34 of this chapter.

(Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans))

Dated: August 14, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-22574 Filed 9-17-92; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 108

Loans to State and Local Development Companies; CDC Designations and Valuation of Land

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the regulations governing the 503 development company program by requiring that SBA approve the designations of new certified 503 companies and proposed changes of designations for existing 503 companies. This rule also would allow the use of land as a 503 company's injection even if the land has a building or other structure.

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

ADDRESSES: Comments should be sent to LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 3rd Street SW., suite 8300, Washington DC, 20416.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director, Office of Rural Affairs and Economic Development, Small Business Administration, Telephone (202) 205-6485.

SUPPLEMENTARY INFORMATION: The proposed rule would amend the existing 503 development company rule to give SBA the right to approve the names of new certified 503 companies and proposed name changes for existing 503 companies. This rule is necessary because many 503 companies across the country are selecting identical designations such as "Small Business Finance Corporation". This increases the chance of posting and other errors in administering the program. In order to avert a growing problem, SBA proposes to amend the rule to allow for approval of 503 company designations. SBA would use this authority to require that local identification, such as city, country or region, be made part of CDCs' names where necessary to avoid confusion.

This proposed rule also would allow the use of land with improvements as a 503 company's injection. Currently, only unimproved land can be used for this purpose. This proposed rule change would allow real estate owned by a borrower or 503 company to serve as the injection even if there is a structure present, so long as it was valued at the price of unimproved land.

The market value of commercial structures is frequently difficult to determine with accuracy. To protect the public's interest, SBA in the past has not permitted either land or building to be counted as part of the owner's equity injection when an existing building is present because of this valuation problem. SBA is proposing to narrow the exclusion in order to accommodate such cases, while protecting the government against the risk of over-valuation of commercial structures.

Compliance With Executive Orders 12291, 12612, and 12778, the Regulatory Flexibility Act and the Paperwork Reduction Act

SBA has determined that this proposed rule, if promulgated in final, would not constitute a major rule for the purposes of Executive Order 12291. The annual effect of this rule on the national economy cannot attain $100 million because the first item is administrative and the second has no monetary consequences because the injection is and will continue to be the borrower's responsibility in all transactions. While adoption of this rule will give the borrower more flexibility in providing the injection the net effect on SBA's loan making is neutral.

This proposed rule, if promulgated in final, would not result in a major increase in costs or prices to consumers, individual industries, Federal, state and local government agencies or geographic regions, and would not have adverse effects on competition, employment, investment productivity, or innovation.

SBA certifies that this proposed rule, if promulgated in final, would not warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies this proposed rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

For the purpose of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final, would not have a significant economic impact on a substantial number of small entities for the same reason that it is not a major rule.

For purposes of the Paperwork Reduction Act, Public Law 98-115, 44 U.S.C. ch.35, SBA certifies that this proposed rule, if promulgated in final, would impose no new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 108

Equal employment opportunity, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, part 108 of title 13 of the Code of Federal Regulations is amended as follows:

PART 108—[AMENDED]

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.4 is amended by redesignating paragraphs (c) through (e) as paragraphs (d) through (f), respectively, and adding new paragraph (c) to read as follows:

§ 108.4 Operational requirements.

* * * * *

(c) *Name of 503 development company.* In order to avoid confusion caused by identical designations, the name of each development company and/or any subsequent request for name change is subject to approval by SBA.

* * * * *

3. Section 108.503-5(d)(2) is amended by adding a new sentence immediately following the second sentence and by republishing the first two sentences to read as follows:

§ 108.503-5 Eligible and ineligible uses of 503 loan proceeds.

* * * * *

(d) *Expenditures made in anticipation of a 503 loan.* * * *

(2) Land previously acquired by the small concern or the 503 company may be contributed as the 503 company's injection in a project involving new construction. The value of the contribution shall be the contributor's equity in such land. The value of any structure on such land shall not be considered for purposes of this paragraph. * * *

* * * * *

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).

Dated: July 24, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-22576 Filed 9-17-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 920808-2208]

RIN 0691-AA08

BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1992

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 4(b) of the International Investment and Trade in Services Survey Act requires that a benchmark survey of foreign direct investment in the United States be conducted covering 1980, 1987, and every fifth year thereafter. These proposed rules will revise 15 CFR 806.17 to set forth the reporting requirements for the survey covering 1992 and to delete the rules now in Part 806.17, which were for the last benchmark survey covering 1987.

DATES: Comments on the proposed rules will receive consideration if submitted in writing on or before November 2, 1992.

ADDRESSES: Comments may be mailed to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to room 1008, Tower Building, 1401 K Street, NW., Washington, DC 20005. Comments received will be available for public inspection in room 1008, Tower Building, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: These proposed rules set forth the reporting requirements for the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1992. This survey is to be conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act, (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108; as amended by P.L. 98-573 and P.L. 101-533) hereinafter, "the Act." Section 4(b) of the Act, as amended, requires that "With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter * * *. In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in the total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons."

The responsibility for conducting benchmark surveys of foreign direct investment in the United States has been delegated to the Secretary of Commerce, who has redelegated it to the Bureau of Economic Analysis (BEA).

The benchmark surveys are BEA's censuses, intended to cover the universe of foreign direct investment in the United States in value terms. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person of 10 percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

The purpose of the benchmark survey is to obtain data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States. The

data from the survey will be used to measure the economic significance of such investment and to analyze its effects on the U.S. economy. They will also be used in formulating, and assessing the impact of, U.S. policy on foreign direct investment. They will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the foreign direct investment position of the United States at book value and of the operations of the U.S. affiliates of foreign companies.

The benchmark surveys are also the most comprehensive of BEA's surveys in terms of subject matter in order that they obtain the detailed information on foreign direct investment needed for policy purposes. As specified in the Act, policy areas of particular interest include, among other things, trade in both goods and services, employment and employee compensation, taxes, and technology.

As proposed, the survey will consist of an instruction booklet, a claim for not filing the BE-12, and the following report forms:

1. Form BE-12(LF) (Long Form) for reporting by nonbank U.S. affiliates with assets, sales, or net income of more than $50 million (positive or negative);
2. Form BE-12(SF) (Short Form) for reporting by nonbank U.S. affiliates with assets, sales or net income of more than $1 million, but not more than $50 million (positive or negative);
3. Form BE-12 Bank for reporting by U.S. affiliates that are banks with assets, sales, or net income of more than $1 million (positive or negative).

Although the proposed survey is intended to cover the universe of foreign direct investment in the United States, in order to minimize the reporting burden, U.S. affiliates with assets, sales, and net income each equal to or less than $1 million (positive or negative) are exempt from reporting on Forms BE-12(LF), BE-12(SF), and BE-12 Bank, but are required to file, on Form BE-12(X), a claim for exemption from filing in the benchmark survey.

In designing this survey, BEA solicited comments from an extensive number of representatives of both data users and survey respondents. BEA held a meeting with interagency data users on April 16, 1992 and held follow-up meetings with key users on specific issues on May 5 and May 8, 1992. It solicited and received input from several nongovernment data users. BEA also solicited comments from respondents through the Business Council on the Reduction of Paperwork (BCORP) and the Organization for International Investment (OFII), and directly contacted nine large current respondents to BEA surveys. Although no written comments were received by BEA from these respondents, the survey forms were discussed, by telephone, with each of the nine current respondents. The proposed draft incorporates comments received from users and respondents. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely responses (e.g., whether the data are readily available on the respondents' books), and its experience in previous benchmark surveys.

Two changes from the last (1987) survey to the 1992 survey, which are reflected in these proposed rules, are:

1. Nonbank affiliates with assets, sales, or net income greater than $50 million (positive or negative) will be required to file the BE-12 long form; all other nonbank affiliates will file the BE-12 short form. In the 1987 benchmark survey, the long-form exemption level was $20 million. This proposed change will shift approximately 1,600 affiliates from the long form to the short form, reducing both reporting and editing burden from what it would otherwise be. Because of growth in the foreign direct investment universe since 1987, however, the total number of long forms to be filed would remain roughly the same as in the 1987 survey.
2. A new BE-12 Bank form was designed for reporting by all foreign-owned U.S. banks. In the 1987 benchmark survey, bank affiliates reported on the BE-12 short form, as did nonbank affiliates below a certain size. This approach did not work well because short form questions were not written with banks in mind. The new, separate bank form has questions that are specifically targeted at banks, which should substantially reduce the need for follow-up contact with bank reporters. In addition, BEA proposes broadening the definition of "banking" to include savings institutions and credit unions, to be consistent with the 1987 revision of the Standard Industrial Classification System.

Other proposed changes in the survey from 1987 to 1992 include revisions to clarify instructions and the modification, addition, deletion, or combination of some items on the forms. These changes do not require changes to the rules and should, on balance, result in a net reduction in reporting burden.

A copy of the proposed survey forms may be obtained from: Chief, Direct Investment in the United States Branch, International Investment Division, BE-50(IN), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0547.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of information is necessary to secure data on the amount, types, and financial and operating characteristics of foreign direct investment in the United States for use in measuring the economic significance of, and formulating U.S. Government policy on, such investment. A request has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Comments from the public on this collection of information requirement should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce.

The public reporting burden for this collection of information is estimated to vary from 2 to 750 hours per response, with an average of 15.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate, including suggestions for reducing this burden, may be sent to the Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Paperwork Reduction Project 0608-0042, Washington, DC 20503.

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the proposed rules will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owed, and many that are will not be required to report in the benchmark survey because their assets, sales, and net income are equal to or less than the $1 million exemption level below which reporting is not required. Also, under these proposed rules, companies with assets, sales, or net income above $1 million, but not above $50 million (positive or negative), would report on the abbreviated BE-12 short form, rather than on the BE-12 long form. This provision significantly reduces the reporting burden on smaller companies.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting requirements.

Dated: August 12, 1992.

Carol S. Carson,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to revise 15 CFR part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961, as amended.

2. Section 806.17 is revised to read as follows:

§ 806.17 Rules and regulations for BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1992.

A BE-12, Benchmark Survey of Foreign Direct Investment in the United States will be conducted covering 1992. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13 and § 806.15 (a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE-12 survey are given below.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1992, contained herein, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by completing and returning either Form BE-12(X) within 30 days of its receipt if Form BE-12(LF), Form BE-12(SF), or Form BE-12 Bank do not apply, or by completing and returning Form BE-12(LF), Form BE-12(SF), or Form BE-12 Bank, whichever is applicable, by May 31, 1993.

(b) *Who must report.* A BE-12 report is required for each U.S. affiliate, i.e., for each U.S. business enterprise in which a foreign person owned or controlled, directly or indirectly, 10 percent or more of the voting securities if an incorporated U.S. business enterprise, or an equivalent interest if an unincorporated U.S. business enterprise, at the end of the business enterprise's 1992 fiscal year. A report is required even though the foreign person's ownership interest in the U.S. business enterprise may have been established or acquired during the reporting period. Beneficial, not record, ownership is the basis of the reporting criteria.

(c) *Forms to be filed.* (1) Form BE-12(LF)—Benchmark Survey of Foreign Direct Investment in the United States—1992 (Long Form) must be completed and filed by May 31, 1993, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1992 fiscal year, if:

(i) It is not a bank, and

(ii) On a fully consolidated, or, in the case of real estate investment, an aggregated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $50 million (positive or negative) at the end of, or for, its 1992 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income taxes.

(2) Form BE-12(SF)—Benchmark Survey of Foreign Direct Investment in the United States—1992 (Short Form) must be completed and filed by May 31, 1993, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1992 fiscal year, if:

(i) It is not a bank, and

(ii) On a fully consolidated, or, in the case of real estate investments, an aggregated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $1 million, but no one item exceeded $50 million (positive or negative) at the end of, or for, its 1992 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income taxes.

(3) Form BE-12 Bank—Benchmark Survey of Foreign Direct Investment in the United States—1992 BANK must be completed and filed by May 31, 1993, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1992 fiscal year, if:

(i) The U.S. affiliate is a bank or a bank holding company, and

(ii) On a fully consolidated basis, one or more of the following three items for the U.S. affiliate (not the foreign parent's share) exceeded $1 million (positive or negative) at the end of, or for, its 1992 fiscal year:

(A) Total assets (do not net out liabilities)

(B) Sales or gross operating revenues, excluding sales taxes, or

(C) Net income after provision for U.S. income taxes.

(4) Form BE-12(X)—Benchmark Survey of Foreign Direct Investment in the United States—1992, Claim for Exemption from Filing BE-12(LF), BE-12(SF), and BE-12 Bank must be completed and filed within 30 days of the date it was received, or by May 31, 1993, whichever is sooner, by:

(i) Each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 1992 fiscal year (whether or not the U.S. affiliate, or its agent, is contacted by BEA concerning its being subject to reporting in the 1992 benchmark survey), but is exempt from filing Form BE-12(LF), Form BE-12(SF), and Form BE-12 Bank; and

(ii) Each U.S. business enterprise, or its agent, that is contacted, in writing, by BEA concerning its being subject to reporting in the 1992 benchmark survey but that is not otherwise required to file the Form BE-12(LF), Form BE-12(SF), or Form BE-12 Bank.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be

filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately.

(e) *Exemption.* (1) A U.S. affiliate as consolidated, or aggregated in the case of real estate investments, is not required to file a Form BE-12(LF), BE-12(SF), or Form BE-12 Bank if each of the following three items for the U.S. affiliate (not the foreign parent's share) did not exceed $1 million (positive or negative) at the end of, or for, its 1992 fiscal year:

(i) Total assets (do not net out liabilities)

(ii) Sales or gross operating revenues, excluding sales taxes, and

(iii) Net income after provision for U.S. income taxes.

(2) If a U.S. business enterprise was a U.S. affiliate at the end of its 1992 fiscal year but is exempt from filing a completed Form BE-12(LF), BE-12(SF), or Form BE-12 Bank, it must nevertheless file a completed and certified Form BE-12(X).

(f) *Due date.* A fully completed and certified Form BE-12(LF), Form BE-12(SF), or Form BE-12 Bank is due to be filed with BEA not later than May 31, 1993. A fully completed and certified Form BE-12(X) is due to be filed with BEA within 30 days of the date it was received, or by May 31, 1993, whichever is sooner.

[FR Doc. 92-22566 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. 85P-0270]

Medical Devices; Reclassification of the Automated Heparin Analyzer

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the automated heparin analyzer from class III (premarket approval) into class II (special controls) based on new information regarding the device. The automated heparin analyzer is a device used to determine the heparin level in a blood sample by mixing the sample with protamine (a heparin-neutralizing substance) and determining photometrically the onset of air-activated clotting. Heparin is administered to extend the clotting time and thereby lessen the danger of thrombus formation. The analyzer also determines the amount of protamine necessary to neutralize the heparin in the patient's circulation.

This proposed rule summarizes the basis for the agency's proposed finding that sufficient valid scientific evidence is available to support reclassification of the automated heparin analyzer and to establish special controls, including the promulgation of performance standards, to provide reasonable assurance of the safety and effectiveness of the device.

DATES: Comments by November 17, 1992.

ADDRESSES: Submit 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: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

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I. Classification and Reclassification of Devices Under the Medical Device Amendment of 1976

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), as established by the Medical Device Amendments of 1976 (1976 amendments), FDA must classify devices into one of three regulatory classes, class I, class II, or class III. FDA's classification of a device is determined by the amount of regulation necessary to provide reasonable assurances of safety and effectiveness of a device and focuses on the availability of public information concerning the applicability of the act's regulatory controls to a device to assure its safety and effectiveness.

Under the 1976 amendments, devices were to be classified in class I (general controls) if there was information showing that the general controls of the act were sufficient to assure safety and effectiveness; devices were to be classified in class II (performance standards) if there was insufficient information showing that general controls themselves would ensure safety and effectiveness, but there was sufficient information to establish a performance standard that would provide such assurance; while devices were to be classified in class III (premarket approval) if there was insufficient information to support placing a device in class I or class II and the device was a life sustaining or life supporting device or was for a use which is of substantial importance in preventing impairment of human health.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendment devices) have been classified by FDA under the procedures set forth in sections 513(c) and 513(d) of the act (21 U.S.C. 360c(c) and 360c(d)) through the promulgation of classification regulations into one of these three regulatory classes. Under sections 513 (c) and (d), FDA secures expert panel recommendations on the appropriate device classifications for generic types of devices. FDA then considers the panel's recommendations and, through notice and comment rulemaking, promulgates classification regulations.

For those devices introduced into interstate commerce for the first time after May 28, 1976, the device is classified through the premarket notification process under section 510(k) of the act. Those devices that FDA finds to be substantially equivalent to a classified preamendment generic type of device are thereby classified in the same class as the predicate, preamendment device.

Reclassification of classified preamendment devices is governed by section 513(e) of the act (21 U.S.C. 360c(e)). This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based on "new information." The reclassification can be initiated by FDA or by the petition of an interested person.

The term "new information," as used in section 513(e) of the act includes information developed as a result of a reevaluation of the data before the agency when a device was originally

classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of changes in "medical science." (See *Upjohn* v. *Finch*, *supra*, 422 F.2d at 951.) However, regardless of whether data before the agency are past or new data, the "new information" on which any reclassification is based is required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and 21 CFR 860.7(c)(2). FDA relies upon "valid scientific evidence" in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of premarket approval applications (PMA's). (See section 520(c) of the act (21 U.S.C. 360j(c).)

II. Reclassification Under the Safe Medical Devices Act of 1990

The Safe Medical Devices Act of 1990 (SMDA) further amended the act to change the definition of a class II device. Under the SMDA, class II devices are those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance, including the promulgation of a performance standard. Thus, the definition of a class II device was changed from "performance standards" to "special controls."

It is the agency's position that the SMDA does not require the agency to obtain new reclassification recommendations from a panel which had recommended reclassification under the previous standards. The panel recommended the automated heparin analyzer be reclassified from class III (premarket approval) into class II (performance standards). Under the SMDA, FDA may establish a performance standard, as well as establish other special controls, including postmarket surveillance, patient registries, guidelines, and other appropriate actions it believes necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, FDA's final determination will be made under the standard set forth in the SMDA.

III. History of the Proceedings

In the **Federal Register** of September 12, 1980 (45 FR 60601), FDA issued a final rule classifying the automated heparin analyzer into class III (21 CFR 864.5680). The preamble to the proposal to classify the device (44 FR 52984, September 11, 1979) included the classification recommendation of the Hematology and Pathology Devices Panel (the Panel). This Panel's recommendation included a summary of the reasons why the device should be subject to premarket approval and identified certain risks to health presented by the device. The Panel also recommended a high priority for initiating a proceeding to require PMA's under section 515(b) of the act (21 U.S.C. 360e(b)).

In the **Federal Register** of September 6, 1983 (48 FR 40272), FDA published a notice of intent to initiate proceedings to require premarket approval of 13 preamendment class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice describes the factors FDA considered in establishing priorities for initiating proceedings under section 515(b) of the act for promulgating final rules requiring that preamendment class III devices have approved PMA's or product development protocols (PDP's) which have been declared completed. Using these factors, FDA concurred with the Panel that the automated heparin analyzer should be subject to a high priority for initiating a proceeding to require premarket approval. However, on April 29, 1985, before FDA initiated a proceeding under section 515(b) of the act to require that the automated heparin analyzer have an approved PMA or a PDP that has been declared completed, HemoTec, Inc., submitted a petition to reclassify the automated heparin analyzer from class III into class II. The petition was submitted under section 513(e) of the act. Consistent with the act and the regulations, FDA referred the petition to the Panel for its recommendation on the requested change in classification.

IV. Device Description

An automated heparin analyzer is a device used to determine the heparin level in a blood sample by mixing the sample with protamine (a heparin-neutralizing substance) and determining photometrically the onset of air-activated clotting. The analyzer also determines the amount of protamine necessary to neutralize the heparin in the patient's circulation. (See 21 CFR 864.5680(a).)

An automated heparin analyzer measures the relative air-activated clotting times of aliquots of a blood sample that have been added to increasing amounts of protamine. The instrument photometrically detects any clotting occurring in the above heparinized blood-protamine mixtures and automatically calculates the heparin level in the circulating blood and the protamine dose needed to neutralize it. An automated heparin analyzer can also verify that the heparin in the circulating blood has been neutralized and that the patient's blood has returned to its presurgical coagulation state.

Modern cardiovascular surgery, particularly cardiopulmonary bypass surgery, was made possible by the use of anticoagulation therapy employing heparin. Heparin lowers the coagulability of blood thereby permitting the use of cardiopulmonary bypass equipment for the extended periods necessary for this surgery. Heparin is administered prior to surgery to greatly extend the clotting time and thereby lessen the danger of thrombus formation. During surgery, additional doses of heparin may be administered to maintain the clotting time at an acceptably extended level. At the completion of surgery protamine is administered to counter the circulating heparin and return the patient's blood to its presurgical coagulation state.

V. Recommendation of the Panel

In a public meeting on April 25, 1986, the Panel unanimously abstained from voting because the members believed that insufficient performance data describing the precision and accuracy of the device had been presented. The FDA concurred with the Panel's decision and requested supplemental information. Subsequently, the petitioner submitted supplemental data, and on February 29, 1988, the Panel unanimously recommended that the automated heparin analyzer be reclassified from class III into class II and that a low priority be assigned for the establishment of a performance standard.

VI. Summary of Reasons for the Recommendation

The Panel gave the following reasons in support of its recommendation to reclassify the automated heparin analyzer from class III into class II:

(1) General controls by themselves are insufficient to provide reasonable assurances of the safety and effectiveness of the device.

(2) There is sufficient publicly available information to demonstrate that the device is not potentially hazardous to life, health, or well-being of the patient when put to its intended use. Thus, the probable benefits to health outweigh any probable risks to health.

(3) There is sufficient publicly available information to demonstrate that the risks to health have been characterized for the automated heparin analyzer and that the relationships between the performance characteristics and these risks have been established.

(4) There is sufficient publicly available information to establish a performance standard to provide reasonable assurance of the safety and effectiveness of the device for its intended use (Ref. 1).

(5) Existing voluntary standards (Refs. 2, 3, and 4) applicable to the device and its components are sufficient to adequately control the performance characteristics of the device.

The Panel believes that the present and any subsequent manufacturer of the automated heparin analyzer can comply with these standards, that FDA can assure the safety and effectiveness of the device made by new manufacturers through the premarket notification procedures under section 510(k) of the act (21 U.S.C. 360(k)), and that a regulatory level of class III is unnecessary.

VII. Risks to Health

When the device was classified into class III (see 45 FR 60601), the Panel identified the risks to health presented by the automated heparin analyzer. The risks were identified as hepatitis infection and hemorrhage or thrombosis.

Although the risk of hepatitis is minimal, the risk associated with the automated heparin analyzer is to the user or technician who handles the blood sample and not to the donor or patient. This risk to the user or technician is no greater than user risk associated with any other instruments or blood sampling procedures (Ref. 1, appendix D).

The Panel's concern that the device would incorrectly report the level of heparin in the patient's circulation thereby placing the patient at risk of hemorrhage or thrombosis was answered by the scientific evidence presented in the petition. The earlier automated heparin analyzer utilized predetermined or fixed doses of heparin and protamine normally required for other neutralization assays. The currently marketed automated heparin analyzer determines the level of heparin in blood by automatically detecting coagulation in a heparin/protamine titration procedure. This current device measures the relative activated clotting times of aliquots of a blood sample that have been added to increasing amounts of protamine in four channels of a cartridge. The clotting of the heparinized blood in the presence of the heparin-neutralizing protamine is detected using an optical method, and calculations for determing heparin and protamine doses are automatically performed, thereby reducing the probability of hemorrhage or thrombosis due to incorrectly reported heparin levels (Ref. 1). Therefore, the Panel now believes that the use of the automated heparin analyzer does not present a potential unreasonable risk to the public health.

VIII. Summary of Data Upon Which the Proposed Recommendation Is Based

A primary reason FDA classified the automated heparin analyzer into class III was the absence of sufficient information upon which to determine the safety and effectiveness of the device. The Panel also believed that a potential existed for causing serious harm to the patient undergoing heparin therapy if the device did not adequately and appropriately measure heparin levels. Thus, the device presented a potential risk to the patient if the physician relied upon the information derived from the device. Therefore, the Panel believed that requiring premarket approval would assure that manufacturers demonstrated satisfactory performance, i.e., the safety and effectiveness of the device.

Subsequent to the classification of the device, additional data and information became available. The Panel reviewed the data, which is summarized below, and based its recommendation for reclassification of the generic type of device on data contained in the petition. The Panel now believes in light of the new information, that premarket approval of the generic type of device is unnecessary to provide reasonable assurance of the device's safety and effectiveness.

A. Accuracy

The Panel believes sufficient data have been presented describing instrument accuracy. As requested by the Panel, the petitioner conducted an additional study to confirm instrument accuracy (Ref. 5). Assays were performed on blood samples obtained from five normal, healthy volunteers (Ref. 5). The freshly drawn blood was diluted with Ringer's solution to simulate hemodilution during cardiopulmonary bypass. The samples were evaluated by using five different heparin concentrations over a range that would encompass at least one value below the acceptable therapeutic range, and one value above that range. Three values would be within the expected therapeutic range. For this study, the actual heparin level with the upper and lower U.S. Pharmacopeia (U.S.P.) tolerance limits (Ref. 4) was plotted against the mean measured heparin levels. The correlation coefficient was 0.99 with a slope of 0.94 and intercept of 0.42. Forty-nine out of 50 runs (98 percent) met the product specifications for accuracy of +/−½ channel or 1 channel separation. The variation of the run may be the result of possible variations in the blood sample resulting from the time required to run the sequential assays. The instrument used in this study was the HemoTec Hepcon/ System Four (Ref. 5).

The Panel believes that the study results confirm that sufficient tests exist to determine the accuracy of the device and thereby provide a reasonable assurance of the safety and the effectiveness of the device.

B. Precision

The precision of the above test was also determined. The coefficient of variation (CV) ranged from 0.0 to 17.9 percent. The mean heparin level x 100 units per kilogram (kg) body weight was 3.52 (Ref. 5). The standard deviation (S.D.) was 0.22. These values are within the expected precision for this type of instrument (Ref. 5). The relatively high CV for the 1.0 heparin level is due to the large interchannel resolution within the cartridge compared to the heparin level. However, this is not a problem because this cartridge is normally used to verify neutralization of heparin at the end of a surgical procedure or to determine heparin rebound after the procedure.

In another study to determine instrument precision, assays were performed on blood samples obtained from five different patients undergoing cardiovascular surgery (Ref. 5). The samples were run sequentially on the same heparin analyzer (HemoTec Hepcon/ System Four) using 10 different heparin/protamine titration cartridges covering the therapeutic range likely to be encountered. For this study, the in-run CV ranged from 0.0 to 12.2 percent. The mean heparin level x 100 units per kg body weight was 2.90. The standard deviation was 0.20 (Ref. 5). These values are well within the expected precision for this type instrument (Refs. 6, 7, and

8). Variation in individual patient assays may be due to the variation in the sample resulting from the time to run the sequential assay.

The petitioner referenced studies in the scientific literature demonstrating that the accuracy and precision of the HemoTec automated heparin analyzer meet or exceed the accuracy and precision of other instruments and procedures used in the management of heparin therapy (Refs. 6, 7, and 8). Additionally, other publicly available data show that the HemoTec automated heparin analyzer is a safe and effective instrument for use in heparin therapy management during cardiovascular surgery (Refs. 9 through 12).

C. Quality Control Materials Precision

To evaluate the precision of the quality control materials used to monitor the instrument, 10 measurements were performed for a single lot of each of the 5 different levels of HemoTec's coagulation controls (Ref. 5). The CV ranged from 0.0 (3 to 5 levels) to 19.9 percent. The 1.0 level control with the CV of 19.9 percent was still consistent with the product labeling specification. Performance of the controls at all 5 levels, in 49 out of 50 runs (98 percent), fell within 3 S.D. of the mean. These data were used to determine the upper and lower limits on Levey-Jennings plots to define as acceptable range of values to which the observed values were compared (Refs. 5 and 13). The manufacturer's control showed consistent results within the Levey-Jennings chart limit for up to 21 weeks from the date of manufacture and showed no deterioration over this time (Ref. 5).

Finally, the Panel noted that by the end of September 1989, the manufacturer estimates that more than 500,000 cardiovascular procedures had been performed which have used the cartridges (Ref. 15). During the period through October 18, 1989, there were no reported medical device reporting events associated with these devices (21 CFR Part 803) (Ref. 16). In February 1988, the manufacturer reported that its complaint rate has been less than .001 percent (Ref. 14).

In summary, the Panel believes that, based on publicly available, valid scientific evidence, the automated heparin analyzer be regulated as a class II device to reasonably assure the device's safety and effectiveness when it is used as intended

IX. References

The following references have been place 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. HemoTec, Inc., reclassification petition, Docket No. 85P-0270.
2. ANSI/AAMI SCL/12-78, "Safe Current Limits for Electromedical Apparatus."
3. Underwriters Laboratories 544, "Standard for Safety: Medical and Dental Equipment."
4. U.S.P. Heparin Reference Standards; U.S.P. Heparin and U.S.P. Protamine Assays.
5. HemoTec, Inc., supplement to petition dated February 17, 1987.
6. Triplett, D.A., and C. Smith, "Sensitivity of the Activated Partial Thromboplastin Time: Results in the CAP Survey and a Series of Mild and Moderate Factor Deficiencies," Standardization of Coagulation Assays: An Overview, pp. 142-143. Triplett, D.A., editor, College of American Pathologists, 1981.
7. Donahoo, K.M. et al., "A Promising New Multi-Functional Instrument for Monitoring Heparin Therapy," Advances in Therapy, 2(4):150-159, July/August 1985.
8. Teien, A.N., and M. Lie, "Heparin Assay in Plasma: A Comparison of Five Clotting Methods," Thrombosis Research, vol. 7, pp. 777-788, Pergamon Press, Inc., 1975.
9. Fox, D.J. et al., "Vehicles of Heparin Management: A Comparison," Journal of Extracorporeal Technology, 11:137, 1979.
10. Pifarre, R. et al., "Management of Postoperative Heparin Rebound Following Cardiopulmonary Bypass," Journal of Thoracic Cardiovascular Surgery, 81:378, 1981.
11. Bowie, J.E., and G.D. Kemna, "Automated Management of Heparin Anticoagulation in Cardiovascular Surgery," Proceedings of the American Academy of Cardiovascular Perfusion, vol. 6, January 1985.
12. Kemna, G.D., and J.E. Bowie, "Heparin Protamine Management for Cardiopulmonary Bypass Patients with Abnormal Heparin Dose Response," Proceedings of the American Academy of Cardiovascular Perfusion, vol. 6, January 1985.
13. Levey, S., and E.R. Jennings, "The Use of Control Charts in the Clinical Laboratory," American Journal of Clinical Pathology, 20:1059, 1950.
14. Transcript, Hematology Devices Panel conference call meeting, February 29, 1988.
15. Memo of telephone conversation on October 23, 1989, between Larry Brindza, FDA, and Robert Bough, HemoTec, Inc., regarding the titration cartridges.
16. Memo of telephone conversation on October 18, 1989, between Charles Gressle, Center for Devices and Radiological Health/Office of Compliance and Surveillance, and Larry Brindza, Center for Devices and Radiological Health/Office of Device Evaluation, regarding medical device reporting events of the automated heparin analyzer.

X. FDA's Tentative Findings

FDA tentatively concurs with the recommendation of the Panel that automated heparin analyzers should be classified into class II and that a low priority should be assigned for the development of a performance standard. The agency also tentatively concludes that "new information" in the form of publicly available, valid scientific evidence exists for establishing a performance standard to provide reasonable assurance of the safety and effectiveness of the automated heparin analyzer for its intended use. Consistent with the purpose of the act, class II controls as defined by section 513(a)(1)(B) of the act would provide the least amount of regulation necessary to reasonably assure that current automated heparin analyzers are safe and effective for their intended use.

XI. Environmental Impact

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

XII. Economic Impact

Generally reclassification of preamendment devices from class III into class II should not have any adverse economic impact because manufacturers are relieved of the cost of complying with the premarket approval requirements in section 515 of the act. Although there may be offsetting costs that a manufacturer of the device could incur to comply with provisions of special controls under section 514 of the act (21 U.S.C. 360d), the economic impact would be the result of actions taken to comply with the special controls and not the act of reclassification, and would likely not exceed costs that may be associated with the device in its present regulatory classification. Nonetheless, the economic impact of the establishment and promulgation of a performance standard will be assessed prior to its actual proposal as part of the agency's regulatory planning process under Executive Order 12291. After considering the economic consequences of reclassifying the device as discussed above, FDA concludes that this proposal would not be a major rule as specified in Executive Order 12291. Further, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96-354), that the proposed rule would not have a significant economic impact on a substantial number of small entities.

XIII. Request for Comments

Interested persons may, on or before November 17, 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 name of the device and 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 864

Blood, Medical devices, Packaging and containers.

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 864 be amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR part 864 continues to read as follow:

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. Section 864.5680 is amended by revising paragraph (b) to read as follows:

§ 864.5680 Automated heparin analyzer.

* * * * *

(b) *Classification.* Class II (special controls).

* * * * *

Dated: August 6, 1992.

Micahel R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-22620 Filed 9-17-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 872

[Docket No. 92N-0281]

Medical Devices; Classification of Temporomandibular Joint Implants

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify certain temporomandibular joint (TMJ) implants into class III (premarket approval). Based upon the recommendations of FDA's Dental Device Classification Panel, the agency published a final regulation classifying 110 preamendments dental device on August 12, 1987 (52 FR 30082 at 30097). The TMJ prostheses were inadvertently omitted from the dental devices considered for classification by the Dental Device Classification Panel and the agency. Based upon the recommendations of the Dental Products Panel, FDA is now proposing to classify certain TMJ prostheses, including the interarticular disc prosthesis (the interpositional implant), the mandibular condyle prosthesis, and the glenoid fossa prosthesis into class III. After considering public comments on the proposed classifications, FDA will publish a final regulation classifying the devices. These actions are being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the amendments) and the Safe Medical Devices Act of 1990 (the SMDA).

DATES: Written comments by November 17, 1992. The Commissioner of Food and Drugs proposes that any final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESSES: Submit 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: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 12720 Twinbrook Pkwy., Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

The act, as amended by the amendments (Pub. L. 94-295) and the SMDA (Pub. L. 101-629), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are as follows: Class I, general controls; class II, special controls; and class III, premarket approval.

Devices that were in commercial distribution before May 28, 1976 (the date of enactment of the amendments) are classified under 21 U.S.C. 360c after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. A device that is first offered in commercial distribution after May 28, 1976, and is substantially equivalent to device classified under this scheme, is also classified into the same class as the device to which it is substantially equivalent.

A device that was not in commercial distribution prior to May 28, 1976, and that is not substantially equivalent to a preamendments device, is classified by statute into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

Based upon the recommendations of FDA's Dental Device Classification Panel, the agency published a final regulation classifying 110 preamendments dental devices on August 12, 1987 (52 FR 30082 at 30097). The TMJ implants were inadvertently omitted from the dental devices considered for classification by the Dental Device Classification Panel and the agency. Based upon the recommendations of the Dental Products Panel, following its April 21, 1989, meeting, FDA is now proposing to classify the interarticular disc prosthesis (the interpositional implant), the mandibular condyle prosthesis, and the glenoid fossa prosthesis into class III.

The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application (PMA) by a date to be set in a future regulation under section 515(b) of the act (21 U.S.C. 360e(b)). Each application must include sufficient valid scientific evidence to provide reasonable assurance that the device is safe and effective under the conditions of use prescribed, recommended, or suggested in its proposed labeling. PMA's for class III preamendments devices must be submitted within 30 months after their final classification, or 90 days after the agency publishes a final regulation under 21 U.S.C. 360e(b) requiring PMA's for the device, whichever is later.

FDA is also advising interested persons that the agency lacks evidence that the total TMJ prosthesis was legally in commercial distribution in the United States on or before May 28, 1976. FDA invites comment on this issue. If the agency concludes that the total temporomandibular prosthesis is not a preamendments device, it is automatically classified into class III, and would require an approved PMA before it could be marketed. In accordance with section 501(f)(1)(B)(i) of the act (21 U.S.C. 351(f)(1)(B)(i)), the device would therefore be adulterated if its commercial distribution were to

continue without such approval in effect. Rather than delay classification of this device, however, in the event FDA concludes that it is, in fact, a preamendments device, the agency is now proposing to classify the device into class III, based upon the recommendations of the Dental Products Panel.

FDA advises manufacturers of the devices being classified that, if the devices are classified into class III, the agency intends to require PMA's to be filed for these devices at the earliest date allowed under the statute. Therefore, PMA's (or approved investigational device exemptions) would be required for these devices on the last day of the 30th month following final classification into class III.

It is the agency's position that the SMDA does not require the agency to obtain new classification recommendations from a panel that had made classification recommendations under the previous standards. In addition, the agency believes that, in light of the reasons for which the Dental Products Panel recommended that the TMJ devices be classified into class III, its recommendation of class III would be the same under the new standards. FDA's decision concerning classification of these devices will be made under the standards set forth in the act as amended by the SMDA.

II. The Dental Products Panel Recommendations

A. Total TMJ Prosthesis

The Dental Products Panel, an FDA advisory committee, made the following recommendation regarding the classification of the total TMJ prosthesis:

1. *Identification:* A total TMJ prosthesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and augment the glenoid fossa to functionally reconstruct the temporomandibular joint.

2. *Recommended classification:* Class III (premarket approval). The Panel recommended that premarket approval of the total TMJ prosthesis be low priority.

3. *Summary of reasons for recommendation:* The Dental Products Panel recommended that the total TMJ prosthesis be classified into class III because the Panel believed that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of the device. The Dental Products Panel also believed that the device presents a potential unreasonable risk to health and that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Dental Products Panel believed that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish such a standard. Therefore, the device should be subject to premarket approval to ensure that each manufacturer of this device develops sufficient information to provide reasonable assurance that it is safe and effective.

4. *Summary of data on which the recommendation is based:* The Dental Products Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and presentations by Panel members and interested parties (Ref. 1).

5. *Risks to health:* The following risks are associated with the total TMJ prosthesis: (a) Implant loosening or displacement. The screws used to anchor the implant may loosen, resulting in implant loosening or displacement, causing changes in bite, difficulty in chewing, limited joint function and unpredictable wear on implant components (Refs. 2 through 5); (b) Erosion or resorption of the glenoid fossa. Implant breakdown may result in erosion or resorption of the glenoid fossa. The erosion or resorption may result in intense pain, changes in bite, difficulty in chewing and limited joint function (Refs. 2 through 5); (c) Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells (Refs. 2 through 5); (d) Infection. If the implant cannot be properly sterilized, infection may result; (e) Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant can be torn, worn, perforated, delaminated, fragmented, fatigued, or fractured, resulting in failure of the device to function properly (Refs. 2 through 5); (f) Chronic pain. Degenerative changes within the articular surfaces and components of the temporomandibular joint due to implant breakdown may result in chronic pain (Refs. 2 through 5); (g) Corrosion. If the implant materials are subject to corrosion, toxic elements may migrate to various parts of the body; (h) Changes to the contralateral joint. Unilateral placement of the implant may result in deleterious effects to the contralateral joint; and (i) Malocclusion. Placement of the device may produce an improper occlusal relationship.

FDA agrees with the Dental Products Panel's classification recommendation and is proposing that the total TMJ prosthesis be classified into class III (premarket approval). FDA does not concur with the Dental Products Panel's recommendation that premarket approval of the total TMJ prostheses be low priority. FDA believes that insufficient information exists to identify the proper materials or design for the total TMJ prosthesis. Therefore, FDA is proposing that premarket approval of the total TMJ prosthesis be high priority.

The act requires the agency to classify into class III a device that presents a potential unreasonable risk of illness or injury unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary for this device. FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to ensure the safe and effective use of the device. The agency believes that general controls, either alone or in combination with the special controls applicable to class II devices, are insufficient to provide reasonable assurance of the safety and effectiveness of the device.

B. Glenoid Fossa Prosthesis

The Dental Products Panel did not make a recommendation respecting classification of the glenoid fossa prosthesis, but noted that the implanted glenoid fossa should not be used with a naturally occurring mandibular condyle. FDA has determined, however, that the implanted glenoid fossa has been used to replace a naturally occurring glenoid fossa. Therefore, FDA makes the following proposal regarding the glenoid fossa prosthesis:

1. *Identification:* A glenoid fossa prosthesis is a device that is intended to be implanted in the temporomandibular joint to augment a glenoid fossa and provide an articulation surface for the head of a naturally occurring mandibular condyle.

2. *Recommended classification:* Class III (premarket approval). FDA proposes that premarket approval of the glenoid fossa prosthesis be high priority.

3. *Summary of reasons for proposal:* FDA proposes that the glenoid fossa prosthesis be classified into class III.

The act requires the agency to classify into class III a device that presents a

potential unreasonable risk of illness or injury unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary for this device. FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to ensure the safe and effective use of the device. The agency believes that general controls, either alone or in combination with the special controls applicable to class II devices, are insufficient to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device should be subject to premarket approval to ensure that each manufacturer of this device develops sufficient information to provide reasonable assurance that it is safe and effective.

4. *Summary of data on which the proposal is based:* FDA is basing its proposal on the Dental Products Panel members' personal knowledge of, and clinical experience with, the device and presentations by Panel members and interested parties (Ref. 1).

5. *Risks to health:* The following risks are associated with the glenoid fossa prosthesis: (a) Implant loosening or displacement. The screws used to anchor the implant may loosen, resulting in implant loosening or displacement causing changes in bite, difficulty in chewing, limited joint function and unpredictable wear on implant components (Refs. 2 through 5); (b) Degenerative changes to the natural articulating surfaces. Implant breakdown may result in erosion or resorption of the head of the mandibular condyle or the glenoid fossa. The erosion or resorption may result in intense pain, changes in bite, difficulty in chewing, limited joint function, and perforation into the middle cranial fossa (Refs. 2 through 5); (c) Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells (Refs. 2 through 5); (d) Infection. If the implant cannot be properly sterilized, infection may result; (e) Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant can be torn, worn, perforated, delaminated, fragmented, fatigued, or fractured, resulting in failure of the device to function properly (Refs. 2 through 5); (f) Corrosion. If the implant materials are subject to corrosion, toxic elements may migrate to various parts of the body; (g) Chronic pain. Degenerative changes within the articular surfaces and components of the temporomandibular joint due to implant breakdown may result in chronic pain (Refs. 2 through 5); (h) Changes to the contralateral joint. Unilateral placement of the implant may result in deleterious effects to the contralateral joint; (i) Malocclusion. Placement of the device may produce an improper occlusal relationship.

C. Mandibular Condyle Prosthesis

The Dental Products Panel did not make a recommendation regarding the classification of the mandibular condyle prosthesis, but noted that the implanted mandibular condyle should not be used with a naturally occurring glenoid fossa. FDA has determined, however, that the implanted mandibular condyle has been used to replace a naturally occurring mandibular condyle. Therefore, FDA makes the following proposal regarding the mandibular condyle prosthesis:

1. *Identification:* A mandibular condyle prothesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and to articulate within a naturally occurring glenoid fossa.

2. *Recommended classification:* Class III (premarket approval). FDA proposes that premarket approval of the mandibular condyle joint prosthesis be high priority.

3. *Summary of reasons for proposal:* FDA proposes that the mandibular condyle prothesis be classified into class III.

The act requires the agency to classify into class III a device that presents a potential unreasonable risk of illness or injury unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary for this device. FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to ensure the safe and effective use of the device. The agency believes that general controls, either alone or in combination with the special controls applicable to class II devices, are insufficient to provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device should be subject to premarket approval to ensure that each manufacturer of this device develops sufficient information to provide reasonable assurance that it is safe and effective.

4. *Summary of data on which the proposal is based:* FDA is basing its proposal on the Dental Products Panel members' personal knowledge of, and clinical experience with, the device and presentations by Panel members and interested parties (Ref. 1).

5. *Risks to health:* The following risks are associated with the mandibular condyle prothesis: (a) Implant loosening or displacement. The screws used to anchor the implant may loosen, resulting in implant loosening or displacement causing changes in bite, difficulty in chewing, limited joint function and unpredictable wear on implant components; (b) Degenerative changes to the natural articulating surfaces. Implant breakdown may result in erosion or resorption of the glenoid fossa. The erosion or resorption may result in intense pain, changes in bite, difficulty in chewing and limited joint function; (c) Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells; (d) Infection. If the implant cannot be properly sterilized, infection may result. (e) Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant can be torn, worn, perforated, delaminated, fragmented, fractured, or fatigued, resulting in failure of the device to function properly; (f) Corrosion. If the implant materials are subject to corrosion, toxic elements may migrate to various parts of the body; (g) Chronic pain. Degenerative changes within the articular surfaces and components of the temporomandibular joint due to implant breakdown may result in chronic pain; (h) Changes to the contralateral joint. Unilateral placement of the implant may result in deleterious effects to the contralateral joint; and (i) Malocclusion. Placement of the device may produce an improper occlusal relationship.

D. Interarticular Disc Prosthesis (Interpositional Implant)

The Dental Products Panel made the following recommendation regarding the classification of the interarticular disc prosthesis (interpositional implant):

1. *Identification:* An interarticular disc prosthesis (interpositional implant) is a device that is intended to be implanted in the human jaw to replace the natural disc and act as an interface between the natural articulating surface of the mandibular condyle and the glenoid fossa.

2. *Recommended classification:* Class III (premarket approval). The Panel recommends that premarket approval of

the interarticular disc prothesis (interpositional implant) be high priority.

3. *Summary of reasons for recommendation:* The Dental Products Panel recommends that the interarticular disc prothesis be classified into class III because the Panel believes that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of the device. The Dental Products Panel also believes that the device presents a potential unreasonable risk to health and that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device. The Dental Products Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish such a standard. Therefore, the device should be subject to premarket approval to ensure that each manufacturer of this device develops sufficient information to provide reasonable assurance that it is safe and effective.

4. *Summary of data on which the recommendation is based:* The Dental Products Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and presentations by Panel members and interested parties (Ref. 1).

5. *Risks to health:* The following risks are associated with the interarticular disk prothesis (interpositional implant): (a) Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant materials can be torn, perforated, delaminated, or fragmented, resulting in failure of the device to function properly (Refs. 4, 6 through 10, and 12 through 15); (b) Implant migration. Torn, worn, perforated, delaminated, and fragmented implant materials are capable of migrating to surrounding tissues, including the lymph nodes (Refs. 4 and 13); (c) Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells (Refs. 4 and 6 through 15); (d) Degenerative changes within the articular surfaces and components of the joint. Implant breakdown may result in severe resorption of the head of the mandibular condyle and glenoid fossa. The degenerative changes may result in joint noise, changes in bite, difficulty in chewing, severely limited joint function, erosion or perforation into the middle cranial fossa, crepitus, avascular necrosis and fibrous ankylosis (Refs. 4 and 6 through 14); (e) Implant displacement. Displacement of the implant may result in changes in bite, difficulty in chewing and limited joint function (Refs. 6 through 9, 11, and 12); (f) Infection. If the implant cannot be properly sterilized, infection may result.

FDA agrees with the Dental Products Panel's recommendation and is proposing that the interarticular disc prosthesis (interpositional implant) be classified into class III (premarket approval).

The act requires the agency to classify into class III a device that presents a potential unreasonable risk of illness or injury unless it determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the agency has determined that premarket approval is necessary for this device. FDA believes that the device presents a potential unreasonable risk of illness or injury to the patient if there are not adequate data to ensure the safe and effective use of the device. The agency believes that general controls, either alone or in combination with the special controls applicable to class II devices, are insufficient to provide reasonable assurance of the safety and effectiveness of the device.

The agency notes that, in addition to the risks to health identified by the Dental Products Panel, the following risks to health also are associated with the device: (g) Chronic pain. Degenerative changes within the articular surfaces and components of the joint due to implant breakdown may result in chronic pain (Refs. 6 through 8 and 11); (h) Calcification. Implant breakdown may result in the formation of scar tissue, leading to calcification (Refs. 10 and 15); (i) Granulomatous reaction. Implant particulate may produce a mass or nodule of chronically inflamed tissue with granulation (Refs. 12 through 15); (j) Leaching of elements. Toxic elements may be leached from the implant materials and migrate to various parts of the body.

III. References

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

1. Transcripts of the Dental Products Panel meeting, April 21, 1989.

2. Fontenot, M.G. and J.N. Kent, "In-vitro and In-Vivo Wear Performance of TMJ Implants," abstract, International Association of Dental Research, 1991.

3. Kent, J.N. and M.S. Block, "Comparison of FEP and UPE Glenoid Fossa Prosthesis," abstract, International Association of Dental Research, 1991.

4. "Clinical Information on the Vitek TMJ Interpositional (IPI) Implant and the Vitek-Kent (VK) and Vitek-Kent 1 (VK-1) TMJ Implants," and in "Vitek Patient Notification Program," an FDA publication, 1991.

5. Kent, J.N., "VK Partial and Total Joint Reconstruction," Current Concepts of TMJ Total Joint Replacement, University of Medicine and Dentistry of New Jersey, pp. 1–8, March 1992.

6. Primely, D., Jr., "Histological and Radiological Evaluation of the Proplast-Teflon Interpositional Implant in Temporomandibular Joint Reconstruction Following Meniscectomy," thesis, Masters Degree in Oral Maxillofacial Surgery, University of Iowa, May 1987.

7. Westlund, K.J., "An Evaluation Using Computerized Tomography of Clinically Asymptomatic Patients Following Meniscectomy and Temporomandibular Joint Reconstruction Using the Proplast-Teflon Interpositional Implant," thesis, Masters Degree in Oral and Maxillofacial Surgery, University of Iowa, May 1989.

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9. Florine, B.L. et al., "Tomographic Evaluation of Temporomandibular Joints Following Discoplasty or Placement of Polytetrafluoroethylene Implants," Journal of Oral and Maxillofacial Surgery, 48:183–188, 1988.

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IV. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on

the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Economic Impact

The agency has examined the economic impact of this proposed rule and has determined that it does not require a regulatory impact analysis, as specified in Executive Order 12291, because the proposed rule would not impose any new requirements. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. The proposed rule does not impose any paperwork requirements.

List of Subjects in 21 CFR Part 872

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 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR Part 872 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 §§ 872.3940, 872.3950, 872.3960, and 872.3970 are added to subpart D to read as follows:

§ 872.3940 Total temporomandibular joint prosthesis.

(a) *Identification.* A total temporomandibular joint prosthesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and augment the glenoid fossa to functionally reconstruct the temporomandibular joint.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* (Insert date 90 days after date of publication of the final rule in the **Federal Register**.)

§ 872.3950 Glenoid fossa prosthesis.

(a) *Identification.* A glenoid fossa prosthesis is a device that is intended to be implanted in the temporomandibular joint to augment a glenoid fossa and to provide an articulation surface for the head of a naturally occurring mandibular condyle.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* The effective date of the requirement for premarket approval has not been established. See § 872.3.

§ 872.3960 Mandibular condyle prosthesis.

(a) *Identification.* A mandibular condyle prosthesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and to articulate within a naturally occurring glenoid fossa.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* The effective date of the requirement for premarket approval has not been established. See § 872.3.

§ 872.3970 Interarticular disc prosthesis (interpositional implant).

(a) *Identification.* An interarticular disc prosthesis (interpositional implant) is a device that is intended to be implanted in the human jaw to replace the natural disc and act as an interface between the natural articulating surface of the mandibular condyle and glenoid fossa.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* The effective date of the requirement for premarket approval has not been established. See § 872.3.

Dated: August 9, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-22621 Filed 9-17-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 89

[CGD 91-050]

RIN 2115-AE09

Waters on Which Certain Inland Navigation Rules Apply

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Inland Navigation Rules by defining certain portions of the Gulf Intracoastal-Coastal Waterway as waters "specified by the Secretary". This will allow towboat operators on designated portions of the Gulf Intracoastal Waterway to use a rule designed for certain rivers and narrow waterways, exempting them from using white masthead lights, thus improving navigation safety.

DATES: Comments must be received on or before November 17, 1992.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 91-050), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Epstein, Navigation Rules and Information Branch, Office of Navigation Safety and Waterway Services, (202) 267-0352 or (202) 267-0357.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 91-050) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Jonathan Epstein, Project Manager, Office of Navigation Safety and Waterway Services, and Donald W. Faleris, Project Counsel, Office of the Chief Counsel.

Background and Purpose

The Inland Navigation Rules Act of 1980 (Pub. L. 96-591, 33 U.S.C. 2001 *et seq.*) consolidated numerous regional navigation rule systems into one document. These rules apply to all vessels operating on the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent

that there is no conflict with Canadian law [Rule 1, 33 U.S.C. 2001]. However, on the Great Lakes, Western Rivers, and "waters specified by the Secretary [of Transportation]", several specific rules apply in order to best meet the navigational needs in these areas.

Under Inland Navigation Rule 24(c), a power-driven vessel when pushing ahead or towing alongside must exhibit two masthead lights in a vertical line (in addition to sidelights and two towing lights in a vertical line). Under Inland Navigation Rule 22(b) masthead light intensity must be sufficient for visibility of at least five miles, if the vessel is 20 meters or more in length. Thus, presently on the Gulf Intracoastal Waterway, tugboats pushing a barge ahead or alongside are required to exhibit these white masthead lights with 5-mile visibility.

In 1989, the American Waterways Operators, Inc., representing many of the towboat operators, voiced concern over the 5-mile visibility masthead lights. These white masthead lights can seriously hamper the vision of oncoming traffic in narrow waterways, such as the Gulf Intracoastal Waterway. The lights can also create a glare problem caused by reflection of the masthead lights off large tows when pushing ahead. The Navigation Safety Advisory Council and the Towing Safety Advisory Council have both endorsed a change to the Inland Navigation Rules to address these glare problems.

On these winding waterways, the long-range visibility of the white masthead lights is of little practical use. However, since the Gulf Intracoastal Waterway crosses 12 major channels used by large seagoing merchant ships, total exemption from the masthead lights requirement of Inland Rule 24(c) may be inappropriate. Many of these navigable channels are in large open bays where masthead lights would be useful. For these reasons, local pilots raised concerns over visibility of towboats in these areas, citing the adage: "brighter is better". The Coast Guard also agrees that this visibility issue should be addressed.

Discussion of Proposed Amendments

Certain Inland Navigation Rules, by their terms, apply "on the Great Lakes, Western Rivers, and waters specified by the Secretary." Subchapter II of the Inland Navigation Rules, 33 U.S.C. 2071, gives to the Secretary of Transportation the authority to issue regulations necessary to implement and interpret the Inland Navigation Rules, including these specific provisions. Implementing regulations are set forth in 33 CFR part 89.

Inland Navigation Rule 24(i) is one such provision that applies only on the Great Lakes, Western Rivers, and waters specified by the Secretary. It states: "Notwithstanding paragraph (c) [the general provision requiring two white masthead lights], on the Western Rivers (except below the Huey P. Long Bridge on the Mississippi River) and on waters specified by the Secretary, a power driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit: (i) Sidelights; and (ii) two towing lights in a vertical line." Since it requires only sidelights and towing lights, this Inland Navigation Rule provision would exempt tugboats pushing a barge ahead or alongside from the requirement to show white masthead lights. By including the Gulf Intracoastal Waterway in the list of waters "specified by the Secretary" in 33 CFR part 89, Inland Navigation Rule 24(ii) would apply to power-driven vessels pushing ahead or towing alongside operating in the Gulf Intracoastal Waterway. This provision would address the glare problems created by these lights as discussed above.

However, in order to provide for visibility of tugs and tows while in major channels intersecting the Gulf Intracoastal Waterway, the exemption from the white masthead lights requirement should only be partial. To accomplish this, the Coast Guard proposes to amend 33 CFR part 89, subpart B, by removing the reference to Rule 24(i) from § 89.25, and by adding a new section (§ 89.27) to specify waters on which Inland Rule 24(i) applies. New § 89.27 would list those areas currently listed in § 89.25, as well as the Gulf Intracoastal Waterway. But with respect to the Gulf Intracoastal Waterway, it would also indicate ship channels where Rule 24(i) would not apply. Therefore, a towboat operator would not be required to use white masthead lights while in the Gulf Intracoastal Waterway, as described in § 89.27(b). However, when approaching or crossing the major channels listed in that paragraph, the towboat operator would be required to turn the masthead lights on, so as to be more visible. These designated areas are clearly delineated by mile marker and fixed landmark in the proposed rule.

The following other options were considered:

(a) Amending existing 33 CFR 89.25 by adding the Gulf Intracoastal Waterway as a specified waterway under a new subparagraph (j). However, because of the language in § 89.25, Inland Rules 9(a)(ii), 14(d), and 15(b) would also be applied to the Gulf Intracoastal Waterway. These Rules were especially designed for use in rivers with appreciable current (*i.e.*, on the Mississippi and Western Rivers). These rules would have little or no applicability on the Gulf Intracoastal Waterway, where there is little current, except when crossing major rivers. Therefore, application of Inland Rules 9(a)(ii), 14(d), and 15(b) to the Gulf Intracoastal Waterway serves no practical purpose and only increases the chance of confusion or misinterpretation of the Inland Navigation Rules.

(b) Allowing masthead light of variable intensity. This would alleviate the glare problem, while still allowing full brightness when crossing major channels. However, this would require equipment changes on all towboats using the Gulf Intracoastal Waterway. Additionally, Annex I(8)(b) of the International Regulations for Preventing Collisions at Sea (1972 COLREGS) specifically states that "the maximum luminous intensity of navigation lights should be limited to avoid undue glare. This shall not be achieved by a variable control of the luminous intensity." Therefore a U.S. requirement for a variable control would put operators using both inland and international waters in a situation where compliance with the Inland Navigation Rules and the COLREGS would not be possible.

(c) Designating the Gulf Intracoastal Waterway as "waters specified by the Secretary," except when within 3 miles of major channels. While this would simplify the wording of the regulation, it leaves more room for misinterpretation. Towboat operators on the Gulf Intracoastal Waterway use mile markers and fixed landmarks for communication and navigation. Therefore, defining the 12 major channel areas using mile markers and landmarks will give towboat operators clear points at which to turn on or off their masthead lights.

The Coast Guard is requesting comments on the proposed § 89.27, which would make Inland Navigation Rule 24(i) applicable on portions of the Gulf Intracoastal Waterway, as set forth in the proposal, as well as comments which address the alternatives discussed above, and other matters related to this strulemaking.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be

so minimal that a Full Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Under federal law, authority to issue regulations to implement the Inland Navigational Rules is vested in the Secretary of Transportation and delegated to the Coast Guard. Therefore, if this rule becomes final, the Coast Guard intends it to preempt State action addressing this subject matter.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES.**"

List of Subjects in 33 CFR Part 89

Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 89 as follows:

PART 89—[AMENDED]

1. The authority citation for part 89 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.4b(n)(14).

2. Section 89.25 is revised to read as follows:

§ 89.25 Waters upon which Inland Rules 9(a)(ii), 14(d), and 15(b) apply.

Inland Rules 9(a)(ii), 14(d), and 15(b) apply on the Great Lakes, the Western Rivers, and the following specified waters:

(a) Tennessee-Tombigbee Waterway;
(b) Tombigbee River;
(c) Black Warrior River;
(d) Alabama River;
(e) Coosa River;
(f) Mibile River above the Cochrane Bridge at St. Louis Point;
(g) Flint River;
(h) Chattachoochee River; and
(i) The Apalachicola River above its confluence with the Jackson River.

3. A new § 89.27 is added to 33 CFR part 89, subpart B, to read as follows:

§ 89.27 Waters upon which Inland Rule 24(i) applies.

(a) Inland Rule 24(i) applies on the Western Rivers and the specified waters listed in § 89.25 (a) through (i).

(b) Inland Rule 24(i) applies on the Gulf Intracoastal Waterway from St. Marks, Florida, to the Rio Grande, Texas, including the Morgan City-Port Allen Alternate Route and the Galveston-Freeport Cutoff, except that a power-driven vessel pushing ahead or towing alongside shall exhibit the lights required by Inland Rule 24(c), while transiting within the following areas:

(1) St. Andrews Bay from the Hathaway Fixed Bridge at Mile 284.6 EHL to the DuPont Fixed Bridge at Mile 295.4 EHL.

(2) Pensacola Bay, Santa Rosa Sound and Big Lagoon from the Light "10" off of Trout Point at Mile 176.9 EHL to the Pensacola Fixed Bridge at Mile 189.1 EHL.

(3) Mobile Bay and Bon Secour Bay from the Dauphin Island Causeway Fixed Bridge at Mile 127.7 EHL to Little Point Clear at Mile 140 EHL.

(4) Mississippi Sound from Grand Island Waterway Light "1" at Mile 53.8 EHL to Light "40" off of West Point of Dauphin Island at Mile 118.7 EHL.

(5) The Mississippi River at New Orleans, Miss. River-Gulf Outlet Canal and the Inner Harbor Navigation Canal from the junction of the Harvey Canal and the Algiers Alternate Route at Mile 6.5 WHL to the Michoud Canal at Mile 18 EHL.

(6) The Calcasieu River from the Calcasieu Lock at Mile 238.6 WHL to the Ellender Lift Bridge at Mile 243.6 WHL.

(7) The Sabine Neches Canal from mile 262.7 WHL to mile 291.5 WHL.

(8) Bolivar Roads from the Bolivar Assembling Basin at Mile 346 WHL to the Galveston Causeway Bridge at Mile 357.3 WHL.

(9) Freeport Harbor from Surfside Beach Fixed Bridge at Mile 393.8 WHL to the Bryan Beach Pontoon Bridge at Mile 397.6 WHL.

(10) Matagorda Ship Channel area of Matagorda Bay from Range "K" Front Light at Mile 468.7 WHL to the Port O'Connor Jetty at Mile 472.2 WHL.

(11) Corpus Christi Bay from Redfish Bay Day Beacon "55" at mile 537.4 WHL when in the Gulf Intracoastal Waterway main route or from the north end of Lydia Ann Island mile 531.1A when in the Gulf Intracoastal Waterway Alternate Route to Corpus Christi Bay LT 76 at Mile 543.7 WHL.

(12) Port Isabel and Brownsville Ship Channel south of the Padre Island Causeway Fixed Bridge at Mile 665.1 WHL.

Dated: September 14, 1992.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-22634 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 260, 264, 265, 270, and 271

[FRL-4507-8]

RIN 2060-AB94

Hazardous Waste Treatment, Storage, and Disposal Facilities; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: This notice announces the availability of additional data that will be considered by the EPA in establishing air emission standards for hazardous waste treatment, storage, and disposal facilities (TSDF) under the authority of the Resource Conservation and Recovery Act (RCRA), as amended. The additional data are available for public inspection at the EPA RCRA Docket Office.

DATES: Comments on these additional data will be accepted through October 19, 1992.

ADDRESSES: Comments Written comments regarding these data may be mailed to the Docket Clerk (OS-305),

U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number F-92-CESA-FFFFF. Docket. The docket is available for inspection between the hours of 9 a.m. and 4 p.m. Monday through Friday, excluding Federal holidays, at the EPA RCRA Docket Office (OS-305), room 2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying. To make an appointment to view the docket, call (202) 260-9327.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline by calling (800) 424-9346 toll-free, or (703) 920-9810. For information on specific aspects of this Notice contact Ms. Michele Aston, Chemicals and Petroleum Branch, Emissions Standards Division (MD-13), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541-2363.

SUPPLEMENTARY INFORMATION: On July 22, 1991, the Environmental Protection Agency (EPA) proposed standards and amendments to existing standards that would reduce air emissions from hazardous waste management units subject to regulation under the Resource Conservation and Recovery Act (RCRA) as amended "Hazardous Waste Treatment, Storage, and Disposal Facilities; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers," (56 FR 33490, July 22, 1991). These standards were proposed for hazardous waste treatment, storage, and disposal facilities (TSDF) subject to permitting requirements under RCRA subtitle C. The Agency based the selection of the control requirements for the proposed standard on impact analyses of various control options using the National Impacts Model described in Appendix D of "Hazardous Waste TSDF—Background Information for Proposed RCRA Air Emission Standards" (EPA-450/3-89-23).

In the proposed regulation preamble, the Agency requested comments on several specific topics related to the emission modeling and the risk assessments which support the selection of the proposed control requirements. As noted in that preamble, the Agency has obtained additional TSDF industry data which is pertinent to the modeling and analysis. The Agency has made modifications to the national impact analysis following a review of the public comments and the additional TSDF industry data. The Agency will consider the results of the revised analysis in its evaluation of different control options and in making its final determination regarding this rule.

By this Notice, the Agency is announcing the availability of additional TSDF industry and waste characterization data, descriptions of modeling methodologies that will be used to analyze that data, and revised assumptions concerning TSDF industry practices which result from that data.

The additional data sources incorporated into the revised National Impacts Model are: (1) The 1986 National Survey of Hazardous Waste Treatment, Storage, Disposal, and Recycling Facilities (TSDR Survey); (2) additional information from the OSW Industry Studies Data Base (ISDB); (3) the Best Demonstrated Achievable Technology (BDAT) data base; (4) the Hazardous Waste Generator's Survey of 1986 (Generator Survey); (5) information gathered through phone surveys, public comments, and site visits; (6) results from waste fixation experimental data.

Information from the TSDR Survey, which is composed of TSDF hazardous waste management information collected by the EPA Office of Solid Waste (OSW), has been used to update the Industry Profile Data Base. This data base is used by the National Impacts Model to characterize waste management practices at facilities nationwide and to model the emissions from these facilities. At the time of the initial analysis, the data base totalled 2,336 facilities derived from the 1981 Westat Survey (465 facilities), EPA's 1980 Hazardous Waste Data Management System (HWDMS) (comprised of responses to Part A permit questions), and the OSW 1986 TSDR Screener Survey (422 facilities). The revised data base totals 2,331 facilities: 1,783 facilities from the 1986 TSDR Survey, 546 storage-only facilities from the original data base, and two modeled facilities which represent TSDR Survey facilities whose respondents claimed their information to be Confidential Business Information (CBI). The original and the revised versions of the Industry Profile Data Base represent the same data set of facilities; however, when the 1986 TSDR Survey data became available, it was substituted for the former data because it was more recent and was believed to better reflect the current industry practices.

The ISDB contains detailed waste stream information from a facility sampling study of certain industries which OSW was in the process of conducting when the National Impacts Model was developed for the proposed regulation. At that time, available ISDB information was included in the Model and information not yet available from the ISDB (e.g. petroleum industry data) was obtained from the OSW listing program and placed in a separate data base called Field Data. When the ISDB was completed, the final version was included in the Model, petroleum refining data was deleted from the Field Data data base and Field Data was renamed FORSTREAM. Information from the ISDB also contributed to the DFNOFORM data base, a set of default waste profiles for 32 RCRA waste codes.

The BDAT data base contains waste constituent information for three industries which was collected by OSW in 1986 to support the first and second third BDAT regulations. It was not available for use when the Model was developed for the proposed regulation. Information from the BDAT data base also contributed to the RTILIST data base, a default set of waste stream profiles.

The Generator Survey contains detailed information about specific waste stream constituents, waste form and waste composition from facilities that generate hazardous waste. This information was compiled into the GENSUR data base for use in the National Impacts Model. Information from the Generator Survey was also included in the DFNOFORM and the RTILIST default data bases, described above.

In the proposed regulation preamble, the Agency requested public comments on assumptions made in the National Impacts Model about TSDF industry practices and hazardous waste operations. The Agency conducted site visits to assess the impact of the Toxicity Characteristic (TC) rule, discover how facilities were responding to LDR, and help determine the extent to which tank operations were replacing surface impoundments (refer to FR proposed regulation docket F-92-CESP-S00500 through S00503). Also, the Agency conducted a telephone survey of various facilities to determine to what extent tank operations were replacing surface impoundments at TSDF sites. As a result of the information obtained by the Agency, assumptions made in the National Impacts Model were reevaluated and modified, where necessary, to better characterize TSDF industry practices (refer to "Memorandum and Attachment, S. York, Research Triangle Institute, to Docket, Revised BID Appendix D—Source Assessment Model, July 31, 1992).

The Agency received public comments stating that the National

Impacts Model overestimated emissions from waste fixation processes. The Agency has reviewed the results of more recent waste fixation experimental data, including full-scale and bench-scale emission analyses. These new data supported the original estimates of emissions from fixation operations; however, the nationwide baseline estimate of emissions attributable to waste fixation decreased because information from the TSDR Survey indicated that less fixation operations occur than was initially estimated.

New data placed onto the docket include:

- Memorandum, P. Murphy, Research Triangle Institute, to R. Lucas, EPA:CPB, Incorporating the Industrial Studies Data Base into the Waste Characterization Data Base, March 13, 1989.
- Memorandum, P. Murphy, Research Triangle Institute, to R. Lucas, EPA:CPB, Analytical BDAT Data from SAIC, July 31, 1989.
- Memorandum, M. Branscome, Research Triangle Institute, to K. Hustvedt, EPA:CPB, Nationwide Distributions for TSDF Processes, September 12, 1989.
- Memorandum, P. Murphy, Research Triangle Institute, to R. Lucas, EPA:CPB, Review of Use of Organic Concentration Caps on RCRA Waste Codes Managed in Open Sources, October 20, 1989.
- Technical Note, C. Allen, Research Triangle Institute, to P. Lassiter, EPA:CPB, Theoretical Analysis of the Use of the UNIFAC Method to Predict the VO Recovery from a Mixture of 50% Polyethylene Glycol and Water, November 17, 1989.
- Report, Hazardous Waste Treatment, Storage and Disposal Facilities (TSDF)—Air Emission Models, EPA:OAQPS, EPA-450/3-87-026, July 1990.
- Memorandum, D. Coy, E. Kong, P. Murphy, Research Triangle Institute, to S. Shedd, EPA:CPB, Recommended Assumptions for SAM II Simulation of Surface Impoundments After Land Disposal Restrictions are in Place, November 30, 1990.
- Memorandum, D. Coy, Research Triangle Institute, to S. Shedd, EPA:CPB, Recommended Approach for Simulation of Subpart Kb Rules in SAM II, January 3, 1991.
- Report, Field Evaluation of a Hazardous Waste Stabilization Operation at Chem-Met Services, Inc., Wyandotte, Michigan, International Technology Corporation, prepared for EPA:RREL, EPA Contract 68-002-4284, March 1991. [2 volumes]
- Report, Volatile Emissions from Stabilization/Solidification of Hazardous Waste, Accurex Corporation, prepared for EPA:RREL, EPA Contract 68-02-4284, October 1991.
- Memorandum, J. Coburn, Research Triangle Institute, to M. Najarian, EPA:CPB, Summary of Organic Air Emission Test Results for a Hazardous Waste Fixation Process at Chem-Met Services, Inc., Wyandotte, Michigan, October 28, 1991.
- Memorandum and Attachment, S. York, Research Triangle Institute, to Docket, Revised BID Appendix D—Source Assessment Model, July 31, 1992 (revised Appendix D attached).
- Memorandum and Attachment, S. York, Research Triangle Institute, to Docket, Supplement to BID Appendix E—Estimating Health Effects, July 31, 1992 (BID Appendix E Supplement attached).
- Memorandum, S. York, Research Triangle Institute, to Docket, Public Access to Non-Confidential Business Information in 1986 National Survey of Hazardous Waste Treatment, Storage, Disposal, and Recycling Facilities (TSDR), July 31, 1992.
- Memorandum, S. York, Research Triangle Institute, to Docket, Public Access to Non-Confidential Business Information in EPA 1986 National Survey of Hazardous Waste Generators, July 31, 1992.
- Memorandum, S. York, Research Triangle Institute, to Docket, Public Access to Non-Confidential Business Information in RCRA Industrial Studies Data Base (ISDB), July 31, 1992.
- Memorandum, S. York, Research Triangle Institute, to Docket, EPA Method 25D Recovery Factors Used for Source Assessment Model, July 31, 1992.
- Memorandum, P. Peterson, Research Triangle Institute, to Docket, Summary of Model Output for Preliminary Runs, July 31, 1992.

The Agency will consider these new data in the regulatory decision-making process for this regulation. Therefore, the new data are being placed into the RCRA docket for public inspection and review. For all readers to clearly distinguish these new data, they have been placed under a new docket number: F-92-CESA-FFFFF. The Agency will consider all comments on the new data received by the close of the comment period when making a final regulatory determination on the control option for this regulation.

Dated: September 10, 1992.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 92-22516 Filed 9-17-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 61

[FRL-4508-7]

National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a rule to stay the effectiveness of subpart I of 40 CFR part 61 as it is applied to facilities other than commercial nuclear power reactors which are licensed by the Nuclear Regulatory Commission (NRC) or by NRC Agreement States. This stay would remain in effect during a subsequent rulemaking concerning rescission of subpart I for these facilities, but in no case will extend beyond November 15, 1993. A stay currently in effect for these facilities expires on November 15, 1992. During the current stay, EPA has been evaluating air emissions of radionuclides from NRC licensees other than nuclear power reactors and the NRC regulatory program to control such emissions pursuant to section 112(d)(9) of the Clean Air Act. This proposal is based on that evaluation and reflects the Agency's intention to issue a proposed rule to rescind Subpart I for NRC-licensed facilities other than nuclear power reactors on or before November 15, 1992.

DATES: Comments concerning this proposed rule must be received by EPA on or before October 19, 1992, unless a public hearing is held, in which case the comment period will be extended until October 26, 1992. A hearing concerning this proposed rule will be held on September 28, 1992, if a request for such a hearing is received by September 25, 1992. For the location of the hearing, please contact Fran Jonesi at (202) 233-9229. EPA intends to take final action concerning this proposed rule no later than November 15, 1992.

ADDRESSES: Comments, requests for hearing, and questions should be addressed to: Central Docket Section LE-131, Environmental Protection Agency, Attn: Docket No. A-92-31, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Fran Jonesi, Air Standards and Economics Branch, Criteria and Standards Division (ANR-460W), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460, (202) 233-9221.

SUPPLEMENTARY INFORMATION:

A. Background

On October 31, 1989, EPA promulgated standards controlling radionuclide emissions to the ambient air from several source categories, including emissions from licensees of the Nuclear Regualatory Commission ("NRC") and from Federal facilities not licensed by the NRC or owned or operated by the Department of Energy ("non-DOE Federal facilities") (subpart I, 40 CFR part 61). This rule was published in the **Federal Register** on December 15, 1989 (54 FR 51654). At the same time as the rule was promulgated, EPA granted reconsideration of Subpart I based on comments received late in the rulemaking from NRC and NIH on the subject of duplicative regulation by NRC and EPA and on potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and also grants a 90-day stay of subpart I as permitted by Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607 (d)(7)(B).

EPA subsequently extended the stay of the effective date of Subpart I on several occasions, pursuant to the authority provided by section 10(d) of the Administrative Procedure Act (APA), 5 U.S.C. 705, and section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a). (55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

In October 1990, Congress passed new legislation amending the Clean Air Act. Section 112(d)(9) of the amendments provides.

> No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health.

After evaluating the information received during the reconsideration of subpart I, EPA made an initial determination that the NRC regulatory program to control emissions of radionuclides from commercial nuclear power reactors provided an ample margin of safety to protect the public health. Based on that determination, EPA then issued a proposed rule to rescind subpart I for nuclear power reactors, 56 FR 37196 (August 5, 1991), and a final rule staying the effectiveness of subpart I for such facilities during the pendency of the rulemaking on rescission. 56 FR 36158 (August 5, 1991). However, EPA also concluded that for all categories of NRC-licensed facilities other than nuclear power reactors the Agency lacked sufficient information to determine whether the regulatory program established by NRC provided an ample margin of safety to protect the public health.

On April 15, 1991, EPA issued a final rule staying the effectiveness of Subpart I for all categories of NRC-licensed facilities except nuclear power reactors until November 15, 1992, or until such earlier date that EPA is prepared to make an initial determination under Clean Air Act section 112(d)(9) and conclude its reconsideration under section 307(d)(7)(B). 56 FR 18735 (April 24, 1991). The purpose of this stay was to enable EPA to collect the additional information necessary to make the substantive determination contemplated by section 112(d)(9).

In order to assess whether the public health is adequately protected from air emissions of radionuclides from NRC-licensed facilities other than nuclear power reactors, EPA undertook a study to determine the doses that currently result from emissions from these facilities. A major component of this study was a random survey and analysis of a representative subset of the approximately 6,000 NRC and Agreement State licensees. A second group of "targeted" facilities selected based on their potential to cause higher doses was also investigated. In order to gather the necessary information, letters were sent to selected NRC or Agreement State licensees under the authority of section 114 of the Clean Air Act. Doses were then determined by EPA using the compliance procedures specified in Subpart I.

EPA has recently concluded its analysis of the data collected in this study. The results of the study indicate that current air emissions of radionuclides from NRC licensees consistently provide an ample margin of safety to protect the public health. A preliminary draft of the report setting forth the results of the study has been placed in the docket for this proposed rule. EPA is also currently engaged in consultations with the NRC concerning measures which will assure EPA that future emissions from NRC licensees will not exceed levels that will provide an ample margin of safety. Based on the results of its study and on the pending consultations with NRC, EPA expects to make an initial determination that the NRC regulatory program to control emissions from licensees other than nuclear power reactors provides an ample margin of safety, and to propose to rescind Subpart I for this group of licensees on or before November 15, 1992, and to take final action by November 15, 1993.

B. Proposed Rule staying Subpart I for NRC-Licensed Facilities Other than Nuclear Power Reactors

Today's proposal reflects the Agency's interpretation of the Congressional policy embodied in section 112(d)(9) of the Clean Air Act Amendments of 1990. In section 112a(d)(9), Congress authorized EPA not to regulate radionuclide emissions from NRC licensees in those instances where NRC regulation is sufficient to provide an ample margin of safety. Congress clearly intended to give EPA the discretion to relieve affected facilities from the burdens associated with parallel regulation when this would not adversely affect public health.

If EPA determines based on its investigation of NRC licensees other than nuclear power reactors and on consultations with NRC that the NRC regulatory program governing radionuclide emissions from such facilities provides an ample margin of safety to protect the public health and commences a rulemaking under section 112(d)(9) to rescind subpart I for such facilities, it would frustrate the clear purpose of section 112(d)(9) for EPA to permit subpart I to take effect during the rulemaking on rescission. Therefore, under the authority provided by section 112(d)((9) and section 301(a) of the Clean Air Act, EPA is proposing this rule to stay the effectiveness of Subpart I as applied to NRC-licensed facilities other than nuclear power reactors during the pendency of a substantive rulemaking concerning rescission. EPA expects to issue a proposed rule to rescind Subpart I for NRC-licensed facilities other than nuclear power reactors, and to take final action concerning this proposed stay, on or before November 15, 1992.

C. Miscellaneous

1. Paperwork Reduction Act

There are no information collection requirements in this rule.

2. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether this regulation is a "major rule" and therefore subject to certain requirements of the Order. The EPA has determined that issuing this stay of subpart I for nuclear power reactors will result in none of the adverse economic effects set forth in section I of the Order as grounds for finding a regulation to be a "major rule."

This regulation is not major because the nationwide compliance costs do not meet the $100 million threshold, the regulation does not significantly increase prices or production costs, and the regulation does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets.

The Agency has not conducted a Regulatory Impact Analysis (RIA) of this regulation because this action does not constitute a major rule.

3. Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" which describes the effect of the rule on small business entities. However, section 604(b) of the Act provides that an analysis will not be required when the head of an Agency certifies that the rule will not, if promulgated, have a significant economic impact on any number of small entities.

This rule staying 40 CFR part 61, subpart I for facilities other than nuclear power reactors will have the effect of preventing the burden which would otherwise result from imposition of the requirements in subpart I. I therefore certify that this rule will not have significant economic impact on any number of small entities.

Dated: September 14, 1992.

William K. Reilly,

Administrator.

List of Subjects in 40 CFR Part 61

Air pollution control.

For all of the reasons given in the preamble, it is proposed that part 61 of title 40 of the Code of Federal Regulations be amended as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. Section 61.109 is revised to read as follows:

§ 61.109 Stay of Effective Date.

The effective date for subpart I is stayed for all facilities other than commercial nuclear power reactors which are licensed by the Nuclear Regulatory Commission or an Agreement State until the date on which EPA takes final action concerning its proposal to rescind subpart I for such facilities pursuant to section 112(d)(9) of the Clean Air Act, or November 15, 1993, whichever comes first. EPA will publish any such final action in the Federal Register.

[FR Doc. 92-22651 Filed 9-17-92; 8:45 am]

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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1992-93 National Marketing Quota and Price Support Level for Flue-cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC), (USDA).

ACTION: Notice of determination.

SUMMARY: The purpose of this notice is to affirm determinations made by the Secretary of Agriculture with respect to the 1992 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended.

In addition to other determinations, the Secretary of Agriculture proclaimed marketing quotas for the 1992-94 marketing years, determined the 1992 marketing quota for flue-cured tobacco to be 891.8 million pounds, and set the price support level for 1992 at 156.0 cents per pound.

EFFECTIVE DATE: December 16, 1991.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Tobacco and Peanuts Analysis Division, ASCS, room 3736, South Building, P.O. Box 2415, Washington, DC 20013, (202) 720-8839.

The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this notice applies are: Commodity Loan and Purchases; 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) are required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice is issued pursuant to the provisions of the Agricultural Adjustment Act of 1938 (1938 Act), as amended, and the Agricultural Act of 1949 (1949 Act), as amended. On December 16, 1991, the Secretary of Agriculture announced the price support level and national marketing quota for 1992 crop flue-cured tobacco and, likewise, based on the most reliable data available (principally statistics of the federal government), a number of related determinations for that crop were also made at that time.

This notice, for that crop, affirms the following:

1. The proclamation of quota for the 1992-94 marketing years;
2. The amount of domestic manufacturers; intentions;
3. The amount of the average exports for the 1989, 1990, and 1991 crop years;
4. The amount of the reserve stock level;
5. The amount of adjustment needed to maintain loan stocks at the reserve stock level;
6. The amount of the national marketing quota;
7. The national average yield goal;
8. The national acreage allotment;
9. The national acreage reserve:

A. For establishing acreage allotments for new farms, and

B. For making corrections and adjusting inequities in old farms;

10. The national acreage factor;
11. The national yield factor; and
12. The price support level.

Marketing Quotas

Section 317(a)(1)(B) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, that the Secretary, in the Secretary's discretion, determines necessary to adjust loan stocks to the reserve stock level.

Section 317(a)(1)(C) further provides that, with respect to the 1990 through 1993 marketing years, any reduction in the national marketing quota being determined shall not exceed 10 percent of the previous year's national marketing quota. The "reserve stock level" is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1992 crop of flue-cured tobacco by December 1, 1991. Six such manufacturers were required to submit such a statement for the 1992 crop and the total of their intended purchases for the 1992 crop was 497.2 million pounds.

The three-year average of exports is 393.7 million pounds. Beginning in January 1991, the Bureau of Census has required U.S. exporters to report the U.S.-grown and foreign portions of flue-cured leaf exports. Accordingly, beginning in calendar 1991 (the last half of the 1990 crop year) all reports of U.S. flue-cured exports on a farm sales

weight basis will represent only U.S.-grown tobacco. For the 1989 crop year and the first half of the 1990 crop year, raw census data were used.

In accordance with section 301(b)(14)(C) of the 1938 Act, the reserve stock level is the greater of 100 million pounds or 15 percent of the 1991 marketing quota for flue-cured tobacco. The national marketing quota for the 1991 crop year was 877.7 million pounds (56 FR 19975). Accordingly, the reserve stock level for use in determining the 1992 marketing quota for flue-cured tobacco is 131.7 million pounds.

As of November 27, the Flue-Cured Tobacco Stabilization Corporation had in its inventory 130.8 million pounds of flue-cured tobacco (excluding pre-1985 stocks committed to be purchased by manufacturers and covered by deferred sales). Accordingly, the adjustment to maintain loan stocks at the reserve supply level is an increase of 0.9 million pounds.

The total of the three marketing quota components for the 1992–93 marketing year is 891.8 million pounds. Section 317(a)(1)(B) of the 1938 Act further provides that the Secretary may increase or decrease the total by 3 percent. Because the Secretary has determined that supplies were adequate to satisfy export markets at the 891.8 million-pound-quota level, it was determined the discretionary authority to adjust the three-component total would not be used. Accordingly, the national marketing quota for the marketing year beginning July 1, 1992, for flue-cured tobacco is 891.8 million pounds.

Section 317(a)(2) of the 1938 Act provides that the national average yield goal be set at a level, which on a national average basis, the Secretary determines will improve or ensure the usability of the tobacco and increase the net return per pound to the growers. Yields in crop year 1991 did not change significantly from the previous year. Accordingly, in the national average yield goal for the 1992–93 marketing year will be 2,088 pounds per acre, the same as last year.

In accordance with section 317(a)(3) of the 1938 Act, the national acreage allotment for the 1992 crop of flue-cured tobacco is determined to be 427,107.28 acres, which is the result of dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1992 crop of flue-cured tobacco of 1,278 acres is adequate for these purposes.

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level which is determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 1992 crop of flue-cured tobacco, the level of support is determined in accordance with sections 106(d) and (f) of the 1949 Act. Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 1992 crop of flue-cured tobacco shall be:

(1) The level in cents per pound at which the 1991 crop of flue-cured tobacco was supported, plus or minus, respectively,

(2) An adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

(II) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately marketing year before the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

The difference between the two 5-year averages (the difference between (A)(I) and (II)) is 2.9 cents per pound. The difference in the cost index from January 1 to December 31, 1991 is 3.9 cents per pound. Applying these components to the price support formula (2.9 cents per pound, two-thirds weight; 3.9 cents per pound, one-third weight) result in a weighted total of 3.2 cents per pound. As indicated, section 106 provides that the Secretary may on the basis of supply and demand conditions limit the change in the price support level to no less than 65 percent of that amount. Supply and demand are reasonably in balance. Accordingly, the 1992 crop of flue-cured tobacco will be supported at 156.0 cents per pound, 3.2 cents higher than in 1991.

Affirmation

The following determinations have been made for flue-cured tobacco for the marketing year beginning July 1, 1992 and are hereby affirmed:

(a) *Proclamation of quota.* Since the 1991–92 marketing year in the last of three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a national marketing quota for such kind of tobacco for each of the three marketing years beginning July 1, 1992; July 1, 1993; and July 1, 1994 is hereby proclaimed.

(b) *Domestic manufacturers' intentions.* Manufacturers' intentions for the 1992 year totaled 497.2 million pounds.

(c) *3-year average exports.* The 3-year average of exports is 393.7 million pounds, based on exports of 387.6 million pounds, 403.4 million pounds, and 390.0 million pounds for the 1989, and 1990 crop years, respectively.

(d) *Reserve stock level.* The reserve stock level is 131.7 million pounds, based on 15 percent of 1991's national marketing quota of 878 million pounds.

(e) *Adjustment for the reserve stock level.* The adjustment for the reserve stock level is plus 0.9 million pounds, based on a reserve stock level of 131.7 million pounds and anticipated loan stocks of 130.8 million pounds.

(f) *National marketing quota.* The national marketing quota is 891.8 million pounds, based on the three component total.

(g) *National average yield goal.* The national average yield goal is determined to be 2,088 pounds.

(h) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined to be 427,107.28 acres. This allotment is determined by dividing the national marketing quota of 891.8 million pounds by the national average yield goal of 2,088 pounds.

(i) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms has been determined to be 1,278 acres.

(j) *National acreage factor.* The national acreage factor is determined to be 1.015.

(k) *National yield factor.* The national yield factor is determined and announced to be .9272.

(l) *Types of tobacco.* It has been determined that types 11, 12, 13, and 14 shall constitute one kind of tobacco for the 1992–93, 1993–94, and 1994–95 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco.

(m) *Price support level.* The level of support for the 1992 crop of flue-cured tobacco is 156.0 cents per pound.

Authority: 7 U.S.C. 1301, 1313, 1314c, 1314g, 1375, 1445, and 1421.

Signed at Washington, DC on September 11, 1992.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–22649 Filed 9–17–92; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

1992–93 National Marketing Quota and Price Support Level of Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Commodity Credit Corporation (CCC), (USDA).

ACTION: Notice of determination.

SUMMARY: The purpose of this notice is to affirm determinations made by the Secretary of Agriculture with respect to the 1992 crop of burley tobacco in accordance with the Agricultural Adjustment of 1938, as amended, and the Agricultural Act of 1949, as amended. In addition to other determinations, the Secretary of Agriculture proclaimed marketing quotas for the 1992–94 marketing years. The Secretary determined that the 1992 marketing quota for burley tobacco would be 670.0 million pounds and the price support level for the 1992 crop would be $1.649 per pound.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Tobacco and Peanuts Analysis Division, ASCS, room 3736 South Building, P.O. Box 2415, Washington, DC 20013, (202) 720–8839. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has also been determined that this notice is not subject to Executive Order 12778.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this notice applies are: Title—Commodity Loan and Purchases; Number 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since neither the ASCS nor the CCC is required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), and the Agricultural Act of 1949, as amended (the 1949 Act), in order to announce for the 1992 marketing year for burley tobacco the following:

1. The amount of domestic manufacturers' purchase intentions;
2. The amount of the average exports for the 1989, 1990, and 1991 crop years;
3. The amount of the reverse stock level;
4. The amount of adjustment needed to maintain loan stocks at the reserve stock level;
5. The amount of the national marketing quota;
6. The national reserve:
   A. For establishing marketing quotas for new farms, and
   B. For making corrections and adjusting inequities in old farms;
7. The national factor to reflect the adjustment in the preliminary farm quotas in order that the national marketing quota affirmed in this notice has been achieved; and
8. The average price support level.

The determination set forth in this notice have been made on the basis of the latest available statistics of the Federal Government, these being the most reliable data available for purposes of these determinations.

Marketing Quotas

Section 319 of the 1938 Act provides, in part, that the national marketing quota for a marketing year for burley tobacco is the quantity of such tobacco that is not more than 103 percent and not less than 97 percent of the total of: (1) The amount of burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, necessary to adjust loan stocks to the reserve stock level. Section 319(c)(3)(B) further provides that, with respect to the 1990 through 1993 marketing years, that any reduction in the national marketing quota being determined shall not exceed 10 percent of the previous year's national marketing quota. The "reserve stock level" is defined in section 301(b)(14)(D) of the 1938 Act for burley tobacco as the greater of 50,000,000 pounds (farm sales weight) or 15 percent of the national marketing quota for burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes that produce and sell more than 1 percent of the cigarettes produced and sold in the United States shall submit the Secretary a statement of purchase intentions for the 1992 crop of burley by January 15, 1992. Six such manufactures were required to submit such a statement for the 1992 crop and the total of their intended purchases for the 1992 crop was 445.5 million pounds.

The three-year average of exports is 187.6 million pounds.

Beginning in January 1991, the Bureau of the Census has required U.S. exporters to report the U.S-grown and foreign portions of burley leaf exports. So beginning in calendar 1991 (the three-fourths of the 1990 crop year) all reports of U.S. burley exports on a farm sales weight basis will represent only U.S.-

grown tobacco. For the 1989 crop year and the one-fourth of the 1990 crop year, raw census data were used.

In accordance with section 301(b)(14)(D) of the 1938 Act, the reserve stock level must be the greater of 50 million pounds or 15 percent of the 1991 marketing quota for burley tobacco. The national marketing quota for the 1991 crop year was 726.0 million pounds (56 FR 19973). Accordingly, the reserve stock level for use in determining the 1992 marketing quota for burley tobacco is 108.9 million pounds, which is 15 percent of the 1991 national quota.

As of January 3, 1992, the two burley tobacco loan associations had in their inventory 33 million pounds of the 1985–90 crops which remained unsold (net of deferred sales). The 1991 crop is expected to add about 39 million pounds to inventory. Accordingly, the adjustment to maintain loan stocks at the reserve supply level is an increase of 36.9 million pounds.

The total of the three marketing quota components for the 1992–93 marketing year, accordingly, is 670 million pounds. Section 319 of the 1938 Act further provides that the Secretary may set the quota at a figure that is within 3 percent of that figure. Since use of an unadjusted figure in recent crop years appears to have produced satisfactory results, it was determined that an unadjusted figure should be used for the 1992 crop as well. Accordingly, the national marketing quota for the marketing year beginning October 1, 1992, for burley tobacco is 670.0 million pounds.

In accordance with section 319(c) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. Based on the experience of recent crops years, the Secretary has determined that a national reserve for the 1992 crop of burley tobacco of 704,000 pounds is adequate for these purposes. In setting farm allotments for the 1992 burley crop it was also determined based on past practice that a factor of 92.5 percent would be used to adjust preliminary from quota to reach the national poundage quota.

Price Support

Under provisions of the 1949 Act, price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level which is determined in accordance with a formula prescribed in section 106 of that Act.

With respect to the 1992 crop of burley tobacco, the level of support is required to be determined in accordance with sections 106 (d) and (f) of the 1949 Act.

Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 1992 crop of burley tobacco shall be the level in cents per pound at which the 1991 crop of burley tobacco was supported, plus or minus, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than:

(II) The average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by burley tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

The difference between the two 5-year averages (the difference between (A) (I) and (A)(II) is a positive 6.2 cents per pound. The difference in the cost index from January 1 to December 31, 1991, is a positive 7.3 cents per pound. Adjusted two-thirds to one-third, as provided for in the statute, the adjusted total for these two components is a positive 6.5 cents.

Section 106, as indicated, permits the change from the preceding year's support level to be 65–100% of that adjusted figure. As supply and demand are reasonably in balance and are expected to continue to have that balance without further adjustment, it was determined that the 1992 crop of burley tobacco should be supported at 164.9 cents per pound, 6.5 cents higher than in 1991. This will be the average support level as adjustments for individual lots of tobacco may be made for quality and other factors.

The level of support and the national marketing quota for the 1992 burley marketing year was announced on February 3, 1992, by the Secretary of Agriculture. This notice affirms these determinations and also pursuant to section 319 of the 1938 Act proclaims that marketing quotas will, subject to a producers referendum, be in effect in the three years beginning with the marketing year that starts October 1, 1992.

Affirmation

Accordingly, the following determinations made by the Secretary for burley tobacco for the marketing year beginning October 1, 1992, are hereby affirmed:

(a) *Proclamation of marketing quotas.* Since the 1991–92 marketing year is the last of three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for burley tobacco, a national marketing quota for such kind of tobacco for each of the three marketing years beginning October 1, 1992; October 1, 1993; and October 1, 1994, is hereby proclaimed.

(b) *Domestic manufacturers' intentions.* Manufacturers' intentions to purchase for the 1992 year totaled 445.5 million pounds.

(c) *Three-year average exports.* The 3-year average exports is 187.6 million pounds, based on exports of 168.7 million pounds, 199.0 million pounds and 195.0 million pounds for the 1989, 1990, and 1991 crop years, respectively.

(d) *Reserve stock level.* The reserve stock level is 108.9 million pounds, based on 15 percent of 1991 national marketing quota of 726.0 million pounds.

(e) *Adjustment for the reserve stock level.* The adjustment for the reserve stock level is plus 36.9 million pounds, based on a reserve stock level of 108.9 million pounds less anticipated loan stocks of 72.0 million pounds.

(f) *National marketing quota.* The national marketing quota is 670.0 million pounds, based on the three component total.

(g) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm marketing quotas and for establishing marketing quotas for new farms has been determined to be 704,000 pounds.

(h) *National Factor.* The national factor for adjusting preliminary farm

quotas in order that the national marketing quota affirmed in this notice is achieved has been determined to be .925.

(i) *Price support level.* The average level of support for the 1992 crop of burley tobacco is 164.9 cents per pound.

Authority: 7 U.S.C. 1301, 1313, 1314c, 1314e, 1314g, 1375, 1445, 1421.

Signed at Washington, DC on September 11, 1992.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-22650 Filed 9-17-92; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

National Environmental Policy Act; Revised Policy and Procedures

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of final policy.

SUMMARY: The Forest Service gives notice that it is adopting revised policy and procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. These guidelines replace policy and procedures published in the **Federal Register** on June 24, 1985, (50 FR 26078, Part II), and will be issued through the agency directive system as Chapter 1950 of the Forest Service Manual and as Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook.

EFFECTIVE DATE: These procedures are effective on September 21, 1992. These procedures apply to the fullest extent practicable to analyses and documents begun before that date. However, work completed under previous policy and guidelines need not be revised.

FOR FURTHER INFORMATION CONTACT: Robert S. Cunningham, Environmental Coordination, USDA-Forest Service, Box 96090, Washington, DC 20090-6090. Telephone (202) 205-0865.

SUPPLEMENTARY INFORMATION: Chapter 1950 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 1909.15 contain Forest Service policy and procedures for implementing the National Environmental Policy Act (NEPA) in compliance with the Council on Environmental Quality (GEQ) regulations (40 CFR parts 1500-1508).

Consistent with agency directive policy, FSM 1950 has been revised to specify desired results, to minimize procedural detail, to rely as much as practicable on judgment of field professionals, and to permit discretion in achieving operational results appropriate to local situations and conditions. FSM 1950, as revised, contains only that direction needed by line and primary staff officers. More detailed procedures for environmental analyses and documentation needed by line and staff officers and resource specialists are set forth in the Handbook, FSH 1909.15.

Response to Comments

Draft policy and procedures were published for public review and comment in the **Federal Register** of April 29, 1991 (56 FR 19718, Part II). Nearly 2,000 comments were received from 270 groups and individuals representing private organizations, Federal and State agencies, and private citizens. The agency has considered each comment and made a number of substantive as well as editorial changes in response to these comments. A summary of major comments received and the agency response follows.

General Comments

Reviewers tended to support the proposed changes. Many offered valuable suggestions for improving the wording of specific passages to ensure desired results.

From these general comments, frequent topics surfaced for clarification and explanation. For example, many respondents were unsure or unaware of the role of NEPA in considerations leading to natural resource management decisions. Also, others were confused about the applicability of NEPA to decisions in Forest Service Research, State and Private forestry, and the National Forest System program areas. In response, the agency notes that, in accordance with 40 CFR Parts 1500-1508, these policies and procedures apply to all agency actions that may affect the quality of the human environment.

Several reviewers wanted to know how consideration of social impacts combines with the NEPA process as described in the policy and procedures. The text has been edited in several places to place greater emphasis on the consideration of social impacts along with the biological, physical, and economic effects of proposed agency actions as required by the CEQ regulations.

Specific Comments on Forest Service Manual FSM 1950

The Forest Service Manual (1950) sets forth Forest Service management objectives, policy, and responsibility and broad agency standards for meeting the requirements of the National Environmental Policy Act. Most reviewers agreed that the process-related direction for agency action is better suited to the Handbook (FSH 1909.15) than the Manual (FSM 1950). Reviewers did request that the meaning of "environment" be more clearly described in FSM 1950.2 which sets out broad management objectives to be achieved through NEPA compliance. In response, the text has been revised to refer explicitly to the physical, biological, social, and economic aspects of the human environment. Reviewers also commented that paragraph 5 of the objectives that states that line officers are "allowed" to carry out the direction in the FSH 1909.15 should be changed to make clearer that the direction in the FSM 1950 and that of FSH 1909.15 is mandatory. This change has been adopted. FSM 1950.3 sets out the broad policies governing agency implementation of NEPA and CEQ regulations. Requests were made to enumerate the meaning of "parties" and "public" in FSM 1950.3, paragraph 3. This paragraph has been clarified. It was further noted that the first criterion under the proposed policy in FSM 1950.3 had no real meaning. The criterion read, "Determine the depth and breadth of environmental analysis required for a proposed action." In response, this statement has been removed so that the policy now reads, "It is the Forest Service policy to:

a. Give early notice of upcoming proposals to interested and affected persons (FSH 1909.15, sec. 07);

b. Give timely notice to interested and affected persons, federal agencies, State and local governments, and organizations of the availability of environmental and accompanying decision documents; and

c. Make documents available to the public free of charge to the extent practicable."

Minor editorial changes also were made in the remaining text of section 1950.3 for clarity. No other comments were received on the remainder of the chapter. Therefore, except for minor editorial changes for clarity throughout, the rest of the chapter is adopted as proposed.

Comments on Forest Service Handbook FSH 1909.15

Zero Code Chapter

The "zero code" chapter of the Handbook sets forth the broad legal authority, policies, responsibilities, and other direction that govern or apply to

all subsequent direction in the Handbook. This chapter describes: Legal authorities and management objectives; assigns responsibility to Forest Service employees; defines specialized terms; provides an overview of the environmental analysis and documentation process; establishes procedures for early public notice of upcoming proposals; and provides direction on handling emergency and classified actions.

The Definitions section (05) incorporated selected terms and defintions directly from the CEQ regulations (40 CFR parts 1500-1508). Public comment requested clarification of terms used in the definitions for "environmental design arts, " "issues," "irreversible," and "irretrievable." These terms have been added to the list of definitions in section 05 to conform these terms to CEQ regulations and to clarify meaning.

Section 06 displayed a flow chart of the environmental analysis and documentation process. Some reviewers felt that the chart was hard to understand and that the arrowheads for the lines connecting various actions were missing. In response, the flow chart in Exhibit 01 has been edited by adjusting the flow lines and adding arrowheads to more clearly visualize the development of a proposed action, conduct of appropriate environmental analysis, and completion of needed documentation.

Section 07 proposed the establishment of a new requirement that each Forest Supervisor and District Ranger as directed by the Forest Supervisor prepare and distribute a calendar of proposed actions that may undergo environmental analysis. The calendar is intended to give early and informal notice of proposals so that the public can become aware of Forest Service activities, indicate their interest in specific proposals, and become involved early in the environmental analysis and documentation process. The calendar would be distributed two times a year.

Several respondents requested that the calendar of proposed actions be issued more frequently than twice per year. This request seemed reasonable and offered a possible improvement in public notice of Forest Service activities. Therefore, the agency has decided to require issuance of the calendar of proposed actions once every 3 months rather than once every 6 months. In addition, language has been added to point out that issuance of the calendar is not a substitute for necessary scoping of proposed actions. To avoid confusion with other uses of the term "calendar" and specific government printing requirements, the term "schedule of proposed actions" has been substituted to describe the listing of proposed actions.

Finally, minor editorial changes have been made throughout the zero code chapter to improve readability.

Chapter 10—Environmental Analysis. This chapter of the Handbook describes the conduct of environmental analyses and documentation. The chapter begins with a description of management objectives, policy, and responsibilities. The chapter describes: conduct of scoping; use of interdisciplinary analysis; collection and interpretation of data; development of alternatives to the proposed action; estimated effects of each alternative; evaluation of alternatives; identification of the preferred alternative(s) for environmental impact statements (EIS's); determination of the type of environmental documents needed; and review of new information after a decision has been made.

Direction for scoping of proposed actions was placed in this chapter to emphasize that scoping is an integral part of environmental analysis and that involving the public early in the environmental analysis and documentation of proposed actions are important. Almost all who commented on scoping supported its early and expanded use to identify issues and to focus on the relevant environmental analysis and subsequent documentation. Clearly, reviewers want to be advised and informed of proposed Forest Service actions, particularly those implementing Forest Land and Resource Management Plans (forest plans) on National Forest System lands.

Proposed section 10.3, Policy, stated that scoping applies to all proposed actions which are analyzed using the NEPA procedures except for actions which are categorically excluded from documentation as described in FSH 1909.15, Chapter 30. The proposed elimination of scoping for Categorical Exclusions (CE's) was not favorably received. Many respondents wanted scoping included in the consideration of actions which might be categorically excluded as it now is under current direction. The agency agrees and has revised section 10.3 to require scoping on all proposed actions. Changes were also made in section 11 to show that scoping is required.

Proposed section 10.4, Responsibility, set out the responsibilities of the Responsible Official which included ensuring that the appropriate level of scoping and environmental analysis occurs. Several reviewers said that responsibilities should include the appropriate documentation of scoping and analyses. The agency agrees. The term "documentation" has been added to the responsibilities in section 10.4 that a Responsible Official has in reaching a decision regarding a proposed action. This change has been made elsewhere throughout the chapter to emphasize the importance of appropriate documentation. In addition, section section 10.4 has been expanded to list other key duties of the Responsible Official that are mentioned later in this chapter so that Forest Service line officers have a comprehensive list in one location for their duties and responsibilities.

Several reviewers sought clarification of the role of the Responsible Official and interdisciplinary team members relative to determining the scope of the proposed action and necessary analysis and documentation of environmental effects. In response, sections 11.3 and 11.4 have been revised to emphasize the role of the Responsible Official in the identification and description of the proposed action and in the establishment of the purpose and need for a proposed action (sections 12.3d and 14.2). Section 12.2 also has been revised to clarify that interdisciplinary analysis is required, rather than just the establishment of an interdisciplinary team. In addition, changes have been made to clarify that interdisciplinary team members are responsible for offering "recommendations" rather than making "decisions."

Many reviewers said that the role of State and local governments and agencies was not adequately addressed in required procedures. In response, sections 11.31, 11.31b, 11.4 and 11.51 have been modified to more clearly describe the necessary coordination and consultation with State and local government agencies. A Reference to CEQ's "40 Questions" also has been added to section 11.31 as an aid to understanding the role of State and local governments and agencies in environmental analysis and documentation.

Some reviewers said that participation in interdisciplinary teams by State agency personnel or private citizens was not clear. Section 12.1 has been reorganized to clarify that only federal personnel may be members of an interdisciplinary team, yet other people can provide information in other ways.

Policy and procedure for addressing incomplete or unavailable information was described in proposed section 22.34. Requests were made to move this guidance to section 13, Collection and Interpretation of Data. In response

section 13, Collect and Interpret Data, has been expanded to include the requirements for addressing incomplete or unavailable information when evaluating significant adverse impacts.

Proposed section 14, Develop Alternatives, described the process used to develop alternatives to a proposed action and the considerations leading to a full range of reasonable alternatives. From some of the comments, it appeared that there was confusion regarding the necessary range of alternatives that must be evaluated in an environmental analysis and the role of the "no action" alternative. Reviewers pointed out that proposed section 14 did not state that the Forest Service must consider all reasonable alternatives to a proposed action (alternatives which would still accomplish the purpose and need of the proposed action), even those which may be contrary to law, beyond the authority of the agency, or inconsistent with a forest plan. In response, section 14 has been revised to clarify that the Forest Service must consider all reasonable alternatives that fulfill the purpose and need of the proposed action as required by CEQ regulations (40 CFR parts 1500–1508), even those which are not within the jurisdiction of the Forest Service. References to CEQ's "40 Questions" also have been added to sections 14 and 14.1 to improve employee understanding of the necessary range of alternatives including the "no action" alternative.

Respondents wanted to ensure that all proposed actions, even those proposed by other federal agencies, State or local organizations, Indian tribes, companies, or private citizens are consistent with forest plan direction. To further clarify the relationship of reasonable alternatives to requirements of forest plans, section 12.3d has been revised to require a discussion of consistency with the applicable forest plan for each alternative which would affect National Forest System lands, including proposals from entities other than the Forest Service.

Some respondents stated that the description of alternative development in section 14.2, Other Alternatives, did not clearly identify that alternatives should, when appropriate, include mitigation and monitoring requirements, such as State water quality standards. In response, this section has been revised to incorporate the requested change.

Proposed section 15, Estimate Effects of Each Alternative, described the analysis necessary to estimate the environmental effects of alternative actions on the environment. No changes from current direction was proposed in this section. However, comments were received. Many reviewers said that the description of the necessary analysis of the cumulative effects of a proposed action or alternatives was not clearly stated. Some thought that the cumulative effects analysis would stop at the boundary of National Forest System land. Further, these reviewers felt that the term "human environment" was not adequately described. In response, section 15.1 has been revised to be fully consistent with CEQ regulations (40 CFR parts 1500–1508) which require the consideration of cumulative effects of actions without regard to ownership of land. A corollary change has been made to section 16, Evaluate Alternatives and Identify Preferred Alternative(s), to clarify that the human environment includes physical, biological, social, and economic components.

A new section 18 was proposed to be added to the Handbook. This section gives direction on consideration of new information related to a proposed action after a decision has been made. It also describes how to correct, supplement, or revise environmental documents (an EIS, an environmental assessment (EA), or Finding of No Significant Impact).

Several comments were received on this proposed section. Most respondents sought clarification of the direction with regard to the discovery of new information after a Responsible Official has made a decision to act. In response, this section has been rewritten to better describe the process and to note the need to consider new information for actions which have been categorically excluded.

In addition to the substantive changes made in response to comments, minor corrections and improvement in word choice and sentence structure have been made throughout chapter 10.

Chapter 20—Environmental Impact Statements and Related Documents. This chapter of the Handbook describes the content of EIS's, related documents, and necessary processing procedures. The proposed chapter replaces existing chapter 40 of the same title. Proposed section 20.6 was added to describe the classes of actions that require EIS's. In the proposed chapter, specific requirements were listed for the content of the notice of intent to prepare an EIS and the content of a record of decision which documents the rationale for the selection of an action which has its environmental effects described in an EIS.

The majority of the 68 comments received on this chapter addressed the classes of actions requiring EIS's listed in proposed section 20.6. Some reviewers said that considerations of proposed actions in areas with wilderness potential and larger than 5,000 acres should require an EIS. Others said that the acreage criterion was too small or totally inappropriate.

The direction in proposed section 20.6, Classes of Actions Requiring Environmental Impact Statements, states that a proposed action would have to "substantially alter the undeveloped character of an inventoried roadless area of 5,000 acres or more" to require an EIS. This direction allows the Responsible Official, with appropriate public involvement, to determine whether or not an EIS would be required for a specific proposed action. The area criterion is intended to alert agency officials of the increased concern people have expressed regarding the environmental effects of actions within inventoried roadless areas greater than 5,000 acres. An action within a roadless area less than 5,000 acres could also require an EIS, if the proposal may result in significant environmental effects. The agency has used the 5,000-acre criterion in the past and has found it useful in the identification and description of roadless areas. The 5,000-acre criterion is currently used in FSH 1909.12, Land and Resource Management Planning Handbook, Chapter 7—Wilderness Evaluation. Therefore, no change has been made in the class of actions requiring an EIS.

Examples of actions within one class of actions, Other Proposals to Take Major Federal Actions That May Significantly Affect the Quality of the Human Environment, have been added for clarification.

Proposed Section 21.1, Preparation and Distribution of Notices of Intent, included mandatory language for the public to be involved early in the NEPA process. This mandatory language notes that failure to become involved early in the process may lessen the likelihood of subsequent successful legal redress of agency decisions. No comments were received on this specific addition. However, there was comment on the meaning and timing of notices of intent to prepare an EIS and the notice of availability that a draft or final EIS is available for public review. In response, section 21, Notices of Intent, has been revised to improve the description of the notice of intent to prepare an EIS. Also, section 23.2, Circulation and Filing a Draft Environmental Impact Statement, has been revised to better describe the notice of availability. A description of the roles of the Washington Office of Environmental Coordination, the National Office of the Environmental Protection Agency, and others has been

added as they relate to the development and processing of these documents. Revision procedures for notices of intent and notices of availability have been described along with their required content.

Reviewers noted that the period of review for draft EIS's is sometimes confusing. Section 23.2 has been changed to note that a draft EIS must be available for public review a minimum of 45 days after a notice of availability is published by EPA in the Federal Register. Exceptions to the required review period are noted with appropriate procedures.

Proposed section 24.3, which required transmittal of documents to the Washington Office Director of Environmental Coordination for agency review of EIS's affecting roadless areas, has not been retained in the final Handbook. This provision is no longer needed and was inadvertently retained in the proposal. Internal agency review is accomplishing necessary Washington Office oversight of environmental documents involving roadless areas of the National Forest System.

A few respondents asked why the information dealing with corrections, supplements, and revisions was listed in proposed section 24.4, Corrections, Supplements, and Revisions, rather than in proposed section 18 which addresses the review of new information after a decision has been made. In response, the text in section 24.3 has been moved to section 18 and remaining paragraphs of section 24 renumbered.

One reviewer said that the requirement that a Responsible Official "read and understand" an EIS before documentation of a decision in a record of decision was unnecessary or impossible considering the size and detail of many EIS's. This section has not been changed; environmental documents must be clear and understandable and used by the Responsible Official in reaching a decision.

Proposed section 27.21, paragraph 2, Decision, described the needed description of the decision in a record of decision. Proposed section 27.21, paragraph 5, listed the required format to describe the reasons for a decision. To improve clarity, the description of the required elements of the record of decision were combined into one paragraph, "Decision and Reasons for the Decision."

Chapter 30—Categorical Exclusions. The CEQ regulations provide that agencies may define categories of actions that may be excluded from documentation in an EIS or an EA (40 CFR 1508.4). This proposed chapter was developed to provide more specific categories of actions that may be excluded from environmental documentation. The proposed chapter sets forth policy; definitions; categories of actions that could be excluded from documentation without decision memos; and categories of actions which would require decision memos. The proposed chapter listed 17 categories established by the Chief, nine of which would require the issuance of a decision memo, a document which describes a decision to take a proposed action and to explain the rationale for categorically excluding it from the preparation of an EIS or an EA.

Proposed chapter 30 received the greatest number of comments representing a wide range of views. Some respondents felt that the listed categories went much too far in eliminating documentation. Others thought that the categories were adequate and would help the agency avoid unneeded paperwork. Some respondents said that documentation was excessive or that the use of a categorical exclusion was a "poor guise" to "cut the public out of the process." Also, some reviewers thought that the categories were much too general and vague to be useful.

After fully considering these comments, this chapter has been rewritten to better describe the categories of actions which can be excluded from documentation. The changes clarify the actions which, based on agency experience, are known to have no significant effect on the human environment, individually or cumulatively.

Many reviewers requested that "scoping" be included in actions which would be categorically excluded from documentation in an EIS or an EA. As noted in the discussion of chapter 10, scoping has been included to the extent necessary to determine whether or not the action will fit an existing category and whether or not there are any extraordinary circumstances.

Proposed chapter 30 described the use of the term "extraordinary circumstances" to aid a Responsible Official in the determination that a proposed action would have no significant effects on the environment. Because of the widely divergent physical, biological, and cultural environments within which the Forest Service operates, the agency must have NEPA procedures which can be applied effectively and judiciously to fit the on-the-ground conditions encountered on a daily basis. To date, the agency has successfully used the "extraordinary circumstances" criterion to identify situations where proposed actions normally excluded from documentation cannot be excluded due to the unique environment surrounding the action.

Several reviewers said that "extraordinary circumstances" were not well defined and that the mere presence or absence of one of the listed circumstances was insufficient to determine if an action was or was not to be placed in a category for exclusion. In response, section 30.3, Policy, has been revised to clarify that an action may be categorically excluded only if it falls within a category and is without extraordinary circumstances. The examples given in proposed section 30.3 are illustrative of conditions that could cause an action to have a significant effect. The list is not exhaustive. Other conditions could cause a normally excluded action to create significant environmental effects. The agency believes that the Responsible Official must determine if a normally excluded action involves an extraordinary circumstance which would require the preparation of an EIS or an EA. In addition, the following definition of "extraordinary circumstance" has been added to section 30.5: "Conditions associated with an action normally excluded from documentation that are identified during scoping as potentially having effects which may significantly affect the environment (sec. 05)."

The proposed chapter 30 had a provision for documentation of a decision in a decision memo to record the decision to act and to acknowledge that the action was excluded from environmental documentation. This proposed provision was added to reflect changes to the agency's administrative review procedures at 36 CFR part 217 adopted January 23, 1989 (54 FR 3357).

Some reviewers noted that the use of decision memos to identify decisions which could be appealed through the agency's administrative review process (36 CFR part 217) did not seem appropriate since some actions within categories did not require a formalized decision document while others did. The decision memo was intended to facilitate the administrative review process for actions which have been categorically excluded.

Since publication of the proposed NEPA procedures, the agency has proposed to revise the administrative review procedures at 36 CFR part 217, Federal Register of March 26, 1992; 57 FR 10445). That proposed rulemaking would eliminate from administrative appeal and review those actions which have been categorically excluded from documentation in an EIS or an EA. In

lieu of formalized appeal, the rule provides that a person may request at any time that a higher-level official review the decision of a lower-level official. With the adoption of this final rule, a formal document to describe an action that has been categorically excluded from environmental documentation would no longer be necessary or appropriate. Therefore, it should be noted that upon adoption of the final rule, appropriate sections of the Handbook will be revised to remove the requirement for decision memos.

Several of the categories in proposed section 31.1b and 31.2 and some of the actions within categories identified the potential damage to soil, air, water, or sensitive resource values as a condition which would eliminate an action from placement within the category. Reviewers noted that an analysis of an action to determine if it would damage natural resources is tantamount to an environmental analysis that must be accompanied by an EA or an EIS. The agency does not agree. An appropriate evaluation of the potential effects of a proposed action can and should be made by the Responsible Official prior to the placement of the proposed action in a category for exclusion.

To clarify the decisionmaking process that would be used to place a proposed action within a category and to determine that no extraordinary circumstances exist, references to the potential effects of an action to cause damage to air, soil, water or sensitive resource values have been removed from the description of categories and actions. Corollary with this change, section 30.3, Policy, has been revised to include steep slopes and highly erosive soils as additional examples of extraordinary circumstances.

Several of the categories listed in the proposed chapter 30 included a statement that they must be consistent with the applicable forest plan in order to be included in the category.

Some reviewers asserted that meeting or not meeting direction within a forest plan should have no bearing on the possible significance of environmental effects or the appropriateness of placing an action within a category. The agency agrees; thus, references to compliance with a forest plan have been removed. However, all actions implemented within a National Forest must by statute still be consistent with the forest plan (16 U.S.C. 1601–1614).

The last two paragraphs of proposed policy section 30.3 described what is to be done if an action has received appropriate environmental review but not implemented by a Responsible Official. Reviewers noted that these last two paragraphs refer to actions which have been "identified" in a decision document. Reviewers were unsure if the referenced action would have been selected for implementation or just addressed in the decision document. In response, the term "identified" has been replaced with "approved" to clarify the intent that an "approved" action requires no further review or documentation to proceed to implementation.

To improve the clarity of section 31.1b, Categories Established by the Chief, the description of categories of routine repair and maintenance actions in paragraph 3 has been partitioned into three groups: administrative sites; roads, trails, and landline boundaries; and recreation sites and facilities. Other categories also have been revised to be consistent in their presentation.

Reviewers thought paragraph 5 of proposed section 31.1b was somewhat confusing. This paragraph established a category for proposals to issue, reissue, or adjust land use authorizations which are consistent with an existing Forest Land and Resource Management Plan where the proposed activity will have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resource values.

In response, the category of actions described in paragraph 5, section 31.1b, has been changed to read as follows: "Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands." A specific time limit was placed on actions within the category to better describe the temporary nature of the actions within the category. The examples of actions in this category also have been revised to show that the Responsible Official would approve a "use" of National Forest System lands. After approval of a use, the Responsible Official issues a particular legal instrument such as a permit or a maintenance agreement to implement the decision.

The category of actions to carry out small scale pest management activities (proposed paragraph 6) has been removed. Several respondents commented that the minor actions described may be better placed in another category. The agency agrees. Actions that were proposed in this category are now displayed as examples of maintenance actions in section 31.1b.

Proposed paragraph 2, section 31.2, established a category for proposals or issuance of authorizations to construct, reconstruct, or upgrade facilities or utilities on approved sites that have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resource values. The examples of land uses within this proposed category had no upper limitation on the size of the actions. Some respondents said that the lack of an upper limit was unreasonable. Others said that any size limit would be artificial and difficult to use.

After consideration of comments, the agency has modified this category of action to place an upper limit of five contiguous acres for minor uses of National Forest System lands. The agency believes that the limitation on the size of minor uses suitable for categorical exclusion is reasonable and consistent with experience in the evaluation of environmental effects of such uses.

One reviewer noted that the categories of actions listed in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, did not include the term "routine" as did those in section 31.1b. The intent of the agency is that only routine actions that have no extraordinary circumstances should be within categories for exclusion. Therefore, the term "routine" has been removed from each category and examples of actions and placed as a criterion applicable to all categorically excluded actions in sections 31.1b and 31.2.

Several respondents asked for additions or deletions to the examples of actions in many of the categories in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required. Upon consideration of these suggestions, the agency has made the following changes: Trail use by handicapped individuals has been added to examples of actions in category 1; the use of explosives to kill tree tops for wildlife habitat improvement has been removed from category 3; and the exchange of landownership actions paragraphs (c) and (d) are not adopted. These changes are minor but should assist in better understanding and utility of the categories.

In review of the categories in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, research-related activities were placed in a category for exclusion based upon their research purpose, rather than based upon their possible effect on the environment. Categories of actions should address the potential physical and biological effects of proposed actions rather than their intended purpose. Therefore, proposed paragraph 5 of section 31.2, related to

proposals to conduct research activities and administrative studies which do not involve genetically engineered organisms and which have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resources, has not been retained in the final chapter as a category; and the examples have been placed in other categories as appropriate.

Several reviewers wrote that the limitation on the size of timber harvests (paragraph 7 of section 31.2) of one million board-feet was too large for an action to be excluded. Others felt that the limitation was not large enough. Considering the wide divergence of views and the concern several respondents expressed regarding the visual effects of cutting practices used in the harvest of live timber, the agency has reduced the size of timber harvests of live trees suitable for inclusion in a category to 250,000 board-feet or less of merchantable wood products. The size limitation for salvage sales of dead and dying timber has remained unchanged from the proposed limit of one million board-feet or less of merchantable wood products.

Several reviewers said that minor mineral and energy-related activities should be in a category which did not require the issuance of a decision memo. As noted in the discussion above, the requirement for decision memos may be removed as a result of revisions to the appeal rules.

Additionally, a reviewer commented that the mineral-related activities should have limitations on the duration of actions that could be placed in a category. In response, this category has been revised to limit it to actions of one year or less duration. The category now covers "short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-county travel by vehicles and equipment, construction or less than one mile of low standard road (Service Level D, FSH 7709.56), or use and minor repair of existing roads."

Several reviewers commented on the proposal to have a categorical exclusion for Allotment Management Plans and permits to authorize grazing. Many of these comments addressed other laws and regulations regarding the appropriateness of grazing, the relationship of the permittee and the Forest Service, or the applicability or non-applicability of NEPA to grazing activities. Decisions to implement grazing practices are made through development and approval of Allotment Management Plans (AMPs); subsequent administration of allotments in accordance with AMPs is executed through administration of grazing permits. The agency agrees that appropriate environmental disclosure should occur in the adoption of AMPs. Categorical exclusions are neither necessary or appropriate for actions which implement AMPs. Therefore, no change has been made to this paragraph.

Paragraph 14 of proposed section 31.2, Amendments to Forest Land and Resource Management Plans which do not change decisions made in forest plans, had not been retained. After careful review of this category, it was concluded that changes to forest plans which do not affect the decisions made in a forest plan could not entail any action that would have any environmental effect. Since no environmental effects could result, NEPA procedures do not apply; therefore, a categorical exclusion from documentation is not appropriate. Such changes to a forest plan could be corrections of typographical errors, minor management area boundary changes, changes resulting from budget adjustments which do not affect the range of outputs identified in the forest plan, and additions or deletions to forest plan schedules that do not change the objectives of a forest plan.

Paragraphs 6, 7, 8, and 9 of section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, have been reorganized to improve clarity.

In addition to the preceding changes resulting from consideration of comments, the chapter has been edited to improve clarity and the presentation of categories of actions suitable for exclusion from environmental documentation.

Chapter 40—Environmental Assessment and Related Documents. This chapter of the Handbook describes the purpose and content of environmental assessments. It also describes the methods to reduce paperwork through, "tiering," "adoption," and "incorporation by reference." The chapter concludes with a description of the "Finding of No Significant Impact" (FONSI) and the format and content of a "decision notice."

Some reviewers commented that the direction for the preparation of EA's should be much more specific and should use the criteria for EIS's to describe necessary analysis and format. Others liked the direction that EA's can be in any format that is useful to facilitate planning, decisionmaking, and public disclosure of environmental effects. Agency experience has shown that flexibility in the format of EA's has improved agency compliance with NEPA and reduced unnecessary paperwork. Therefore, chapter 40 retains the flexibility in the format for EA's.

Some reviewers questioned whether a FONSI could be issued separately from a decision notice; and, if so, if there is a required public review period for the FONSI. Section 43.1, Finding of No Significant Impact (FONSI), has been revised to require a 30-day public review period for FONSI's that are issued as separate documents from a decision notice. This will ensure that the public is afforded an opportunity to comment on a FONSI and its associated EA before a decision is made.

Section 43.21, paragraph 5, second sentence was removed; since it repeated the content of a FONSI described in section 43.1. A reviewer noted that the language in the proposed sections 43.2 and 44 was somewhat unclear. In response, the text of section 43.21, Format and Content, and section 44, Notice and Distribution of FONSI and Decision Notice, has been revised to improve clarity.

Chapter 50—Implementation and Monitoring. This chapter of the Handbook describes the implementation of actions described in an environmental document and the limitations on actions which normally require an EIS or those of an unprecedented nature. The description of monitoring and mitigation measures concludes the chapter.

Reviewers suggested that chapter contents were confusing and did not seem to match the titles of the sections. They further suggested that any mitigation and monitoring identified in an EIS, EA, or a FONSI and a decision documents must be implemented along with the selected action and that the requirement was not included. In response, the chapter has been revised by changing the title of section 51, Implementing Decisions Based on Environmental Impact Statements, to "Implementing Decisions Documented in a Record of Decision." Similarly, the test of section 52 Implementing Decisions Based on Environmental Assessments, has been revised to "Implementing Decisions Documented in a Decision Notice." Finally, section 53, Monitoring, was revised to clarify that mitigation and monitoring requirements must be met.

Proposed 51 required, "In addition, if an EIS allocates an inventoried roadless area or a RARE II (further planning) area(s) to nonwilderness uses, do not implement any activity that would alter

the roadless character of the area(s)" until a letter is received from the Washington Office Environmental Coordination Staff indicating implementation may take place." Upon review of this requirement, the agency concluded that it no longer needs special provisions for Washington Office-level review of EIS's which describe the effects of possible actions within an inventoried roadless area. Normal agency reviews and internal controls are sufficient to ensure that policy and procedures are followed. Therefore, the requirement has been removed from section 51.

Proposed section 52.11, Actions Involving Flood Plains and Wetlands, required a 30-day delay in the implementation of any decision involving a flood plain or wetland after a decision notice has been signed. This requirement has been in effect for several years and was intended to provide a reasonable period of public review as required by Executive Orders 11988 and 11990. Often the process duplicated normal agency scoping activities and public notification of proposed actions. With the implementation of a quarterly public notification of scheduled actions as described in chapter 10, this requirement is no longer needed to accomplish the intent of the Executive Orders and has been removed.

Chapter 60—References. This chapter contains reference material needed to assist in conducting analyses, preparing documents, and giving notices of decisions. Because of the chapter's length and because the information contained in this chapter is generally available to the public, only the table of contents of chapter 60 is published in this notice. It is included in the Handbook to ensure that Forest Service employees have ready access to these materials.

Some reviewers asked that reference to Executive Order 12630, Takings Implication Assessment, be included in the list of Executive Orders applicable to environmental quality. Executive Order 12630 refers to the effect of Federal actions on the property rights of individuals. It directs agencies to consider these rights before actions are implemented. The consideration is an important one. However, reference to Executive Order 12630 was not added to the Handbook since procedures are in place in other agency directives to ensure individual property rights are not encumbered through neglect or ignorance of applicable rights.

The full text of FSM 1950 and FSH 1909.15, except for chapter 60 as noted, is set out at the end of this notice.

Environmental Impact

Based on experience and environmental analysis, the implementation of the revised Forest Service environmental policy and procedures will not significantly affect the quality of the human environment, individually or cumulatively. Therefore, this action is categorically excluded from documentation in an environmental impact statement or an environmental assessment (FSH 1909.15 chapter 40 and 40 CFR 1508.4).

Controlling Paperwork Burdens on the Public

These policies and procedures do not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, impose no paperwork burden on the public.

Regulatory Impact

This policy has been reviewed under USDA procedures and Executive Order 12291. It has been determined that this policy is not a major rule. The policy will not have an effect of $100 million or more on the economy; substantially increase prices or costs for consumers, industry, or State or local governments; nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National economy will result from this policy as it consists primarily of minor changes in agency procedures and it does not increase costs to the Government or users of the national forests.

Moreover, this policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Therefore, after notice and consideration of comments received and for the reasons noted in the preamble, the Forest Service is adopting final policy and procedures for implementing the National Environmental Policy Act. The text of FSM 1950 and FSH 1909.15, chapters Zero Code through 50 as adopted is set out at the end of this notice.

Dated: August 27, 1992.

F. Dale Robertson,

Chief.

Forest Service Manual

Chapter 1950—Environmental Policy and Procedures

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This chapter sets forth Forest Service management objectives, policy, and responsibilities for meeting the requirements of the National Environmental Policy Act (NEPA).

1950.1 Authority

1. *The National Environmental Policy Act of 1969 (NEPA),* as amended (42 U.S.C. 4321–4346). NEPA declares a national policy which encourages "productive and enjoyable harmony between man and his environment." NEPA requires Federal agencies to: (a) Use a systematic interdisciplinary approach in planning and decisionmaking; (b) consider the environmental impact of proposed actions; (c) identify adverse environmental effects which cannot be avoided should the proposal be implemented; (d) consider alternatives to the proposed action; (e) consider the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity; and (f) identify any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2. *Council on Environmental Quality Regulations.* The regulations at title 40, Code of Federal Regulations, parts 1500–1508 (40 CFR parts 1500–1508) set forth specific requirements for implementing the National Environmental Policy Act. The regulations establish procedures and rules governing environmental analysis and documentation; ensure that environmental information is available to public officials and the public, including identification of significant issues; and provide direction to assist

public officials in making decisions based on an understanding of environmental consequences.

3. *U.S. Department of Agriculture NEPA Regulations.* The regulations at title 7, Code of Federal Regulations, Part 1b (7 CFR part 1b) direct Department of Agriculture agencies to develop and to implement procedures for compliance with NEPA. The regulations exclude seven categories of activities from documentation such as program funding, educational and informational activities, and civil and criminal law enforcement and investigation activities.

The full texts of these authorities, along with supplementary Council on Environmental Quality guidance, are printed in chapter 60 of the Forest Service Environmental Policy and Procedures Handbook (FSH 1909.15).

1950.2 Objectives

In meeting the requirements of the National Environmental Policy Act, the Forest Service seeks to:

1. Fully integrate National Environmental Policy Act requirements into agency planning and decisionmaking.

2. Fully consider the impacts of Forest Service proposed actions on the physical, biological, social, and economic aspects of the human environment (40 CFR 1508.14).

3. Involve interested and affected agencies, State and local governments, organizations, and individuals in planning and decisionmaking.

4. Conduct and document environmental analyses and subsequent decisions appropriately, efficiently, and cost effectively.

1950.3 Policy

Compliance with NEPA is fundamental to managing all Forest Service resource, research, and cooperative forestry programs and must be integrated into the management processes of those programs.

1. Procedures of this chapter apply to the fullest extent practicable to analyses and documentation of Forest Service actions. However, work completed under previous policy and guidelines need not be revised.

2. It is Forest Service policy to:

a. Give early notice of upcoming proposals to interested and affected persons (FSH 1909.15, sec. 07).

b. Give timely notice to interested and affected persons, Federal agencies, State and local governments, and organizations of the availability of environmental and accompanying decision documents.

c. Make documents available to the public free of charge to the extent practicable.

d. Apply the concepts of tiering, adoption, and incorporation by reference to both environmental impact statements and environmental assessments.

2. Line and primary staff officers are subject to the requirements of FSH 1909.15, which sets forth the procedural instructions for environmental analysis and documentation.

3. Matters which require consultation with the Council on Environmental Quality shall be referred to the Washington Office Director of Environmental Coordination.

1950.4 Responsibility

1950.41 Authority to Act as Responsible Official

The responsible official is the agency employee who has the delegated authority to make and implement a decision on a proposed action.

1950.41a Chief

The Chief reserves the discretion to be the responsible official (sec. 1950.5) for environmental analyses, documentation, and decisions relating to proposed actions of national importance. In accordance with the general delegations of authority at FSM 1235, the Associate Chief may act as responsible official on any matter reserved by the Chief, unless the Chief directs otherwise.

In cases of proposed legislation where the Secretary of Agriculture is the responsible official, the Chief is responsible for providing support for the analysis and documentation.

1950.41b Deputy Chiefs and Associate Deputy Chiefs

In accordance with delegations at FSM 1235, the Deputy Chiefs and Associate Deputy Chiefs may serve and sign as the responsible official on any environmental matter of national importance within their areas of jurisdiction, unless the Chief specifically directs otherwise.

1950.41c Regional Foresters, Station Directors, and Area Director

As provided in FSM 1235, Regional Foresters, Station Directors, and the Area Director are delegated responsibility for conducting environmental anlayses, preparing environmental documents, and making decisions related to proposed actions under their jurisdiction.

Regional Foresters, Station Directors, and the Area Director may file environmental impact statements directly with the Environmental Protection Agency for proposed actions within their authority.

Station Directors and the Area Director may, by supplement to this code, redelegate responsibility for conducting environmental analyses, preparing the necessary documentation, filing environmental impact statements, and making decisions on proposed actions to Assistant Station Directors, Research project leaders, and State and Private Forestry field representatives.

1950.41d Forest Supervisors

Unless otherwise provided in the Forest Service Manual or Handbooks, Forest Supervisors have authority and responsibility for conducting environmental analyses, preparing the necessary documentation, and making decisions on proposed actions under their jurisdiction unless specifically reserved by the Regional Forester. This authority may be redelegated to District Rangers by supplement to this code or, by letter, on a case-by-case basis (FSM 1204; 1230).

1950.42 Limitations on Issuance of Directives

1950.42a Field Line Officers

Notwithstanding the delegation of authority in FSM 1104 to issue supplements to the Forest Service Manual and the Handbooks, Regional Foresters, Station Directors, the Area Director, and Forest Supervisors may issue supplements to FSM 1950 and FSH 1909.15 only as follows:

1. Supplements to FSM 1950 may be issued only to delegate authority or responsibility.

2. Supplements to FSH 1909.15 may be issued only for the purposes of issuing internal procedures for preparing and processing environmental documents and records, assigning responsibilities, or adding reference materials.

1950.43 Director of Environmental Coordination, Washington Office

Director is the staff official responsible for developing and recommending national policy, procedures, coordination measures, technical administration, and training necessary to implement the National Environmental Policy Act (NEPA) within the Forest Service. The Director is also responsible for developing policy, procedures, and training for conducting social impact analysis (FSM 1973 and FSH 1909.17, ch. 30).

The Director is responsible for liaison with the Council on Environmental Quality and consults with the Council on possible referrals (40 CFR part 1504) and emergencies (40 CFR 1506.11). The Director also provides liaison with the

Environmental Protection Agency and, as needed, requests changes in the prescribed time periods for preparation and processing of environmental impact statements (40 CFR 1506.10).

When the Chief or the Secretary is the responsible official for a proposed action, it is the responsibility of the Director to advise and assist the appropriate field unit or Washington Office (WO) staff in preparing the necessary documents and to coordinate, review, and process the relevant documents.

The Director's signing authority includes:

(a) Correspondence with the Council on Environmental Quality, Environmental Protection Agency, and other departments and agencies, interpretations or implementation of NEPA, CEQ regulations and guidance, or Forest Service NEPA compliance policy and procedures regarding the National Environmental Policy Act.

(b) General correspondence regarding environmental and decision documents and environmental quality matters.

(c) Routine correspondence (FSM) 1237) to Members of Congress and routine referrals from the President and Secretary on environmental analysis and documentation matters.

Note: When issued in the Forest Service directive system the CEQ regulations quoted in the handbook will be set out in boldface type; however, **Federal Register** printing specifications do not permit that material to be set out in boldface here.

FSH 1909.15—Environmental Policy and Procedures Handbook WO Amendment 1909.15-92-1

Zero Code

This Handbook provides procedural guidance for implementing the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), USDA NEPA Policies and Procedures (7 CFR part 1b), and Forest Service Manual Chapter 1950.

Specifically, this Handbook provides direction and guidance for analyzing and documenting the environmental consequences of proposed actions. Chapter 10 sets forth guidelines on scoping and environmental analysis. Chapters 20, 30, and 40 contain the documentation and process requirements for environmental impact statements, categorical exclusions, and environmental assessments. Chapter 50 addresses implementing and monitoring requirements. Chapter 60 includes the text of pertinent laws, regulations, memoranda, and other reference materials which may be useful to carry out the procedures in this Handbook.

01 Authority

1. *The National Environmental Policy Act of 1969 (NEPA)*, as amended (42 U.S.C. 4321–4346; FSM 1950.1). The full text of the act is set out in chapter 60.

2. *Council on Environmental quality Regulations* (40 CFR parts 1500–1508). These regulations set forth specific requirements for implementing the provisions of the National Environmental Policy Act. For ease of reference and use, the portions of the CEQ regulations governing implementation of NEPA are incorporated throughout the text of this Handbook. The CEQ regulations are set out in boldface to distinguish them from Forest Service direction. The full text of these regulations is set out in chapter 60.

3. *U.S. Department of Agriculture NEPA Policies and Procedures* (7 CFR part 1b; FSM 1950). The text of these regulations is set out in chapter 60. Portions of these rules are set out in boldface type in this and other chapters to distinguish them from Forest Service direction.

02 Objectives

1. To incorporate environmental considerations into Forest Service planning and decisionmaking in a systematic and cost-effective manner.

2. To conduct and document environmental analyses and the related decisions associated with national forest resource management, cooperative forestry, and research activities in a consistent manner.

33 Policy

Procedures in this Handbook apply to the fullest extent practicable to analyses and documents. However, work completed under previous policy and guidelines need not be revised.

The procedures in the Handbook must be used in conjunction with other direction found throughout the Forest Service Manual and Handbooks. Specifically, use this Handbook in conjunction with FSM Chapter 1950, Environmental Policy and Procedures, which sets forth the broad Forest Service objectives, policy, and responsibilities for meeting the requirements of the National Environmental Policy Act. Also, integrate the requirements in this Handbook with the procedures set forth in FSM 1920 and FSH 1909.12 and the regulations implementing the National Forest Management Act (36 CFR part 219).

04 Responsibility

Line officers are responsible for ensuring that the procedures in this Handbook are understood and followed by all involved in NEPA compliance.

05 Definitions

The definitions in boldface are those taken directly from the CEQ regulations (40 CFR part 1508). The remaining terms and definitions are those devised by the Forest Service and used throughout this handbook.

Act. * * * the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et. seq.*) which is also referred to as "NEPA." (40 CFR 1508.2)

Categorical Exclusion. * * * a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. (40 CFR 1508.4)

Connected Actions. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification. (40 CFR 1508.25)

Cooperating Agency. * * * any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency. (40 CFR 1508.5)

Council. * * * the Council on Environmental Quality established by Title II of the Act. (40 CFR 1508.6)

Cumulative Action. * * * actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement. (40 CFR 1508.25)

Cumulative Impact. * * * the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR 1508.7)

Decision Document. A record of decision, memo, or decision notice.

Decision Memo. A concise written record of the responsible official's decision to implement an action that has been categorically excluded from documentation in an environmental impact statement or environmental assessment (sec. 30.5).

Decision Notice. A concise written record of the responsible official's decision based on an environmental assessment and a finding of no significant impact (sec. 43.2).

Effects. These include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. (40 CFR 1508.8).

See also, cumulative impact.

Environmental Analysis. An investigation of a proposed action and alternatives to that action and their direct, indirect, and cumulative environmental impacts; the process which provides the necessary information for reaching an informed decision and the information needed for determining whether a proposed action may have significant environmental effects and determining the type environmental document required (Ch. 10).

Environmental Assessment. (a) * * * a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. (40 CFR 1508.9)

Environmental Design Arts. Disciplines that integrate the design arts with natural and social sciences in planning and decisionmaking which may have an impact on the environment.

Environmental Document. * * * includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent). (40 CFR 1508.10)

Environmental Impact Statement. * * * a detailed written statement as required by section 102(2)(C) of the Act. 940 CFR 1508.11)

Environmentally Preferable Alternative. An alternative that best meets the goals of section 101 of the National Environmental Policy Act and required by 40 CFR 1505.2(b) to be identified in a record of decision. Ordinarily, this is the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources. In some situations, there may be more than one environmentally preferable alternative.

Federal Agency. * * * all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. (40 CFR 1508.12)

Finding of No Significant Impact (FONSI). * * * a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). (40 CFR 1508.13)

Floodplains. As defined by E.O. 11988, as amended, lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year (sec. 66.3).

Human Environment. * * * shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment * * * This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment. (40 CFR 1508.14)

Irreversible. A term that describes the loss of future options. Applies primarily to the effects of use of nonrenewable resources, such as minerals or cultural resources, or to those factors, such as soil productivity that are renewable only over long periods of time.

Irretrievable. A term that applies to the loss of production, harvest, or use of natural resources. For example, some or all of the timber production from an area is lost irretrievably while an area is serving as a winter sports site. The production lost is irretrievable, but the action is not irreversible. If the use changes, it is possible to resume timber production.

Jurisdiction by Law. * * * agency authority to approve, veto, or finance all or part of the proposal. (40 CFR 1508.15)

Lead Agency. * * * the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement. (40 CFR 1508.16)

This also applies to environmental assessments. See also, joint lead agencies (40 CFR 1506.2(4)(c)).

Legislation. * * * a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject

matter involved will prepare a legislative environmental impact statement. (40 CFR 1508.17)

Major Federal Action. * * * includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as Federal and federally assisted activities. (40 CFR 1508.18)

Matter. (a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major Federal action to which section 102(2)(C) of NEPA applies. (40 CFR 1508.19)

Mitigation. * * * (a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments. (40 CFR 1508.20)

NEPA Process. * * * all measures necessary for compliance with the requirements of section 2 and Title 1 of NEPA. (40 CFR 1508.21)

Notice of Intent. * * * a notice that an environmental impact statement will be prepared and considered. (40 CFR 1508.22)

Preferred Alternative. The alternative(s) which the agency believes would best fulfill its statuatory mission and responsibilities, giving consideration to environmental, social, economic, and other factors and disclosed in an environmental impact statement.

Prime Farmland, Rangeland, and Forest Land. (See Departmental Regulation 9500–3 in section 65.21 for a detailed definition.)

Proposed Action. A proposal made by the Forest Service to authorize, recommend, or implement an action to meet a specific purpose and need (see definition for proposal).

Proposal. * * * exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated * * * A proposal may exist in fact as well as by agency declaration that one exists. (40 CFR 1508.23)

Referring Agency. * * * the Federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. (40 CFR 1508.24)

Similar Actions. Actions which—

(3) * * * when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. (49 CFR 1508.25)

Scope. * * * the range of actions, alternatives, and impacts to be considered in an environmental impact statement. (40 CFR 1508.25)

Scoping. The procedure by which the Forest Service identifies important issues and determines the extent of analysis necessary for an informed decision on a proposed action. Scoping is an integral part of environmental analysis. See sec. 10.3 for Forest Service policy on use of this term.

Significantly. This term includes both context and intensity:

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment.

Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. (40 CFR 1508.27)

(11) *Special Expertise.* * * * statutory responsibility, agency mission, or related program experience. (40 CFR 1508.26)

Tiering. * * * the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe. (40 CFR 1508.28)

Wetlands. As defined by E.O. 11990, areas that are inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances do or would support, a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction (sec. 66.4).

06 Overview of Process

Exhibit 01 illustrates the National Environmental Policy Act process and indicates the normal sequence of actions.

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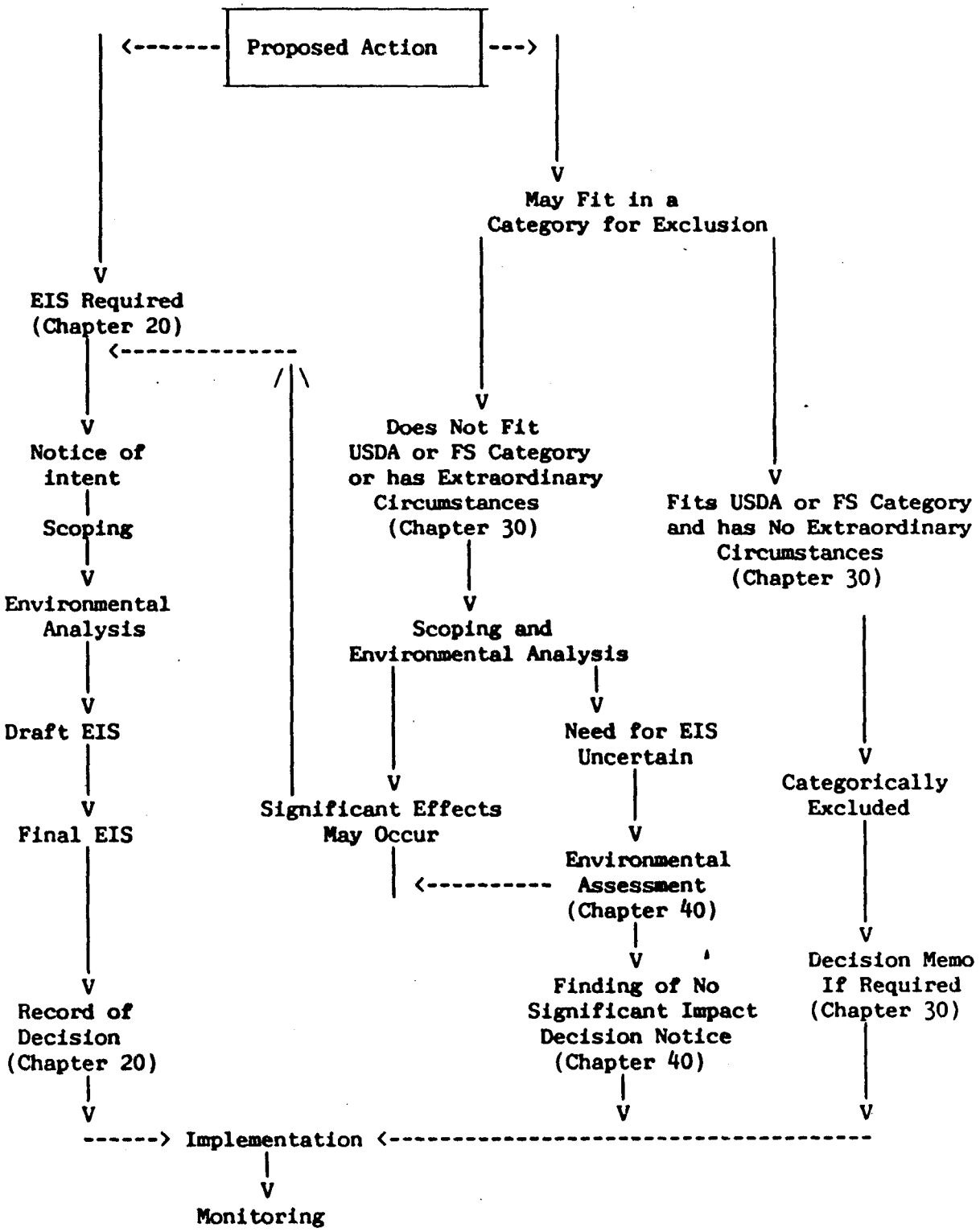
06 - Exhibit 01

NEPA PROCESS OVERVIEW



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07 Schedule of Proposed Actions

Provide notice of upcoming proposals which may undergo environmental analysis and documentation to interested and affected agencies, organizations, and persons through the use of a schedule of proposed actions. The propose of the schedule of proposed actions is to give early informal notice of proposals so the public can become aware of Forest Service activities and indicate their interest in specific proposals. It is not intended as a substitute for routine scoping described in Section 11 of this Handbook.

07.04 Responsibility

Each Forest Supervisor and District Ranger as designated by the Forest Supervisor is responsible for ensuring the preparation and distribution of a schedule of proposed actions in accordance with this section.

07.1 Frequency of Distribution

Prepare and distribute the schedule of proposed actions at least every three months to interested and affected agencies, organizations, and individuals. The schedule should include proposed actions which are anticipated to be categorically excluded from documentation in an environmental impact statement or an environmental assessment and for which a decision memo would be required (ch. 30). For those proposed actions which are planned and will undergo analysis after publication of the schedule, include notice of the action and the status in the next schedule.

07.2 Schedule Format and Content

Any format may be used; however, as a minimum, the schedule of proposed actions shall contain the following information:

1. Name of the administrative unit and time period covered by the schedule.
2. Description of the upcoming projects and/or activities which are expected to undergo environmental analysis in the time period specified.
3. Location of the proposed action including the State, county, and where appropriate, the Ranger District and the legal land description.
4. The estimated date when scoping may begin.
5. The estimated date of the decision.
6. A name, address, and telephone number of the person to contact for information and/or to be placed on the mailing list.
7. Status of the environmental analysis including dates of any Federal Register or other legal notices and dates of decision documents planned or previously published or issued, and the estimated implementation date(s).

08 Emergency and Classified Actions

1. *Emergency Actions.* * * * Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. (40 CFR 1506.11)

For emergencies other than fire suppression, contact the Washington Office Director of Environmental Coordination regarding consultation with the Council on Environmental Quality (FSM 1950.41b and 1950.42).

2. *Classified Actions.* * * * (c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public. (40 CFR 1507.3(c))

Among the exemptions to public disclosure requirements, the Freedom of Information Act contains an exemption for law enforcement purposes to the extent that production of investigatory records would "(A) interfere with enforcement proceedings, * * * (E) disclose investigative techniques and personnel." (5 U.S.C. 552(b)(7)(1977)). Cannabis eradication falls within the scope of this exemption. For this reason, environmental and decision documents which address cannabis eradication should be withheld from public disclosure until the cannabis has been eradicated from the site or until law enforcement needs no longer require that they be withheld.

Chapter 10—Environmental Analysis

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Chapter 10—Environmental Analysis

Environmental analysis assesses the nature and importance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives. Exhibit 01 in sec. 06, Chapter Zero Code, shows how environmental analysis relates to other procedures required under the National Environmental Policy Act and its implementing regulations.

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

10.2 Objectives

1. Conduct scoping (sec. 05) to:

a. Determine the nature and complexity of the proposed action.

b. Identify environmental issues related to the proposed action.

c. Determine the disciplines required to guide environmental analysis and documentation.

d. Determine how much analysis is necessary.

e. Achieve effective use of time and money in conducting environmental analysis.

f. Determine the type and level of public participation.

2. Conduct environmental analyses to assess the nature, characteristics, and significance of the effects of a proposed action and its alternatives on the human environment.

10.3 Policy

1. Environmental analysis, as the term is used in the Forest Service, includes scoping as well as subsequent analysis of the proposed action.

2. The use of scoping applies to all proposed actions which require environmental analysis; it is not limited to the preparation of an environmental impact statement (EIS).

a. Conduct the scoping actions set forth in this chapter commensurate with the nature and complexity of the proposed action.

b. Keep the public informed of the progress of environmental analyses and decisionmaking.

10.4 Responsibility

The official who is responsible for a decision on a proposed action (FSM 1950.4) also has the responsibility to:

1. Ensure that an appropriate level of scoping and environmental analysis and documentation occurs.

2. Determine whether an interdisciplinary (ID) team of specialists and a formal plan of work are needed.

3. Select the ID team and leader, where needed, and keep abreast of their work (sec. 12.1).

4. Ensure that the public is kept informed of the results of scoping and the progress of the environmental analysis commensurate with the public interest in the proposed action.

5. Approve the list of significant issues used to develop alternatives to the proposed action (sec. 12.3b).

6. Decide which alternatives to a proposed action merit detailed study and analysis (sec. 12.3c).

7. Identify the preferred alternative (sec. 16).

For actions where the Chief or the Secretary is the responsible official, it is the responsibility of the Washington Office (WO) Director, Environmental Coordination Staff, to participate in scoping and subsequent analysis, including identification of the preferred alternative(s), with the appropriate field or other WO staffs and to involve the appropriate Deputy Chief, the Chief, or the Assistant Secretary, as necessary (FSM 1950.41a).

11 Conduct Scoping

Although the Council on Environmental Quality (CEQ) Regulations require scoping only for EIS preparation, the Forest Service has broadened the concept to apply to all proposed actions.

Scoping is an integral part of environmental analysis. Scoping includes refining the proposed action, determining the responsible official and lead and cooperating agencies, identifying preliminary issues, and identifying interested and affected persons. The results of scoping are used to identify public involvement methods, refine issues, select an interdisciplinary team, establish analysis criteria, and explore possible alternatives and their probable environmental effects.

Because the nature and complexity of a proposed action determine the scope and intensity of the required analysis, no single technique is required or prescribed. Except where required by statute or regulations, the responsible official may adjust or combine the various steps of the process outlined in this chapter to aid in the understanding of the proposed action and identified issues.

The following direction on scoping from the CEQ regulations applies to all scoping conducted by the Forest Service without regard to whether or not the results of the analysis is to be documented in an EIS or an environmental assessment (EA).

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping * * *

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, and affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule. (40 CFR 1501.7)

For additional guidance on scoping, see sec. 65.13, "CEQ Scoping Guidance."

11.1 Organize Scoping Effort

The National Environmental Policy Act (NEPA) requires a systematic, interdisciplinary approach to ensure integrated application of the natural and social sciences and the environmental design arts in any planning and decisionmaking that affects the human environment (NEPA, sec. 102(2)(A)).

The responsible official may choose whether or not to establish an interdisciplinary (ID) team and designate a team leader to conduct scoping. However, the decision not to establish an ID team does not relieve the Forest Service of the responsibility to take an interdisciplinary approach to the scoping of the proposed action. In ensuring an interdisciplinary approach to the scoping process, responsible officials shall be guided by the direction

on interdisciplinary analysis in section 12 of this chapter.

11.2 Identify the Characteristics of the Proposed Action and Nature of the Decision to be Made

The most important element of the scoping process is to correctly identify and describe the proposed action. Elements of the proposed action include the nature, characteristics, and scope of the proposed action, the purpose and need for the proposed action, and the decision to be made.

The following concepts from the CEQ regulations also apply to gathering preliminary information for all proposals which may undergo environmental analyses:

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20) and other methods listed in § 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay. (40 CFR 1502.4).

11.3 Identify Responsible Official(s) and Agencies Involved

The agency employee who has the delegated authority to make and implement a decision on a proposed action (FSM 1230; 1950) is the responsible official for NEPA compliance. When an action is proposed, the responsible official must identify and contact other Federal, State, or local agencies with an interest in the action.

11.31 Determine Lead and Cooperating Agencies

The CEQ regulations address the role of the lead and cooperating agencies' responsibilities as follows:

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests. (c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b) (3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council. (40 CFR 1501.6)

Refer to definitions of lead and cooperating agency in Chapter Zero Code, Section 05. For additional guidance on lead and cooperating agencies, see Sec. 65.12, "CEQ's 40 Most Asked Questions," questions 14a, 14b, 14c, and 30.

11.31a Lead Agency

When the proposed action will occur on National Forest System lands, the Forest Service is usually the lead agency. The Forest Service may also be a lead or cooperating agency when State and private forest lands are involved.

The CEQ regulations address the determination and role of the lead agency as follows:

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency. A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action.

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead

agency and which other Federal agencies shall be cooperating agencies. (40 CFR 1501.5)

If a responsible Forest Service official wishes to ask the Council on Environmental Quality to determine which Federal agency shall be the lead agency, send the request to the Washington Office Director of Environmental Coordination for processing.

11.31b Cooperating With Other Agencies

Where National Forest System lands are involved, the Forest Service shall play a strong role in the preparation of environmental documents. If the Forest Service is the lead agency, promptly request in writing that all other Federal agencies with jurisdiction by law or special expertise (sec. 05) become cooperating agencies. Also, promptly request in writing the cooperation of potentially affected State and local government agencies.

When National Forest System lands are involved and the Forest Service is not the lead agency, the responsible Forest Service official shall make a written request to participate as a cooperating agency in scoping, environmental analysis, and documentation.

If the Forest Service is asked to be a cooperating agency and other program commitments preclude being able to become involved, the responsible official shall consult with the Washington Official Director of Environmental Coordination prior to preparing a reply to this effect to the requesting agency. Send two copies of this reply to the Director of Environmental Coordination in Washington, DC, for transmittal to the Council on Environmental Quality.

11.4 Determine if Existing Documents Address the Proposed Action

During scoping, determine if there are existing documents pertinent to the environmental analysis. Existing environmental documents, higher level plans such as Land and Resource Management Plans or Regional Vegetation Management Plans, and other pertinent documents, including State and local land use plans or data sources, may provide useful information to:

1. Help define the proposed action.
2. Narrow the scope of analysis.
3. Estimate potential environmental effects.
4. Reduce the bulk of the documentation.

In such cases, all or parts of these existing documents may be tiered to, adopted, or incorporated by reference in documenting the site-specific environmental analysis (secs. 05, 22.32, 25.1, and 25.2).

11.5 Look for Preliminary Issues and Identify Public Participation Needs

11.51 Identify Preliminary Issues

Identify and evaluate preliminary issues for possible significance, based on review of similar actions, knowledge of the area or areas involved, discussions with interested and affected persons, community leaders, organizations, and State and local governments, and/or consultations with experts and other agencies familiar with such actions and their direct, indirect, and cumulative effects. This review provides an early look at potential issues, sharpens the focus of the environmental analysis, and provides a means for:

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly. (40 CFR 1501.1(d))

11.52 Identify Public Participation Needs

Review and consider comments and suggestions offered by interested and affected agencies, organizations, and individuals in response to listing of the action in the schedule of proposed actions (sec. 07). Consider options for involving potentially interested and affected agencies, organizations, and persons in the analysis process.

The CEQ regulations provide the following direction on public notice and participation:

Agencies shall: * * *

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the **Federal Register** and notice by mail to national organizations reasonably expected to be interested in the matter * * * An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses * * *

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public. (40 CFR 1506.6)

(See FSH 1609.13, Public Participation Handbook, for information on techniques to involve the public in Forest Service planning and decisionmaking.)

11.6 Determine If Proposal Can Be Categorically Excluded from Documentation in an Environmental Impact Statement or an Environmental Assessment

After determining the nature of the proposed action; identifying preliminary issues; identifying the interested and affected agencies, organizations, and individuals; and the extent of existing documentation, the responsible official should have sufficient data to determine if the proposed action can be categorically excluded from documentation in an EIS or an EA or, alternatively, to determine the type of document that should be prepared.

If the proposed action is within one of the categories in the Department of Agriculture policies and procedures (7 CFR 1b.3) or one of the categories listed in sections 31.1b or 31.2, and if the proposed action does not involve any extraordinary circumstances (sec. 30.3), the action may be categorically excluded from documentation in an EIS or EA. If the proposed action is not within a listed category, it may not be categorically excluded from documentation on an EIS or EA.

If required by Chapter 30, document a decision to categorically exclude a proposed action from documentation in an EIS or EA in a decision memo.

At this point, it may be possible to determine if an EIS should be prepared. If the proposed action falls within one of the classes of actions which require preparation of an EIS in section 20.6, or if preliminary analysis indicates that there may be significant effects on the environment, prepare a notice of intent to prepare an EIS for publication in the **Federal Register**.

11.7 Information Participants and the Public of Results of Scoping and the Progress of the Analysis

Consistent with the importance of the proposed action, inform participants of the results of scoping and keep the public informed of the progress of the environmental analysis through appropriate means. This may include, but is not limited to: personal contacts with individuals, organizations, and State and local government officials; use of local media; and newsletters.

Enter the status of the environmental analysis, the decision memo, or the notice of intent to prepare an EIS on the schedule of proposed actions.

12 Use Interdisciplinary Analysis

12.01 Authority

Section 102(2)(A) of the National Environmental Policy Act requires all agencies to use an interdisciplinary approach to analysis which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on the human environment. The CEQ regulations require that:

> The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7). (40 CFR 1502.6)

12.03 Policy

Establish interdisciplinary teams to analyze proposed actions with the potential for significant environmental effects, especially if an EIS may be needed.

Proposals for less complex actions may not require the selection of an interdisciplinary team. In such cases, a knowledgeable individual may perform the analysis, which must consider all of the physical, biological, social, and economic factors pertinent to the decision.

Interdisciplinary review of the analysis also may satisfy the requirement for use of the interdisciplinary approach.

12.1 Interdisciplinary Team Selection

The disciplines and skills of this group must be appropriate to the scope of the action and the issues identified. The team will consist of whatever combination of Forest Service staff and other Federal Government personnel is necessary to provide the necessary analytical skills. Limit the team to a manageable number of persons.

Others may aid or support the interdisciplinary team as determined to be necessary by the responsible official. This participation must be consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. USDA Departmental Regulation 1041-1, 11/13/89).

Also, the team must have the expertise to identify and to evaluate the potential direct, indirect, and cumulative social, economic, physical, and biological effects of the proposed action and its alternatives.

12.1a Team Leader

To ensure selection of an effective team leader, the responsible official should consider such factors as the individual's:

1. Degree of working knowledge of the National Environmental Policy Act process and its interrelationship with other applicable laws and regulations.
2. Ability to lead others, including the ability to communicate effectively with team members and the responsible official and to facilitate interaction among team members.
3. Ability to organize, analyze, and interpret information.
4. Past performance in meeting assigned deadlines.

12.1b Other Team Members

In selecting other team members, consider the variety of disciplines needed as well as such factors as an individual's:

1. Ability to work as part of a team.
2. Ability to communicate to others information about the field or specialty that a member represents.
3. Knowledge of and degree of experience in the subject discipline and the environmental analysis process.
4. Ability to conceptualize and solve problems.

12.2 Selection of Interdisciplinary Analyst(s) in Lieu of a Team

The responsible official may select one or more persons rather than a full team to conduct the required interdisciplinary analysis. The analyst(s) must have a working knowledge of the National Environmental Policy Act process, applicable statutes and regulations, and natural resource interactions.

12.3 Role of the Interdisciplinary Team or Analyst(s)

It is the responsibility of the team or assigned analyst(s) to identify the environmental issues related to the proposed action, develop alternatives to be analyzed in the subsequent environmental analysis, and prepare environmental documents. A team integrates its collective knowledge of the physical, biological, economic, social sciences and the environmental design arts into the analysis process.

Interaction among team members often provides insight that otherwise would not be apparent. Section 12.3a through 12.3d provide minimum direction that an ID team or analyst(s) shall follow.

When extensive public involvement is necessary, prepare a formal public participation plan (FSM 1626). The Public Participation Handbook, FSH 1609.13, provides guidance in identifying and involving the public, preparing public involvement plans, and using public responses in the analysis process.

12.3a Formulate Analysis and Evaluation Criteria

Development of criteria or standards may be necessary to guide the analysis process. Analysis and evaluation criteria or standards may be needed to:

1. Identify and select data sources, analysis methods, and set standards of accuracy.
2. Determine the depth or detail of the analysis.
3. Develop a suitable range of alternatives.
4. Evaluate alternatives.
5. Estimates the significance of environmental effects (sec. 05).

When formulating analysis and evaluation criteria or standards, be sure to consider Forest Service objectives identified in legislation, policies, and plans, as well as issues raised by the public in the scoping process. Refine these criteria and standards, as necessary, during the course of the analysis.

12.3b Identify Significant Issues

Recommend to the responsible official the significant issues to be addressed, taking interested and affected agency, organization, and public comments into account. The responsible official, not the ID team or the analyst(s), approves the list of significant issues used to develop alternatives and may adjust and refine the issues as new insights and information emerge during analysis.

12.3c Explore Possible Alternatives

Consider a full range of reasonable alternatives to the proposed action that address the significant issues and meet the purpose and need for the proposed action.

During scoping and the subsequent pubic participation activities, discuss the feasibility and possible effects of these alternatives with potentially interested and affected agencies, organizations, and persons. If the proposed action is on National Forest System lands, discuss the consistency of each alternative with the forest's Land and Resource Management Plan. The ID team recommends and the responsible official decides which alternatives merit further study and which do not require detailed analysis.

12.3d Expand Public Involvement as Appropriate

1. *Identify target groups.* Identify potentially affected groups and the nature of their concerns (FSH 1609.13). Establish, maintain and use mailing lists as appropriate.

2. *Determine the methods of public participation.* Establish the level of needed public participation. Ensure that the level of effort to inform and to involve the public is consistent with the scale and importance of the proposed action and the degree of public interest.

13 Collect and Interpret Data

13.01 Authority

If, when evaluating significant adverse effects on the human environment, information essential to a reasoned choice among alternatives is either missing or incomplete, the CEQ regulations provide the following guidance:

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

(a) If the incomplete information relevant to reasonable foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information relevant to reasonable foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:

(1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. (40 CFR 1502.22)

13.03 Policy

The type and amount of data to collect depend on the nature of the action, agency objectives, issues, and the scope, context, and intensity of anticipated effects. Focus data collection on the current and expected physical, biological, economic, and social conditions affecting or affected by the proposed action. Document the assumptions, methods, and data sources.

When evaluating reasonably foreseeable adverse impacts for which essential information is incomplete or unavailable, consider a range of possible scenarios. These should include a scenario that would most likely occur and ones that would be less likely but have the most severe impacts that could reasonably be expected. When possible, include a discussion of relative probabilities of occurrence for each scenario.

14 Develop Alternatives

Based on the results of scoping and the determination of issues to be analyzed in detail, develop and consider all reasonable alternatives to the proposed action. As established in case law interpreting the National Environmental Policy Act, the phrase "all reasonable alternatives" has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed, but does require a range of reasonable alternatives be analyzed whether or not they are within Forest Service jurisdiction to implement. See questions 1, 2, and 3 of CEQ's 40 Most Asked Questions in section 65.12.

14.1 No-Action Alternative

The no-action alternative provides a baseline for estimating the effects of other alternatives; therefore, consider the no-action alternative in detail in each environmental analysis.

Two distinct interpretations of no-action are often possible. The first interpretation involves an action such as the amendment or revision of a Forest Land and Resource Management Plan where ongoing programs described within the existing plan continue, even as new plans are being developed. In these cases, the no-action alternative means no change from current management direction. Consequently, the responsible official would compare the projected impacts of alternative management schemes to those impacts projected for the existing plans.

The second interpretation of no-action is that no action or activity would take place, such as when a proposed road construction project would be cancelled. The nature and scope of the proposed action will aid the responsible official in determining which interpretation is appropriate to the analysis.

For further guidance see question 3 in section 65.12 of CEQ's 40 Most Asked Questions.

14.2 Other Alternatives

Develop other alternatives fully and impartially. Ensure that the range of alternatives does not prematurely foreclose options that might protect, restore, and enhance the environment. Consider reasonable alternatives even if outside the jurisdiction of the Forest Service. Alternatives must meet the purpose and need of the proposed action and specify any activities that may produce important environmental changes. When appropriate, descriptions of alternatives should include mitigation measures and relevant management requirements such as State water quality standards. Modify alternatives or develop new alternatives as the analysis proceeds.

14.3 Alternatives Not Considered in Detail

Briefly describe the alternatives not considered in detail, discuss the reasons for their being eliminated, and include this information in the project or case file. If an EIS is required, this information must be disclosed in the chapter on alternatives (sec. 22.3.5).

15 Estimate Effects of Each Alternative

For each alternative, estimate the direct, indirect, and cumulative environmental effects, including the effectiveness of the mitigation measures, that would result from implementing each of the alternatives, including the no-action alternative. Also, identify any

additional mitigation measures that may be required, such as measures common to all alternatives.

Express the effects in terms of changes that would occur in the physical (land, water, air), biological (plants and animals), economic (money passing through society), and social (the way people live) components of the human environment. Consider the magnitude, duration, and significance of the changes. See section 61 for a more specific list of environmental factors.

When analysis and disclosure of social and/or economic impacts are important to a reasoned decision, follow the direction in FSM 1970 and FSH 1909.17. Also consider unquantifiable environmental amenities and values. For all alternatives, be sure to consider the environmental effects on the following:

1. Consumers, civil rights, minority groups, and women (FSM 1730).
2. Prime farmland, rangeland and forest land (Department Regulation 9500–3, sec. 65.2).
3. Flood plains (sec. 66.3) and Wetlands (sec. 66.4).
4. Threatened and endangered species (FSM 2670).
5. Cultural resources (FSM 2360).

15.1 Cumulative Effects (sec. 05)

Individual actions when considered alone may not have a significant impact on the quality of the human environment. Groups of actions, when added together, may have collective or cumulative impacts which are significant. Cumulative effects which occur must be considered and analyzed without regard to land ownership boundaries. Consideration must be given to the incremental effects of past, present, and reasonably foreseeable related future actions of the Forest Service, as well as those of other agencies and individuals.

16 Evaluate Alternatives and Identify Preferred Alternative(s)

Compare alternatives on the basis of their effects on the human (physical, biological, social, and economic) environment. Although the ID Team or analyst(s) may make a recommendation based on the results of the interdisciplinary analysis, the responsible official identifies the preferred alternative(s) for an EIS.

17 Determine Type of Environmental Document Needed

The significance of environmental effects of a proposed action determines whether an EIS (sec. 05) must be prepared.

If the proposed action may have significant environmental effects, prepare an EIS in accordance with direction in chapter 20.

The CEQ regulations provide the following direction on whether to prepare an EIS:

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations * * * whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement. (40 CFR 1501.4)

18 Correction, Supplementation, or Revision of Environmental Documents and Reconsideration of Decisions to Take Action

18.03 Policy

Review the environmental documentation of actions that are awaiting implementation and those of ongoing programs or projects at least every 3 to 5 years to determine if the environmental analysis and documentation should be corrected, supplemented, or revised.

After a decision to implement a proposed action has been made and when the consideration of new information leads to the supplementation or revision of environmental documents, a new decision based on the supplemented or revised environmental documents must be consistent with the scope of the new environmental analysis.

18.1 Review and Documentation of New Information Received After a Decision Has Been Made

If new information or changed circumstances relating to the environmental impacts of a proposed action come to the attention of the responsible official after a decision has been made and prior to completion of the approved program or project, the responsible official must review the information carefully to determine its importance.

If, after an interdisciplinary review and consideration of new information within the context of the overall program or project, the responsible official determines that a correction, supplement, or revision to an environmental document is not necessary, implementation should continue. Document the results of the interdisciplinary review in the appropriate program or project file.

If the responsible official determines that a correction, supplement, or revision to an environmental document is necessary, follow the relevant direction in section 18.2–4.

18.2 Reconsideration of Decisions Based on an Environmental Impact Statement

1. *Correction.* Use errata sheets to make simple corrections.

2. *Supplement.* (c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council. (40 CFR 1502.9(c))

3. *Revision.* (a) * * * If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion * * * (40 CFR 1502.9(a))

If the responsible official determines, based on evaluations described in section 18.1, that a supplement to or revision of an EIS is appropriate, issue a notice of intent to supplement or revise an EIS.

Distribute any corrections, supplements, and revisions to all holders of the subject EIS.

After completion of the final supplement or final EIS, issue a new record of decision consistent with the scope of the supplement or revision. Follow the instructions in Chapter 20.

18.3 Reconsideration of Decisions Categorically Excluded from Environmental Documentation

Take no further action if an interdisciplinary review of the new information shows that the proposed action still fits within the identified category in section 31 and no extraordinary circumstances exist. For decisions for which a project or case file and decision memo have been prepared, document the review in the project or case file. For decisions for which a decision memo was not prepared, no documentation of the review is necessary.

If the new information or changed circumstances require a new or changed decision that can be categorically excluded from documentation, follow the instructions in Chapter 30.

If the new information indicates that extraordinary circumstances are now present and the proposed action may have a significant impact on the human environment, file a notice of intent to prepare an EIS. Follow the instructions in Chapter 20.

If the new information indicates that extraordinary circumstances are now present but the significance of the impacts on the human environment are uncertain, prepare an EA. Follow the instructions in Chapter 40.

18.4 Reconsideration of Decisions Based on an Environmental Assessment and Finding of No Significant Impact

Revise an EA if the interdisciplinary review of new information or changed circumstances indicates that changes in the EA are needed to address environmental concerns that have a bearing on the action or its impacts.

Upon completion of the revised EA, prepare a new finding of no significant impact (FONSI) which addresses the effects of the action. Reconsider the original decision; and, based upon the EA and FONSI, issue a new decision notice or document that the original decision is to remain in effect and unchanged. A new decision notice may address all or a portion of the original decision. Follow the instructions in Chapter 40.

If, based on the revised EA, the proposed action may have a significant effect, issue a notice of intent to prepare an EIS. Follow the instructions in Chapter 20.

Chapter 20—Environmental Impact Statements and Related Documents

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Chapter 20—Environmental Impact Statements and Related Documents

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

20.6 Classes of Actions requiring Environmental Impact Statements

Classes of actions that require preparation of environmental impact statements are listed below.

The requirements for classes 2, 3, and 4 may be met by the appropriate use of program environmental impact statements and tiered site-specific environmental documents or by the preparation of site-specific environmental impact statements.

1. *Class 1: Proposed actions for which an environmental impact statement is required by law or regulation.* Examples include:

a. Revising a land and resource management plan required by the National Forest Management Act (36 CFR 219.10).

b. Proposing that Congress enact legislation to designate a wilderness or a wild and scenic river (40 CFR 1506.8).

2. *Class 2: Proposed to carry out or to approve aerial application of chemical pesticides on an operational basis.* Examples include:

a. Applying chemical insecticides by helicopter on an area infested with spruce budworm to prevent serious resource loss.

b. Authorizing the application of herbicides by helicopter on a major utility corridor to control unwanted vegetation.

c. Applying herbicides by fixed-wing aircraft on an area to release trees from competing vegetation.

3. *Class 3: Proposals that would substantially alter the undeveloped character of an inventoried roadless area of 5,000 acres or more (FSH 1909.12).* Examples include:

a. Constructing roads and harvesting timber in a 56,000-acre inventoried roadless area where the proposed road and harvest units impact 3,000 acres in only one part of the roadless area.

b. Constructing or reconstructing water reservoir facilities in a 5,000-acre unroaded area where flow regimens may be substantially altered.

c. Approving a plan of operations for a mine which would cause considerable surface disturbance over 700 acres in a 10,000 acre roadless area.

4. *Class 4: Other proposals to take major Federal actions that may significantly affect the quality of the human environment.* Examples include:

a. Approving the use of 1,500 acres of National Forest System land to construct and operate an all-season recreation resort complex.

b. Authorizing the Bureau of Land Management to offer the sale of leases for oil and natural gas resources from

beneath 400,000 acres of National Forest System lands that have historically demonstrated a relatively high potential for discovery and development of oil and natural gas.

c. Approving the construction and operation of an international gas pipeline beneath a previously undeveloped 30-mile long, 1000-foot wide corridor within an ecologically sensitive area of National Forest System land.

21 Notices of Intent

21.1 Preparation and Distribution of Notices of intent

Prepare and publish a notice of intent in the **Federal Register** as soon as practicable after deciding that an environmental impact statement (EIS) will be prepared. The purpose of a notice of intent to prepare an environmental impact statement is to begin the scoping process for the EIS.

CEQ regulations require that:

* * * The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meetings will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement. (40 CFR 1508.22)

In addition, the notice of intent must include the following information:

a. Name and address of the responsible official(s);

b. A description of the nature and scope of the proposed action and the decision to be made;

c. Tentative or preliminary issues and alternatives which have been identified;

d. Identification of permits or licenses required to implement the proposed action and the issuing authority;

e. The lead, joint lead, or cooperating agencies (sec. 05);

f. The estimated dates (month and year) for filing the draft and final EIS;

g. An address to which comments may be mailed; and

h. The reviewer's obligation to comment during the review period rather than after completion of the final EIS. Use the standard paragraphs in exhibit 01.

Follow the **Federal Register** document preparation requirements and mailing instructions in section 67. Send one copy of the signed notice of intent to the Washington Office Director of Environmental Coordination (hard copy: Chief (1950); DG address: EC:WO1c). When the Chief or the Secretary is the responsible official, the appropriate field unit or WO staff shall prepare the notice of intent and send it to the Washington Office Director of Environmental Coordination for review, processing, and submission to the Office of the Federal Register.

Once the title of the EIS under preparation has been identified in the notice of intent, use the same title on the cover of the draft and final EIS.

21.1 Exhibit 01—Standard Paragraphs Required in Notices by Intent

The comment period on the draft environmental impact statement will be [enter correct time period (45-day minimum)] from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the (enter correct time period) comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

21.2 Revision of Notices of Intent

The official responsible for preparation of an EIS must notify the appropriate Regional, Station, or Area Environmental Coordinator and the Washington Office Director of Environmental Coordination whenever there is a major change in the information shown in the notice of intent. Major changes require publishing a revised notice of intent in the **Federal Register** (sec. 21.1).

Examples of major changes which require a revised notice of intent are:

1. A delay of more than six months in filing either the draft or final EIS;

2. A change in the proposed action or the decision to be made; or

3. Designation of a different responsible official by title.

A revised notice of intent shall refer to the date and page number of all prior notices relevant to the proposed action which were published in the **Federal Register**. Prepare and distribute a revised notice of intent in the same manner as the original (sec. 21.1 and 67).

21.3 Cancellation of a Notice of Intent

Publish a cancellation notice in the **Federal Register** to terminate the environmental analysis process if, after publication of a notice of intent or distribution of a draft EIS, a decision on a proposed action is no longer necessary. A cancellation notice must refer to the date(s) and page number(s) of previously published notice(s) of intent or the notice of availability of an EIS which were published in the **Federal Register**. Prepare and distribute a cancellation notice in the same manner as the notice of intent (sec. 21.1 and 67). In addition, send a copy of the cancellation notice to the Environmental Protection Agency's Office of Federal Activities (sec. 22.4).

When the Chief or the Secretary is the responsible official, the appropriate field unit or WO staff prepares the cancellation notice as soon as there is a decision to terminate the process and sends the notice to the Director of Environmental Coordination for review, processing, and submission to the Office of the Federal Register and Environmental Protection Agency's Office of Federal Activities.

22 Uniform Requirements for Environmental Impact Statements (Sec. 05)

The CEQ regulations require EIS's as follows:

As required by sec. 102(2)(C) of NEPA environmental impact statements ({1508.11) are to be included in every recommendation or report. On proposals ({1508.23).

For legislation and ({1508.17).

Other major Federal actions ({1508.18).

Significantly ({1508.27).

Affecting ({{1508.3, 1508.8).

The quality of the human environment ({1508.14). (40 CFR 1502.3)

22.1 Page Limits

The text of final environmental impact statements * * * shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages. (40 CFR 1502.7)

22.2 Writing

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. (40 CFR 1502.8)

22.3 Content and Format

An EIS must contain the following:

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

(a) Cover sheet.

(b) Summary.

(c) Table of contents.

(d) Purpose of and need for action.

(e) Alternatives including proposed action (sections 102(2)(C)(iii) and 102(2)(E) of the Act).

(f) Affected environment.

(g) Environmental consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act).

(h) List of preparers.

(i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.

(j) Index.

(k) Appendices (if any). If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, * * * (40 CFR 1502.10)

1. *Cover Sheet.* The cover sheet shall not exceed one page. It shall include:

(a) A list of the responsible agencies including the lead agency and any cooperating agencies.

(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement. (40 CFR 1502.11)

Also include the name, title, and address of the responsible official.

The abstract of the EIS should include the alternatives considered and identification of the preferred alternative(s) if one or more exists.

If the EIS is a draft, the cover sheet must include the date by which comments must be received. The cover sheet for a draft EIS must also contain a standard statement as set out in exhibit 01 about the reviewer's obligation to comment during the review period. It may be necessary to reduce the type size to accommodate this information.

22.3 Exhibit 01—Standard Paragraph for Draft EIS Cover Sheet

Reviewers should provide the Forest Service with their comments during the review period of the draft environmental impact statement. This will enable the Forest Service to analyze and respond to the comments at one time and to use information acquired in the preparation of the final environmental impact statement, thus avoiding undue delay in the decisionmaking process. Reviewers have an obligation to structure their participation in the National Environmental Policy Act process so that it is meaningful and alerts the agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Comments on the draft environmental impact statement should be specific and should address the adequacy of the statement and the merits of the alternatives discussed (40 CFR 1503.3).

2. *Summary.* Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages. (40 CFR 1502.12)

3. *Table of Contents.* List the major sections as well as a list of tables and exhibits.

4. *Purpose and Need.* The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action. (40 CFR 1502.13)

5. *Alternatives Including the Proposed Action.* This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment ({1502.15) and the Environmental Consequences ({1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives. (40 CFR 1502.14).

Additionally, for proposed actions on National Forest System lands, the description of each alternative must state whether or not it is consistent with the Forest Land and Resource Management Plan (36 CFR 219.10(c)).

6. *Affected Environment.* The environment impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced.

Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement. (40 CFR 1502.15).

7. *Environmental Consequences.* This section forms the scientific and analytic basis for the comparisons under (1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of

man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in (1502.14. It shall include discussions of:

(a) Direct effects and their significance (1508.8).

(b) Indirect effects and their significance ((1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See (1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under (1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under (1502.14(f)). (40 CFR 1502.16)

8. *List of Prepares.* The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement ((1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identifies * * * (40 CFR 1502.17)

9. *List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.* The list should include names only and not addresses.

10. *Index.* All EIS's must include indexes. The purpose of an index is to make the information in the EIS fully available to the reader without delay. See section 62 for preparation of indexes.

11. *Appendix.* If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request. (40 CFR 1502.18)

22.31 Tiering

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (40 CFR 1502.20)

The EIS which accompanies a land and resource management plan is an example of a "broad" EIS prepared for a program or policy statement.

22.32 Adoption

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion there of meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section.

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify. (40 CFR 1506.3)

22.33 Incorporation by Reference

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference. (40 CFR 1502.21)

22.34 Incomplete or Unavailable Information

Refer to section 13 of this handbook for guidance on addressing incomplete or unavailable information.

22.35 Documentation of Cost-Benefit Analysis

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with section 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision. (40 CFR 1502.23)

22.36 Identification of Methodology and Scientific Accuracy

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix. (40 CFR 1502.24)

22.4 Filing, Circulation, and Availability of Environmental Impact Statements

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, DC 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. (40 CFR 1506.9).

* * * * *

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in (1502.18(d) and unchanged statements as provided in (1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental

impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period. (40 CFR 1502.10)

A summary of the EIS distributed as a separate document must:

a. State how the full EIS can be obtained, and

b. Have a cover sheet attached.

23 Requirements Specific to Draft Environmental Impact Statements

23.1 Identification in Draft Environmental Impact Statements of Permits Necessary to Implement Proposal

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate. (40 CFR 1502.25(b))

23.2 Circulating and Filing a Draft Environmental Impact Statement

1. Circulate a draft environmental impact statement (EIS) to agencies and to the public prior to or at the same time of transmittal to the Environmental Protection Agency (EPA) in Washington, DC. If the statement is unusually long, a summary may be circulated instead (40 CFR 1502.19). However, the responsible unit must file the entire document with EAP and furnish it to other agencies that have jurisdiction by law or special expertise. The entire EIS must also be furnished to the project proponent and other individuals and groups who have requested it.

2. File five copies of a draft EIS with the Environmental Protection Agency at the following address:

Management Information Unit, Office of Federal Activities (A-104), Environmental Protection Agency, Room 2119 Mail, 401 M Street, SW., Washington, DC 20460.

EPA will then publish the Notice of Availability in the **Federal Register.**

3. The following are the mandatory mailings for all EIS's prepared by the Forest Service.

Environmental Protection Agency Regional Office (Regions, addresses, and number of copies are listed in Chapter 60)

	DEIS	FEIS
Director, Environmental Coordination, (Chief, 1950), Forest Service—USDA, Box 96090, Washington, DC 20090-6090	3	3
Head, Acquisitions and Serials Branch, USDA-National Agricultural Library, 10301 Baltimore Blvd., Beltsville, MD 20705	3	3
Office of Environmental Affairs, Department of the Interior, MS 2340, Washington, DC 20240:		
Projects east of the Mississippi River	12	7
Projects west of the Mississippi River	18	12

Always send copies of EIS's to these agencies by expeditious methods of delivery. These methods also may be desirable for other key recipients. Base any other distribution to Federal agencies on agency expertise and legal jurisdiction as indicated in section 63. The addresses and number of copies required by each agency are shown in section 63.1.

4. Calculate the review period from the day after EPA's notice of availability appears in the **Federal Register**

(a) The Environmental Protection Agency shall publish a notice in the **Federal Register** each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

* * * * *

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency * * * Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days * * * (40 CFR 1506.10)

Allow a minimum of 45 days for comments on an EIS unless a different time period is required by law or regulation. If the prescribed period must be reduced for compelling reasons of national policy, contact the Washington Office Director of Environmental Coordination prior to issuing a draft EIS. Contact the Washington Office Environmental Coordination Staff regarding questions on the date of publication in the **Federal Register.**

23.3 Solicit Comments on a Draft Environmental Impact Statement

The CEQ regulations require the following:

Inviting comments. (a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed * * *

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected. (40 CFR 1503.1)

Conduct public participation sessions, if appropriate. See FSH 1609.13 for suggestions on methods to involve the public in Forest Service planning and decisionmaking activities.

23.4 Extending The Comment Period on a Draft Environmental Impact Statement

The responsible official determines that an extension of the review period on the draft EIS is appropriate, notify interested and affected agencies, organizations, or persons in an appropriate manner (ch. 10). Forward one copy of the notice to EPA's Management Information Unit, Office of Federal Activities at the address listed in section 23.2 and one copy to the Washington Office Director of Environmental Coordination. EPA will publish the notice of the extension of the comment period in the **Federal Register** on the Friday following the week the notice is received.

24 Requirements Specific to a Final Environmental Impact Statement

24.1 Use of Comments on a Draft Environmental Impact Statement in a Final Environmental Impact Statement

1. Review, analyze, evaluate, and respond to substantive comments on the draft EIS.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated ({1502.19).

The entire document with a new cover sheet shall be filed as the final statement ({1506.9). (40 CFR 1503.4)

2. When the responsible official determines that a summary of responses is appropriate, the summary must reflect accurately all substantive comments received on the draft EIS. Comments that are pertinent to the same subject may be aggregated by categories.

3. As a minimum, include in an appendix of a final EIS copies of all comments received on the draft EIS from Federal, State, and local agencies and elected officials.

24.2 Filing and Distributing a Final Environmental Impact Statement

1. File a final environmental EIS with the Environmental Protection Agency (EPA) as shown in section 23.2, along with all substantive comments or a summary of the comments on the draft EIS. The official filing date is the date that the EPA receives the EIS, not the date that EPA's notice of availability appears in the Federal Register. The Washington Office Director of Environmental Coordination files with EPA the statements for which the Chief or the Secretary is the responsible official.

2. Distribute a final EIS to other agencies and to the public prior to or at the same time of filing it with EPA (40 CFR 1506.9). If the statement is unusually long, a summary may be circulated instead (40 CFR 1502.19). However, the responsible official must file the entire document including appendices, with EPA and furnish it to other persons or agencies specified in sections 23.2.

If changes resulting from comments to a draft EIS are minor, they may be written on an errata sheet and attached to the draft EIS. In this case only the comments, the responses, and the changes need to be circulated. File the entire document with a new cover sheet as the final EIS (40 CFR 1503.4(c)).

3. After filing an EIS with the EPA, ensure that a reasonable number of copies of the statement are available free of charge.

4. Calculate the implementation date from the date the legal notice of the decision is published as required by 36 CFR part 217.

24.3 Review of Other Agency Environmental Impact Statements

Because of special agency expertise or jurisdiction by law, the Forest Service may be asked to review and comment on EIS's prepared by other agencies.

Duty to comment. Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in (1506.10). A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment. (40 CFR 1503.2)

Specificity of comments. (a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences. (40 CFR 1503.3)

24.31 Referrals to Council on Environmental Quality

Part 1540 of the CEQ regulations provide the following:

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar review of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public. (40 CFR 1504.1)

When Forest Service field review of another agency's draft EIS concludes that the proposed action is environmentally unacceptable, the affected field unit shall immediately contact the Washington Office Director of Environmental Coordination who will coordinate the referral procedure.

The 25-day time period allowed the review is extremely short; therefore, begin referral immediately after determining that the proposal is environmentally unacceptable.

24.4 Review of Forest Service Legislative or Service-Wide Environmental Impact Statements

Unless otherwise assigned by the Chief, officials in the Washington Office shall review and comment on EIS's prepared on Forest Service legislative proposals, Service-wide policies and regulations, or national program

proposals. The Director of Environmental Coordination shall coordinate these reviews and responses.

25 Other Planning and Preparation Requirements for Environmental Impact Statements

25.1 Consultation Requirements

Refer to FSM 23600 for consultation requirements on archaeological and cultural resources and FSM 2670 for consultation requirements with the Fish and Wildlife Service on threatened and endangered species.

Environmental review and consultation requirements. (a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), and other environmental review laws and executive orders. (40 CFR 1502.25(a))

25.2 Elimination of Duplication With State and Local Procedures

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law.

Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. (40 CFR 1506.2)

25.3 Combining Documents To Eliminate Duplication

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork. (40 CFR 1506.4)

Examples include Wilderness Study Reports and Wild and Scenic River Study Reports which may be combined with a supporting EIS.

25.4 Federal Agencies With Legal Jurisdiction or Special Expertise

See section 63 for the Council on Environmental Quality's list of agencies with jurisdiction by law or special expertise. See section 63.1 for addresses and recommended document distribution when an agency is determined to have special expertise.

26 Responsibilities When Applicants and Contractors Are Involved

The responsible official my require project proponents to conduct studies and provide data and documentation for consideration and use in preparing an EIS. However, the Forest Service does not have authority to require a proponent to prepare or fund the preparation of an EIS.

Agency responsibility. (a) Information. If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (1502.17. It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the agency.

* * * * *

(c) *Environmental impact statements.* Except as provided in ((1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by a contractor selected by the lead agency or where appropriate under (1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents * * * (40 CFR 1506.5 (a) and (c)).

27 Documentation of Decisions

27.1 Timing of a Decision

The following time limits apply to decisions supported by an EIS:

Timing of agency action. (a) The Environmental Protection Agency shall publish a notice in the Federal Register each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under (1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraphs (1) of this section for a final environmental impact statement. (40 CFR 1506.10)

27.2 Record of Decision

If an EIS has been prepared, the responsible official shall document the decision in a record of decision. Prior to signing a record of decision, the responsible official shall read and understand the environmental effects displayed in an EIS. CEQ requirements for a record of decision are as follows:

At the time of its decision ((1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, * * * shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternatives or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation. (40 CFR 1505.2)

The record of decision must also include consistency and conformance findings which are required by laws and regulations relevant to the decision being made. A record of decision for a National Forest System proposed action must display consistency with the relevant forest plan.

27.21 Format and Content

Records of decision should generally conform to the following format and must meet the following content requirements. Sections of the format may be combined or rearranged in the interest of clarity and brevity. Records of decision should reflect the analysis documented in the EIS and contain the following elements.

1. *Heading.* The heading must identify:

(a) Agency.

(b) Type of decision document, that is, record of decision.

(c) The title of the proposed action.

(d) The location of the proposed action, including administrative unit, county, and state.

2. *Decision and Reasons for the Decision.* Describe the decision being made, including the permits, licenses, grants, or authorizations needed to implement the decision. Identify the specific location of the alternative selected, including the legal land subdivision if pertinent. Refer to or include any mitigation and monitoring program related to the decision.

This section also identifies:

(a) Applicable laws, regulations, and policies.

(b) How environmental issues were considered and addressed.

(c) Factors other than environmental consequences considered in making the decision.

(d) Identification of environmental document(s) considered in making the decision.

3. *Public involvement conducted.* Identify the issues which determined the scope of the analysis. Provide a brief summary of the public participation that relates to the decision. Agencies, organizations, or persons raising issues or asserting opposing viewpoints may be identified and their positions discussed.

4. *Alternatives considered.* All alternatives considered (including the no-action) should be briefly discussed with specific references to the EIS. Mitigation measures, management requirements, and monitoring provisions that are pertinent to environmental concerns should be discussed with specific citations to pages of the EIS.

5. *Findings required by other laws.* Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act.

6. *Identify the Environmentally Preferable Alternative.* Based on the definition in section 05, state which alternative(s) is environmentally preferable.

7. *Implementation date.* Identify the date when the responsible official intends to implement the decision (sec. 51).

8. *Administrative review or appeal opportunities.* Clearly state whether the decision is subject to review or appeal (citing the applicable regulations), and identify when and where to file a request for review or appeal.

9. *Contact Person.* Identify the name, address, and phone number of a contact person who can supply further information.

10. *Signature and Date.* The responsible official signs and dates the record of decision on the date the decision is made.

(a) For decisions subject to review under the Forest Service appeal regulations (36 CFR part 217), the responsible official may sign and date the record of decision on the date that it is transmitted with the final EIS to the Environmental Protection Agency and made available to the public.

(b) For decisions not subject to review, the responsible official may not sign and date the record of decision sooner than 30 days after EPA's notice of availability of the final EIS is published in the Federal Register (sec. 27.1).

(c) For legislative proposals, the record of decision may be signed up to 30 days prior to filing and distributing the legislative EIS.

When an EIS identifies joint lead agencies (sec. 11.31a) or cooperating agencies with jurisdiction by law, the responsible official from each agency shall sign and date a record of decision for those actions within the authority of each agency.

When the Chief or Secretary is the responsible official, the appropriate field unit or WO staff prepares the record of decision with assistance from the WO Environmental Coordination staff. The Washington Office Director of Environmental Coordination coordinates the review and signing of the record of decision, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary, as necessary. The signed original is then filed in WO Environmental Coordination Staff office files and the WO Environmental Coordination Staff forwards a copy to the appropriate field unit or WO staff for necessary distribution.

28—Notice and Distribution of the Record of Decision

Distribute the record of decision as soon as it is signed to agencies, organizations, and persons interested in or affected by the proposed action.

1. The responsible official shall promptly mail the record of decision to those who have requested it in writing and to those who are known to have participated in the decisionmaking process.

2. For decisions subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the record of decision in the legal section of a newspaper(s) with general circulation in the area where the proposed action will take place as required by 36 CFR part 217. The responsible official may also elect to publish a summary of the decision or the complete text of the record of decision.

3. The responsible official will provide other form of notice appropriate to the importance of the decision.

4. The responsible official shall enter the date of the record of decision on the schedule of proposed actions.

When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 30—Categorical Exclusion From Documentation

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Chapter 30—Categorical Exclusion From Documentation

For reference, USDA regulations for NEPA are set out in boldface type.

30.3 Policy

1. A proposed action may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if the proposed action:

a. Is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in 7 CFR part lb.

b. Is within a category listed in sec. 31.1b or 31.2; and there are no extraordinary circumstances related to the proposed action.

2. Extraordinary circumstances include, but are not limited to, the presence of the following:

a. Steep slopes or highly erosive soils.

b. Threatened and endangered species or their critical habitat.

c. Flood plains, wetlands, or municipal watersheds.

d. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas.

e. Inventoried roadless areas.

f. Research Natural Areas.

g. Native American religious or cultural sites, archaeological sites, or historic properties or areas.

3. Scoping is required on all proposed actions, including those that would appear to be categorically excluded. If scoping indicate that extraordinary circumstances are present and it is uncertain that the proposed action may have a significant effect on the environment, prepare an EA (ch. 40). If scoping indicates that the proposed action may have a significant environmental effect, prepare an EIS (ch. 20).

4. If an action has been sufficiently analyzed in a completed EIS or an (EA), but not approved in the appropriate decision document, issue a record of decision of a decision notice and finding of no significant impact without considering the categories in this chapter (ch. 30). If an action has been sufficiently analyzed in a completed EIS or EA and approved in the appropriate decision document, it can be implemented without considering the categories in this chapter (ch. 30).

30.5 Definitions

Categorical Exclusion. (sec. 05).

Decision Memo. (sec. 05).

Extraordinary Circumstances. Conditions associated with a normally excluded action that are identified during scoping as potentially having effects which may significantly affect the environment (sec. 05).

31 Categories of Actions Excluded from Documentation

31.3 Categories for Which a Project or Case File and Decision Memo Are Not Required

At the discretion of the responsible official, a project or case file and a decision memo are not required but may be prepared for the categories of actions set forth in sections 31.1a and 31.1b.

31.1a Categories Established by the Secretary

The rules at 7 CFR 1b.3 exclude from documentation in an EIS or an EA the following categories:

(a) * * *

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad. (7 CFR 1b.3)

31.1b Categories Established by the Chief

The following categories of routine administrative, maintenance, and other actions normally do not individually or cumulatively have a significant effect on the quality of the human environment (sec. 05) and, therefore, may be categorically excluded from documentation in an EIS or an EA unless scoping indicates extraordinary circumstances (sec. 30.5) exist:

1. *Orders issued pursuant to 36 CFR part 261—Prohibitions to provide short-term resource protection or to protect public health and safety.* Examples include but are not limited to:

a. Closing a road to protect bighorn sheep during lambing season.

b. Closing an area during a period of extreme fire danger.

2. *Rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.* Examples include but are not limited to:

a. Adjusting special use or recreation fees using an existing formula.

b. Proposing a technical or scientific methodology or procedure for screening effects of emissions on air quality related values in Class I wilderness.

c. Proposing a policy to defer payments on certain permits or contracts to reduce the risk of default.

d. Proposing changes in contract terms and conditions or terms and conditions of special use authorizations.

e. Establishing a Service-wide process for responding to offers to exchange land and agreeing on land values.

f. Establishing procedures for amending or revising Forest Land and Resource Management Plans.

3. *Repair and maintenance of administrative sites.* Examples include but are not limited to:

a. Mowing lawns at a District office.

b. Replacing a roof or storage shed.

c. Painting a building.

d. Applying registered pesticides for rodent or vegetation control.

4. *Repair and maintenance of roads, trails, and landline boundaries.* Examples include but are not limited to:

a. Authorizing a user to grade, resurface, and clean the culverts of an established National Forest System road.

b. Grading a road and clearing the roadside of brush without the use of herbicides.

c. Resurfacing a road to its original condition.

d. Pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail.

e. Surveying, painting, and posting landline boundaries.

5. *Repair and maintenance of recreation sites and facilities.* Examples include but are not limited to:

a. Applying registered herbicides to control poison ivy on infested sites in a campground.

b. Applying registered insecticides by compressed air sprayer to control insects at a recreation site complex.

c. Repaving a parking lot.

d. Applying registered pesticides for rodent or vegetation control.

6. *Acquisition of land or interest in land.* Examples include but are not limited to:

a. Accepting the donation of lands or interests in land to the National Forest System.

b. Purchasing fee, conservation easement, reserved interest deed, or other interests in lands.

7. *Sale or exchange of land or interest in land and resources where resulting*

land uses remain essentially the same. Examples include but are not limited to:

a. Selling or exchanging land pursuant to the Small Tracts Act.

b. Exchanging National Forest System lands or interests with a State agency, local government, or other non-Federal party (individual or organization)— with similar resource management objectives and practices.

c. Authorizing the Bureau of Land Management to issue leases on producing wells when mineral rights revert to the United States from private ownership and there is no change in activity.

d. Exchange of administrative sites involving other than National Forest System lands.

8. *Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands. Examples include but are not limited to:*

a. Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide.

b. Approving the use of National Forest System land for apiaries.

c. Approving the gathering of forest products for personal use.

31.2 Categories of Actions for Which a Project or Case File and Decision Memo Are Required

Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as: (1) The names of interested and affected people, groups, and agencies contacted; (2) the determination that no extraordinary circumstances exist; (3) a copy of the decision memo (sec. 30.5 (2); (4) a list of the people notified of the decision; (5) a copy of the notice required 36 CFR Part 217, or any other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded. Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.

1. *Construction and reconstruction of trails.* Examples include but are not limited to:

a. Constructing or reconstructing a trail to a scenic overlook.

b. Reconstructing an existing trail to allow use by handicapped individuals.

2. *Additional construction or reconstruction of existing telephone or utility lines in a designated corridor.* Examples include but are not limited to:

a. Replacing an underground cable trunk and adding additional phone lines.

b. Reconstructing a power line by replacing poles and wires.

3. *Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land.* Examples include but are not limited to:

a. Approving the construction of a meteorological sampling site.

b. Approving the use of land for a one-time group event.

c. Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history.

d. Approving the use of land for a 40-foot utility corridor that crosses one mile of a National Forest.

e. Approving the installation of a driveway, mailbox, or other facilities incidental to use of residence.

f. Approving an additional telecommunication use at a site already used for such purposes.

g. Approving the removal of mineral materials from an existing community pit or common-use area.

h. Approving the continued use of land where such use has not changed since authorized and no change in the physical environment of facilities are proposed.

4. *Tiber harvest which removes 250,000 board feet or less of merchantable wood products or salvage which removes 1,000,000 board feet or less of merchantable wood products; which requires one mile or less of low standard road construction (Service level D, FSH 7709.56); and assures regeneration of harvested or salvaged areas, where required.* Examples includes but are not limited to:

a. Harvesting (FSM 2401.1 and 2401.2) 60,000 board feet of merchantable timber from 100 acres, including the construction of one-half mile of additional roads.

b. Salvaging (FSM 2435 and 2470.5) an estimated volume of 750,000 board feet of merchantable wood products timber from dead or dying trees, including the construction of one mile of access road, from an area that is generally flat with good drainage.

c. Thinning (FSM 2431 and 2470.5) an estimated 200,000 board feet of timber from over-stocked timber stands, which requires construction of one-quarter mile of additional access road.

5. *Regeneration of an area to native tree species, including site preparation which does not involve the use of herbicides or result in vegetation type conversion.* Examples include but are not limited to:

a. Planting seedlings of superior trees in a progeny test site to evaluate genetic worth.

b. Planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.

6. *Timber stand and/or wildlife habitat improvement activities which do not include the use of herbicides or do not require more than one mile of low standard road construction (Service Level D, FSH 7709.56).* Examples include but are not limited to:

a. Girdling trees to create snags.

b. Thinning or brush control to improve growth or to reduce fire hazard including the opening of an existing road to a dense timber stand.

c. Prescribed burning to control understory hardwoods in stands of southern pine.

d. Prescribed burning to reduce natural fuel build-up and improve plant vigor.

7. *Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices.* Examples include but are not limited to:

a. Reconstructing a gabion with stone from a nearby source.

b. Adding brush to lake fish beds.

c. Cleaning and resurfacing a fish ladder at a hydroelectric dam.

8. *Short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road (Service Level D, FSH 7709.56), or use and minor repair of existing roads.* Examples include but are not limited to:

a. Authorizing geophysical investigations which use existing roads that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shortholes.

b. Gathering geophysical data using shorthole, vibroseis, or surface charge methods.

c. Trenching to obtain evidence of mineralization.

d. Clearing vegetation for sight paths or from areas used for investigation or support facilities.

e. Redesigning or rearranging surface facilities within an approved site.

f. Approving interim and final site restoration measures.

g. Approving a plan for exploration which authorizes repair of an existing road and the construction of one-third mile of temporary road; clearing

vegetation from an acre of land for trenches, drill pads, or support facilities.

9. *Implementation or modification of minor management practices to improve allotment condition or animal distribution when an Allotment Management Plan is not yet in place.* Examples include but are not limited to:

a. Rebuilding a fence to improve animal distribution.

b. Adding a stock watering facility to an existing water line.

c. Spot seeding native species of grass or applying lime to maintain forage condition.

32 Documentation of Decisions

32.1 Decision Memo Not Required

If a proposed action has been categorically excluded from documentation in an EIS or an EA under USDA categories (7 CFR 1b.3) or the categories listed in section 31.1b, a Decision Memo is not required; however, interested and affected persons must be informed in an appropriate manner of the decision to proceed with the proposed action (see. 11.7).

32.2 Decision Memo Required

If the proposed action has been categorically excluded from documentation in an EIS or an EA under the categories listed in section 31.2, document the decision to proceed with the proposed action in a decision memo. Section 32.3 sets forth the format and content of a decision memo.

When the Chief or Secretary is the responsible official, the appropriate field unit prepares the decision memo with assistance from the Washington Office (WO) Environmental Coordination Staff. The WO Environmental Coordination Staff coordinates the review and signing of the decision memo, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary, as necessary. The signed original will be filed in WO Environmental Coordination Staff office files. The WO Environmental Coordination Staff will forward a copy to the appropriate field unit or WO staff for necessary distribution.

32.3 Format and Content of a Decision Memo

The format of a decision memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.17). Generally, decision memos should conform to the following format and content, although sections may be combined or rearranged in the interest of clarity and brevity.

1. *Heading.* The heading will identify:

a. Title of document, that is decision memo.

b. Agency.

c. The title of the proposed action.

d. The location of the proposed action (including administrative unit, county, and state). If appropriate, include the legal land description.

2. *Decision.* Describe the decision to be implemented and the reasons for categorically excluding the proposed action. Include:

a. The category (sec. 31.2) of the proposed action.

b. A finding that no extraordinary circumstances exist (see. 30.5).

3. *Public Involvement.* List any interested and affected agencies, organizations, and persons contacted.

4. *Findings required by other laws.* Include any findings required by any other laws. For example, findings of consistency with the Forest Land and Resource Management Plan as required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12); or a public interest determination (36 254.3(c) and FSM 5430.3).

5. *Implementation date.* Include the date when the responsible official intends to implement the decision, and identify any conditions related to implementation (sec. 50.3).

6. *Administrative review or appeal opportunities.* State whether the decision is subject to review or appeal, cite the applicable regulations, and identify when and where to file a request for review of appeal.

7. *Contact Person.* Include the name, address, and phone number of a contact person who can supply further information about the decision.

8. *Signature and Date.* The responsible official must sign and date the decision memo on the date the decision is made.

33 Notice and Distribution of Decision Memo

Distribute a decision memo as soon as it is signed to agencies, organizations, and persons interested in or affected by the proposed action.

1. The responsible official shall promptly mail the decision memo to those who requested it.

2. As a minimum, for a decision subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the decision memo and a summary of the decision as required by 36 CFR part 217. The responsible official may elect to publish the complete text of the decision memo.

3. The responsible official may provide other forms of notice appropriate to the importance of the decision.

4. The responsible official shall enter the date of the decision memo on the schedule of proposed actions (sec. 07).

5. When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contract or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 40—Environmental Assessments and Related Documents

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Chapter 40—Environmental Assessments and Related Documents

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

41 Environmental Assessments

Prepare environmental assessments (EA's) to document the results of environmental analyses and to disclose the environmental consequences for proposed actions that are not categorically excluded from documentation and for which the need for an environmental impact statement has not been determined.

The CEQ Regulations provide that an environmental assessment is not necessary if the agency had decided to prepare an environmental impact statement (40 CFR 1501.3(a)). Therefore, if, prior to completion of the environmental assessment, the responsible official determines an environmental impact statement should be prepared, discontinue the environmental assessment documentation, prepare a notice of intent (sec. 21), and proceed with the preparation of an environmental impact statement (ch. 20).

41.1 Purpose of Environmental Assessments

The purpose of an environmental assessment is to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary. (40 CFR 1508.9(a))

41.2 Content

An environmental assessment may be prepared in any format useful to facilitate planning, decisionmaking, and public disclosure as long as the requirements of this chapter are met. The length and detail of an environmental assessment may vary according to the complexity of the issues involved in the analysis. An environmental assessment:

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. (40 CFR 1508.9(b))

42 Other Considerations in Preparing Environmental Assessments

42.1 Tiering

Tier EA's to other environmental documents of broader scope to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision. See sections 05, 22.31, and 25.3 for additional information about tiering.

42.2 Adoption

Adopt other existing EA's or portions thereof to eliminate duplication and reduce excessive paperwork if the document meets Forest Service standards and requirements. Sections 22.32 and 25.2(c) contain additional guidance on adoption.

42.3 Incorporation by Reference

Incorporate material into EA's by reference when the result will be to cut down on bulk without impeding agency and public review of the proposed action and alternatives. Include a brief summary of the material being incorporated by reference. See section 22.33 for additional guidance on incorporation by reference.

43 Documentation of Decisions

43.1 Finding of No Significant Impact (FONSI)

When an environmental assessment has been prepared, the responsible official shall review the document and determine whether the proposed action may have significant effect on the quality of the human environment. The CEQ Regulations define a finding of no significant impact (FONSI) as:

* * * a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded ({1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it ({1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference. (40 CFR 1508.13)

If the responsible official determines that the proposed action may have a significant effect on the quality of the human environment, publish a notice of intent to prepare an environmental impact statement (ch. 20) in the **Federal Register.** Otherwise, prepare a FONSI. A FONSI may be separate document or included as part of a decision notice (sec. 43.2).

Use the criteria in the definition for "significantly," section 05, for determining whether the action will have a significant effect on the human environment.

In some situations, a FONSI must be available for a minimum of 30 days before a decision to implement a proposed action can be made (sec. 44).

For additional guidance on FONSI's, see sec. 65.12 CEQ 40 Most Asked Questions, questions 37a, 37b, 38, 39, and 40.

43.2 Decision Notice

If an environmental assessment and a FONSI have been prepared, document the decision to proceed with an action or activity in a decision notice. The responsible official shall read and concur in the environmental assessment and finding of no significant impact prior to signing a decision notice.

If a FONSI cannot be prepared because the proposed action may have a significant effect on the environment, a decision notice is not required. If this is the case, prepare and issue a notice of intent to prepare an environmental impact statement. Note the status of the environmental analysis on the schedule of proposed actions (sec. 07.1).

When the Chief or Secretary is the responsible official, the appropriate field unit or Washington Office (WO) staff(s) prepares the decision notice with assistance from the WO Environmental Coordination Staff. The WO Environmental Coordination Staff coordinates the review and signing of the decision notice, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary as necessary. The signed original is retained in WO Environmental Coordination files.

The WO Environmental Coordination Staff then forwards a copy to the appropriate field unit or WO staff for necessary distribution.

43.21 Format and Content

Decision notices should reflect the conclusions drawn and the decision(s) made from the analysis documented in the environmental assessment. Generally, they should conform to the following format and content suggestions. Sections may be combined or rearranged in the interest of clarity and brevity.

1. *Heading.* The heading must identify:

a. Title of document (Decision Notice or Decision Notice and Finding of No Significant Impact).

b. Agency.

c. The title of the proposed action.

d. The location of the proposed action, including administrative unit, county, State. In some cases, it may be appropriate to include the legal land description.

2. *Decision and Reasons for the Decision.* Describe the selected alternative and the nature of the decision. In addition, this section identifies:

a. Applicable laws, regulations, and policies.

b. How issues were considered.

c. Factors other than environmental effects considered in making the decision.

d. Identification of environmental document(s) considered in making the decision.

e. How considerations in the preceding paragraphs a–d were weighed and balanced in arriving at the decision.

3. *Alternatives considered.* All alternatives considered, including the no-action alternative, should be briefly discussed with specific citations to relevant information in the environmental assessment.

Relevant mitigation measures, management requirements, and monitoring provisions should be discussed with specific citations to pages of the environmental assessment.

4. *Public involvement.* Provide a brief summary of how the public was involved in the analysis.

Persons or groups raising issues or asserting opposing viewpoints may be identified and their views discussed in light of the decision.

5. *Finding of No Significant Impact (FONSI).* The decision notice must either contain or refer to a finding of no significant impact (sec. 43.1).

6. *Findings required by other laws and regulations.* Include any findings required by any other laws which apply to the decision being made. For example, findings regarding consistency

with the forest plan, suitability for timber production, and vegetation management criteria required by the National Forest Management Act and 36 CFR part 219.

7. *Implementation date.* Identify the date when the responsible official intends to implement the decision (sec. 52).

8. *Administrative review or appeal opportunities.* State whether the decision is subject to administrative review or appeal, cite the applicable regulations, and indicate when and where to file a request for review or appeal.

9. *Contact person.* Identify the name, address, and phone number of a contact person who can supply additional information.

10. *Signature and Date.* The responsible official must sign and date the decision notice on the date the decision is made.

44 Notice and Distribution of Fonsi and Decision Notice

Distribute EA's, decision notices, and FONSI's to agencies, organizations, and persons interested in or affected by the proposed action.

Under certain circumstances, the responsible official may issue a FONSI and decision notice separately.

The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent. (40 CFR 1501.4(e)(2))

In such cases the FONSI must be issued first in accordance with the following CEO rule:

* * * the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. (40 CFR 1501.4(2))

The responsible official shall promptly mail the FONSI and decision notice to those who, in writing, have requested it and to those who are known to have participated in the decisionmaking process.

As a minimum, for a decision subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the decision notice and a summary of the decision as required by 36 CFR part 217. The responsible official may elect to publish the complete text of the decision notice.

The responsible official may provide other forms of notice appropriate to the nature and scope of the decision.

The responsible official shall enter the date of the FONSI and the decision notice on the schedule of proposed actions (sec. 07).

When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 50—Implementation and Monitoring

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Chapter 50—Implementation and Monitoring

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type in the text of this chapter.

50.3 Policy

Commitments for mitigation and monitoring included in the final environmental impact statement (EIS) and record of decision, a finding of no significant impact (FONSI) and decision notice, or a decision memo must be met.

51 Implementing Decisions Documented in a Record of Decision

A decision documented in a record of decision can be implemented no sooner than 30 days following the date the Environmental Protection Agency publishes the Notice of Availability of the related final EIS in the **Federal Register** (40 CFR 1506.10).

52 Implementing Decisions Documented in a Decision Notice

When a proposed action is similar to one that normally requires an EIS or when the nature of a proposed action is without precedent, do not implement the decision until after the decision notice and a FONSI have been available for public review for 30 days (40 CFR 1501.4(e)(2)).

At the end of the 30-day period, consider public comment and implement the decision, or publish a notice of intent to prepare an EIS.

53 Monitoring

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring. (40 CFR 1505.3)

In addition to complying with relevant monitoring requirements of an existing Forest Land and Resource Management Plan (FSH 1909.12, Ch. 6), monitor actions to ensure that:

1. Mitigation measures and terms and conditions of permits or other land use authorizations are met.

2. Anticipated results are achieved.

3. Necessary adjustments are made to achieve desired results.

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[FR Doc. 92-22569 Filed 9-17-92; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Chicopa Creek Watershed a Part of Black Creek Watershed, Mississippi; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR part 650); U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Black Creek Watershed, Carroll and Holmes Counties, Mississippi to cover work in the Chicopa Creek Watershed.

FOR FURTHER INFORMATION CONTACT: L. Pete Heard, State Conservationist, Soil Conservation Service, Suite 1321, A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone (601) 965-5205.

SUPPLEMENTARY INFORMATION: An environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, L. Pete Heard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project. The Project Plan provides structural measures to cropland and county roads in the watershed. The planned works of improvement consists of 2.8 miles of dikes, one bridge replacement, 1200 linear feet of riprap bank protection and gully and road bank erosion control structures.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

The Watershed Plan/Environmental Assessment, is on file and may be reviewed by contacting L. Pete Heard at the location shown herein.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: September 2, 1992.

L. Pete Heard,

State Conservationist SCS, Jackson, Mississippi.

[FR Doc. 92-22629 Filed 9-17-92; 8:45 am]

BILLING CODE 2410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 920934-2234]

Voting Rights Act Amendments of 1992, Determinations Under Section 203

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the determinations of the Director of the Bureau of the Census as to which political jurisdictions are subject to the minority language assistance provisions of section 203 of the Voting Rights Act.

EFFECTIVE DATE: September 18, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Kominski, Chief, Education and Social Stratification Branch, Population Division, Bureau of the Census, U.S. Department of Commerce, Federal Building 3, room 2353, (301) 763-1154.

SUPPLEMENTARY INFORMATION: In August 1992, Congress amended the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq. (See Public Law 102-344.) Among other changes, the minority language assistance provision set forth in Section 203 of the Act was extended to August 6, 2007. Section 203 mandates that a political subdivision must provide language assistance to voters if (1) more than 5 percent or 10,000 of the voting age citizens are members of a single language minority who do not "speak or understand English adequately enough to participate in the electoral process" and (2) if the rate of citizens in the language minority group who have not completed the fifth grade is higher than the national rate of persons who have not completed the fifth grade.

If an Indian reservation meets the above criteria, a political subdivision that contains all or any part of that Indian reservation is covered by the minority language assistance provision set forth in section 203. Indian reservation is defined as any area that is an American Indian or Alaska Native area identified for the purposes of the 1990 decennial census. For the 1990 census, these areas were identified by the Bureau of Indian Affairs, state governments, and the Bureau of the Census. The statistical area identification involved American Indian tribes and nonprofit Alaska Native regional corporations.

The Director of the Bureau of the Census has the responsibility to determine which political jurisdictions are subject to the minority language assistance provisions of section 203. The political subdivisions obligated to comply with the requirements of section 203 of the Act, as amended, are listed in the attachment.

Section 203 also provides that "determinations of the Director of the Census under this subsection shall be effective upon publication in the **Federal Register** and shall not be subject to review in any court." Therefore, as of this date, those jurisdictions that are listed as covered by section 203 have a legal obligation to provide the minority language assistance prescribed by section 203 of the Act. Those jurisdictions subject to section 203 of the Act previously, but not included on the list below, are no longer obligated to comply with section 203. However, some jurisdictions that are not on this list are still subject to the minority language requirement of section 4(f)(4) of the Act. (See 28 CFR part 55 Appendix.)

Dated: September 15, 1992.

Barbara Everitt Bryant,

Director, Bureau of the Census.

State	Political jurisdiction	Group
Alaska	Aleutians East Borough	Eskimo.
Alaska	Aleutians West Census Area	Aleut.
Alaska	Bethel Census Area	American Indian (Athapascan).
Alaska	Bethel Census Area	American Indian (Tanaina).
Alaska	Bethel Census Area	Eskimo.
Alaska	Bristol Bay Borough	Eskimo.
Alaska	Dillingham Census Area	Eskimo.
Alaska	Kenai Peninsula Borough	Eskimo.
Alaska	Kodiak Island Borough	Aleut.
Alaska	Kodiak Island Borough	Eskimo.
Alaska	Lake and Peninsula Borough	Aleut.
Alaska	Lake and Peninsula Borough	American Indian (Athapascan).
Alaska	Lake and Peninsula Borough	Eskimo.
Alaska	Nome Census Area	Eskimo.
Alaska	North Slope Borough	Eskimo.
Alaska	Northwest Arctic Borough	Eskimo.
Alaska	Skagway-Yakutat-Angoon Census Area	American Indian (Tlingit).
Alaska	Southeast Fairbanks Census Area	American Indian (Athapascan).
Alaska	Valdez-Cordova Census Area	American Indian (Athapascan).
Alaska	Wade Hampton Census Area	Eskimo.
Alaska	Yukon-Koyukuk Census Area	American Indian (Athapascan).
Alaska	Yukon-Koyukuk Census Area	American Indian (Kuchin).
Alaska	Yukon-Koyukuk Census Area	Eskimo.
Arizona	Apache County	American Indian (Apache).
Arizona	Apache County	American Indian (Navaho).
Arizona	Apache County	American Indian (Zuni).
Arizona	Coconino County	American Indian (Havasupai).
Arizona	Coconino County	American Indian (Hopi).
Arizona	Coconino County	American Indian (Navaho).
Arizona	Gila County	American Indian (Apache).
Arizona	Graham County	Ameican Indian (Apache).
Arizona	Greenlee County	Hispanic.
Arizona	Maricopa County	American Indian (Pima).
Arizona	Maricopa County	American Indian (Yavapai).
Arizona	Maricopa County	Hispanic.
Arizona	Navajo County	American Indian (Apache).
Arizona	Navajo County	American Indian (Hopi).
Arizona	Navajo County	American Indian (Navaho).
Arizona	Pima County	American Indian (Pima).
Arizona	Pima County	Hispanic.
Arizona	Pinal County	American Indian (Apache).
Arizona	Pinal County	American Indian (Pima).
Arizona	Santa Cruz County	Hispanic.
Arizona	Yuma County	American Indian (Delta River Yuma).
Arizona	Yuma County	American Indian (Yuma).
Arizona	Yuma County	Hispanic.
California	Alameda County	Chinese.
California	Alameda County	Hispanic.
California	Colusa County	American Indian (Wintun).
California	Fresno County	Hispanic.
California	Imperial County	Hispanic.
California	Inyo County	American Indian (Spanish).
California	Kern County	Hispanic.
California	Kings County	Hispanic.
California	Lake County	American Indian (Spanish).
California	Los Angeles County	Chinese.
California	Los Angeles County	Filipino.
California	Los Angeles County	Hispanic.
California	Los Angeles County	Japanese.
California	Los Angeles County	Vietnamese.
California	Monterey County	Hispanic.
California	Orange County	Hispanic.
California	Orange County	Vietnamese.
California	Riverside County	Hispanic.
California	San Benito County	Hispanic.
California	San Bernardino County	Hispanic.
California	San Diego County	Hispanic.
California	San Francisco County	Chinese.
California	Santa Clara County	Hispanic.
California	Tulare County	Hispanic.
California	Ventura County	Hispanic.
Colorado	Alamosa County	Hispanic.
Colorado	Archuleta County	Hispanic.
Colorado	Bent County	Hispanic.
Colorado	Conejos County	Hispanic.
Colorado	Costilla County	Hispanic.
Colorado	La Plata County	American Indian (Ute).
Colorado	Las Animas County	Hispanic.
Colorado	Montezuma County	American Indian (Ute).
Colorado	Otero County	Hispanic.

State	Political jurisdiction	Group
Colorado	Rio Grande County	Hispanic.
Colorado	Saguache County	Hispanic.
Connecticut	Bridgeport Town (Fairfield County)	Hispanic.
Connecticut	Hartford Town (Hartford County)	Hispanic.
Connecticut	New Britain Town (Hartford County)	Hispanic.
Connecticut	Windham Town (Windham County)	Hispanic.
Florida	Broward County	American Indian (Mikasuki).
Florida	Broward County	American Indian (Muskogee).
Florida	Broward County	Hispanic.
Florida	Collier County	American Indian (Mikasuki).
Florida	Dade County	American Indian (Mikasuki).
Florida	Dade County	Hispanic.
Florida	Glades County	American Indian (Muskogee).
Florida	Hardee County	Hispanic.
Florida	Hendry County	American Indian (Mikasuki).
Florida	Hendry County	American Indian (Muskogee).
Florida	Hillsborough County	Hispanic.
Florida	Orange County	Hispanic.
Hawaii	Honolulu County	Filipino.
Hawaii	Honolulu County	Japanese.
Hawaii	Kauai County	Filipino.
Hawaii	Maui County	Filipino.
Idaho	Bannock County	American Indian (Shoshoni).
Idaho	Bingham County	American Indian (Shoshoni).
Idaho	Owyhee County	American Indian (Shoshoni).
Idaho	Power County	American Indian (Shoshoni).
Illinois	Cook County	Hispanic.
Iowa	Tama County	American Indian (Fox).
Louisiana	Avoyelles Parish	American Indian (French).
Massachusetts	Boston City (Suffolk County)	Hispanic.
Massachusetts	Chelsea City (Suffolk County)	Hispanic.
Massachusetts	Holyoke City (Hampden County)	Hispanic.
Massachusetts	Lawrence City (Essex County)	Hispanic.
Massachusetts	Springfield City (Hampden County)	Hispanic.
Michigan	Clyde Township (Allegan County)	Hispanic.
Michigan	Colfax Township (Oceana County)	Hispanic.
Michigan	Zilwaukee Township (Saginaw County)	Hispanic.
Mississippi	Jones County	American Indian (Choctaw).
Mississippi	Kemper County	American Indian (Choctaw).
Mississippi	Leake County	American Indian (Choctaw).
Mississippi	Neshoba County	American Indian (Choctaw).
Mississippi	Newton County	American Indian (Choctaw).
Mississippi	Winston County	American Indian (Choctaw).
Nevada	Elko County	American Indian (Shoshoni).
Nevada	Humboldt County	American Indian (Paiute).
New Jersey	Essex County	Hispanic.
New Jersey	Hudson County	Hispanic.
New Jersey	Middlesex County	Hispanic.
New Jersey	Passaic County	Hispanic.
New Jersey	Union County	Hispanic.
New Mexico	Bernalillo County	American Indian (Keres).
New Mexico	Bernalillo County	American Indian (Navaho).
New Mexico	Bernalillo County	American Indian (Tiwa).
New Mexico	Bernalillo County	Hispanic.
New Mexico	Chaves County	Hispanic.
New Mexico	Cibola County	American Indian (Keres).
New Mexico	Cibola County	American Indian (Navaho).
New Mexico	Cibola County	American Indian (Zuni).
New Mexico	Cibola County	Hispanic.
New Mexico	Colfax County	Hispanic.
New Mexico	Dona Ana County	Hispanic.
New Mexico	Eddy County	Hispanic.
New Mexico	Grant County	Hispanic.
New Mexico	Guadalupe County	Hispanic.
New Mexico	Harding County	Hispanic.
New Mexico	Hidalgo County	Hispanic.
New Mexico	Lea County	Hispanic.
New Mexico	Luna County	Hispanic.
New Mexico	McKinley County	American Indian (Navaho).
New Mexico	McKinley County	American Indian (Zuni).
New Mexico	Mora County	Hispanic.
New Mexico	Quay County	Hispanic.
New Mexico	Rio Arriba County	American Indian (Jicarilla).
New Mexico	Rio Arriba County	American Indian (Navaho).
New Mexico	Rio Arriba County	Hispanic.
New Mexico	Roosevelt County	Hispanic.
New Mexico	San Juan County	American Indian (Navaho).
New Mexico	San Miguel County	Hispanic.
New Mexico	Sandoval County	American Indian (Jicarilla).
New Mexico	Sandoval County	American Indian (Keres).

State	Political jurisdiction	Group
New Mexico	Sandoval County	American Indian (Navaho).
New Mexico	Sandoval County	American Indian (Towa).
New Mexico	Santa Fe County	Hispanic.
New Mexico	Socorro County	American Indian (Navaho).
New Mexico	Socorro County	Hispanic.
New Mexico	Taos County	American Indian (Tiwa).
New Mexico	Taos County	Hispanic.
New Mexico	Torrance County	Hispanic.
New Mexico	Union County	Hispanic.
New Mexico	Valencia County	American Indian (Keres).
New Mexico	Valencia County	American Indian (Tiwa).
New Mexico	Valencia County	Hispanic.
New York	Bronx County	Hispanic.
New York	Franklin County	American Indian (Mohawk).
New York	Kings County	Chinese.
New York	Kings County	Hispanic.
New York	New York County	Chinese.
New York	New York County	Hispanic.
New York	Queens County	Chinese.
New York	Queens County	Hispanic.
New York	Suffolk County	Hispanic.
New York	Westchester County	Hispanic.
North Dakota	Benson County	American Indian (Dakota).
North Dakota	Eddy County	American Indian (Dakota).
North Dakota	Ramsey County	American Indian (Dakota).
Oklahoma	Adair County	American Indian (Cherokee).
Oregon	Malheur County	American Indian (Paiute).
Pennsylvania	Philadelphia County	Hispanic.
Rhode Island	Central Falls City (Providence County)	Hispanic.
South Dakota	Dewey County	American Indian (Dakota).
South Dakota	Gregory County	American Indian (Dakota).
South Dakota	Lyman County	American Indian (Dakota).
South Dakota	Mellette County	American Indian (Dakota).
South Dakota	Todd County	American Indian (Dakota).
South Dakota	Tripp County	American Indian (Dakota).
South Dakota	Ziebach County	American Indian (Dakota).
Texas	Andrews County	Hispanic.
Texas	Atascosa County	Hispanic.
Texas	Bailey County	Hispanic.
Texas	Bee County	Hispanic.
Texas	Bexar County	Hispanic.
Texas	Brewster County	Hispanic.
Texas	Brooks County	Hispanic.
Texas	Caldwell County	Hispanic.
Texas	Calhoun County	Hispanic.
Texas	Cameron County	Hispanic.
Texas	Castro County	Hispanic.
Texas	Cochran County	Hispanic.
Texas	Comal County	Hispanic.
Texas	Concho County	Hispanic.
Texas	Crockett County	Hispanic.
Texas	Crosby County	Hispanic.
Texas	Culberson County	Hispanic.
Texas	Dallas County	Hispanic.
Texas	Dawson County	Hispanic.
Texas	Deaf Smith County	Hispanic.
Texas	Dewitt County	Hispanic.
Texas	Dickens County	Hispanic.
Texas	Dimmit County	Hispanic.
Texas	Duval County	Hispanic.
Texas	Ector County	Hispanic.
Texas	Edwards County	Hispanic.
Texas	El Paso County	American Indian (Spanish).
Texas	El Paso County	Hispanic.
Texas	Floyd County	Hispanic.
Texas	Frio County	Hispanic.
Texas	Gaines County	Hispanic.
Texas	Garza County	Hispanic.
Texas	Glasscock County	Hispanic.
Texas	Goliad County	Hispanic.
Texas	Gonzales County	Hispanic.
Texas	Guadalupe County	Hispanic.
Texas	Hale County	Hispanic.
Texas	Harris County	Hispanic.
Texas	Hays County	Hispanic.
Texas	Hidalgo County	Hispanic.
Texas	Hockley County	Hispanic.
Texas	Howard County	Hispanic.
Texas	Hudspeth County	Hispanic.
Texas	Irion County	Hispanic.

State	Political jurisdiction	Group
Texas	Jeff Davis County	Hispanic.
Texas	Jim Hogg County	Hispanic.
Texas	Jim Wells County	Hispanic.
Texas	Karnes County	Hispanic.
Texas	Kenedy County	Hispanic.
Texas	Kent County	Hispanic.
Texas	Kinney County	Hispanic.
Texas	Kleberg County	Hispanic.
Texas	La Salle County	Hispanic.
Texas	Lamb County	Hispanic.
Texas	Live Oak County	Hispanic.
Texas	Lubbock County	Hispanic.
Texas	Lynn County	Hispanic.
Texas	Martin County	Hispanic.
Texas	Maverick County	Hispanic.
Texas	McCulloch County	Hispanic.
Texas	McMullen County	Hispanic.
Texas	Medina County	Hispanic.
Texas	Menard County	Hispanic.
Texas	Midland County	Hispanic.
Texas	Mitchell County	Hispanic.
Texas	Moore County	Hispanic.
Texas	Nolan County	Hispanic.
Texas	Nueces County	Hispanic.
Texas	Parmer County	Hispanic.
Texas	Pecos County	Hispanic.
Texas	Polk County	American Indian (Alabama).
Texas	Presidio County	Hispanic.
Texas	Reagan County	Hispanic.
Texas	Reeves County	Hispanic.
Texas	Refugio County	Hispanic.
Texas	Runnels County	Hispanic.
Texas	San Patricio County	Hispanic.
Texas	Schleicher County	Hispanic.
Texas	Scurry County	Hispanic.
Texas	Starr County	Hispanic.
Texas	Sutton County	Hispanic.
Texas	Swisher County	Hispanic.
Texas	Tarrant County	Hispanic.
Texas	Terrell County	Hispanic.
Texas	Terry County	Hispanic.
Texas	Tom Green County	Hispanic.
Texas	Travis County	Hispanic.
Texas	Upton County	Hispanic.
Texas	Uvalde County	Hispanic.
Texas	Val Verde County	Hispanic.
Texas	Victoria County	Hispanic.
Texas	Ward County	Hispanic.
Texas	Webb County	Hispanic.
Texas	Wharton County	Hispanic.
Texas	Willacy County	Hispanic.
Texas	Wilson County	Hispanic.
Texas	Winkler County	Hispanic.
Texas	Yoakum County	Hispanic.
Texas	Zapata County	Hispanic.
Texas	Zavala County	Hispanic.
Utah	San Juan County	American Indian (Navaho).
Utah	San Juan County	American Indian (Ute).
Wisconsin	Curtiss Village (Clark County)	Hispanic.

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BILLING CODE 3510-07-M

Bureau of Export Administration

Iran Air; Two Week Stay of Final 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 and imposes as sanctions against Iran Air a civil penalty of $100,000 and a denial of Iran Air's U.S. export privileges for a period of 24 months, 21 months of which will be suspended if the civil penalty is paid within 30 days and provided Iran Air commits no further violations.

Iran Air filed an emergency motion for stay of the Final Order with the U.S. Court of Appeals for the District of Columbia Circuit (Docket No. 92-1389), which entered an order on September 11, 1992, as follows:

Order

Upon consideration of the renewed emergency motion for stay of agency order and the opposition thereto, it is

Ordered that the final order of the Acting Under Secretary for the Bureau of Export Administration dated August 21, 1992 be stayed for a period of two weeks from the date of this order. Within two weeks from the date of this order, Iran Air shall file with the

court affidavits from Iran Air's corporate officers and/or employees addressing the harm to Iran Air and the absence of a stay. The purpose of this administrative stay is to give the court sufficient opportunity to consider the merits of the renewed emergency motion for stay and should not be construed in any way as ruling on the merits of the motion. *See D.C. Circuit Handbook of Practice and Internal Procedures* 39 (1987).

Per Curiam

Accordingly, by order of the court, the August 21, 1992, Final Order is stayed until September 25, 1992.

During the time this stay is in effect, the Bureau of Export Administration will continue to consider and act upon proposals that it authorize exceptions from the August 21, 1992, denial order, so that any authorized exceptions will be immediately available upon termination of the stay.

Dated: September 15, 1992.

Joan M. McEntee,

Acting Under Secretary for Export Administration, Bureau of Export Administration, Department of Commerce.

[FR Doc. 92-22727 Filed 9-16-92; 10:36 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-475-703]

Granular Polytetrafluoroethylene Resin From Italy; Preliminary Affirmative Determination of Circumvention of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary affirmative determination of circumvention of antidumping duty order.

SUMMARY: On November 21, 1991, the Department of Commerce initiated an inquiry into the possible circumvention of the antidumping duty order on granular polytetrafluoroethylene resin from Italy. This anti-circumvention inquiry covers one manufacturer/exporter of this product and a related party in the United States. The period of this inquiry is July 1, 1990 through October 31, 1991.

We preliminarily determine that the companies investigated are circumventing the antidumping duty order on granular polytetrafluoroethylene resin from Italy. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: August 31, 1992.

FOR FURTHER INFORMATION CONTACT: David S. Levy or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1988, the Department of Commerce (the Department) published in the **Federal Register** (53 FR 33163) an antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. On October 15, 1991, the petitioner, E.I. Du Pont de Nemours & Company, Inc. (Du Pont), alleged that certain parties were circumventing the antidumping duty order on granular PTFE resin, and requested that the Department investigate the matter.

The petitioner alleges that Montefluos, S.p.A. (Montefluos), an Italian manufacturer of granular PTFE resin, is circumventing, within the meaning of section 781(a) of the Tariff Act of 1930, as amended (the Tariff Act), the antidumping duty order on granular PTFE resin. According to the petitioner, Montefluos is exporting PTFE wet raw polymer, which is currently not subject to antidumping duties, from Italy to a related party in the United States, Ausimont, U.S.A. (Ausimont), which processes the PTFE wet raw polymer into granular PTFE resin.

The petitioner requested that the Department conduct this anti-circumvention inquiry in accordance with section 781(a) of the Tariff Act. See also 19 CFR 353.29(e). On November 21, 1991, pursuant to petitioner's allegations and in accordance with 19 CFR 353.29(c), the Department initiated an inquiry into the possible circumvention of the antidumping duty order on granular PTFE resin from Italy (56 FR 64588, December 11, 1991).

On December 2, 1991, the Department issued an initial request for information to Montefluos and Ausimont. We received timely responses to this initial request for information on December 16, 1992. Subsequently, we requested and received additional information from these companies.

Scope of the Antidumping Duty Order

Products covered by the antidumping duty order are granular PTFE resins, filled or unfilled. The antidumping duty order explicitly excludes PTFE dispersions in water and PTFE fine powders. During the period of this anti-circumvention inquiry, such merchandise was classified under item number 3904.61.90 of the Harmonized Tariff Schedule (HTS). We are providing this HTS number for convenience and customs purposes only. The written description of scope remains dispositive.

Scope of the Anti-Circumvention Inquiry

The product subject to this anti-circumvention inquiry is PTFE wet raw polymer, manufactured in and exported from Italy by Montefluos. PTFE wet raw polymer is the intermediate product from which Ausimont manufactures granular PTFE resin in the United States. Our period of inquiry was July 1, 1990, through October 31, 1991. However, as explained below, our examination of qualitative factors and the pattern of imports of the finished and intermediate products subject to this inquiry is based, in part, on data and events from outside this period.

Nature of the Anti-Circumvention Inquiry

Section 781(a)(1) of the Tariff Act provides that if:

(A) Merchandise of the same class or kind as that covered by an existing antidumping or countervailing duty order is being sold in the United States;

(B) Such merchandise sold in the United States is completed or assembled in the United States from parts or components which were produced in the country with respect to which the order or finding applies; and

(C) The difference between the value of the completed merchandise sold in the United States and the value of the imported parts or components from the country with respect to which the antidumping order or finding applies is small,

the Department, after taking into consideration any advice which the U.S. International Trade Commission provides, may include those parts or components within the scope of that antidumping duty order or finding.

In reaching a determination of whether to include parts or components within the scope of a finding or order, section 781(a)(2) of the Tariff Act directs the Department to consider such factors as (1) The pattern of trade, (2) whether the manufacturer or exporter of the parts or components is related to the entity that assembled or completed the merchandise sold in the United States, and (3) whether imports of the parts or components from the country with respect to which the antidumping duty order or finding applies have increased after issuance of that order or finding.

While we have considered each of the three factors stipulated in the statute, we have not limited our analysis to those factors. Our review of the legislative history of this provision indicates that we may properly consider

other factors before rendering an anti-circumvention determination. See S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987). Therefore, as in previous determinations, we have considered the nature of the processing performed in the United States, the extent of respondents' U.S. production facilities, and the level of respondent' U.S. investment. (See Portable Electric Typewriters from Japan; Negative Preliminary Determination of Circumvention of Antidumping Duty Order, 56 FR 46594 (1991) (PETs Prelimiary); Certain Internal-Combustion Industrial Forklift Trucks From Japan; Negative Preliminary Determination of Circumvention of Antidumping Duty Order, 54 FR 50260, 50261 (1989) (Forklifts Preliminary).)

I. Statutory Criteria

As stated above, the statute sets forth three criteria that must be met in order for the Department to make an affirmative determination of circumvention pursuant to section 781(a) of the Tariff Act. Therefore, we have examined the class or kind of merchandise manufactured and sold in the United States by Ausimont, whether Ausimont fabricates granular PTFE resin in the United States from material produced in the country to which the antidumping duty order applies, and the difference in value between the PTFE wet raw polymer imported from Italy by Ausimont and the granular PTFE resin produced and sold in the United States by Ausimont.

Class or Kind

The granular PTFE resin sold in the United States is the same class or kind of merchandise as the granular PTFE resin covered by the antidumping duty order. Ausimont and Montefluos state that the only difference between imported granular PTFE resin and that finished in the United States is that the product produced in the United States is whiter and purer than the imported product as a result of the more sophisticated production process employed in the United States. The imported product and that produced in the United States are the same in all other respects. Ausimont and Montefluos do not argue that the granular PTFE resin finished in the United States is marketed or distributed differently from granular PTFE resin imported from Italy. Further, Ausimont and Montefluos do not argue that the granular PTFE resin produced in the United States is offered to different customers than those that purchase the imported product. Indeed, in noting that its U.S. customers typically prefer the granular PTFE resin manufactured in the United States to that imported from Italy, Ausimont implies that both products are offered for sale to the same customers. Thus, we determine that the product sold in the United States is the same class or kind of merchandise as the product subject to the antidumping duty order.

U.S. Assembly From Imported Components

Ausimont produces granular PTFE resin in the United States from imported PTFE wet raw polymer. The PTFE wet raw polymer is produced entirely in Italy and exported to the United States by Montefluos. Therefore, we determine that the merchandise sold in the United States is completed from components that were produced in the country with respect to which the antidumping duty order applies.

Difference in Value

In this anti-circumvention inquiry, we based our analysis of the difference in value on both a quantitative analysis of the differences between the finished merchandise and the imported merchandise, and a qualitative analysis of the nature of the processing performed by respondent's, the extent of respondents' U.S. production facilities, and the level of respondents' U.S. investment. Such an analysis is consistent with our analysis in previous anti-circumvention inquiries. (See, *e.g.*, PETs Preliminary 56 FR at 46596; Forklifts Preliminary, 54 FR at 50262.)

Preliminary Calculation of Difference in Value

We calculated the difference in value between the granular PTFE resin completed and sold in the United States and the value of PTFE wet raw polymer, manufactured in and imported from Italy, that is used in the production of the subject merchandise. To compute the absolute difference in value, we deducted the value of the imported article from the value of the completed merchandise. We than calculated the percantage difference in value by dividing the absolute difference in value by the value of the completed merchandise.

Value of Completed Merchandise

We used the weighted-average, monthly, ex-factory selling price of the finished granular PTFE resin on a grade-specific basis to represent the value of granular PTFE resin. Where applicable, we deducted U.S. inland freight from the reported selling prices to derive the ex-factory price of the finished granular PTFE resin.

Value of Imported Material

Montefluos did not sell PTFE wet raw polymer to, or purchase it from, unrelated parties. Furthermore, because there is virtually no market for PTFE wet raw polymer, we have no other source of observed market prices for PTFE wet raw polymer. Therefore, for purposes of determining the value of the imported PTFE wet raw polymer, we conducted a market price validity test to determine whether Montefluos' transfer prices to Ausimont provided an appropriate basis for determining the value of the imported PTFE wet raw polymer. We compared Montefluos' cost of production to the reported transfer prices to test the validity of the reported transfer prices. Based on these comparisons, we used Montefluos' cost of production as the basis for determining the value of the PTFE wet raw polymer because, on average, it was higher than the transfer prices that Montefluos charged Ausimont for the PTFE wet raw polymer. We included in our calculation of the value of the PTFE wet raw polymer all movement charges not captured in the reported production costs because Ausimont incurred such charges. Finally, we allocated a portion of Ausimont's general expenses and profit to the value of the PTFE wet raw polymer using the ratio of the cost of production of the PTFE wet raw polymer to the total cost of the finished granular PTFE resin. Using this method of calculating the values of the imported and finished products, we found that the difference in value was between 38 and 55 percent. (Since the precise figure is business proprietary information, the stated percentage is approximated within a range of plus or minus 10 percent).

However, we believe that the method described above significantly overstates the actual difference in value in this case because Ausimont incurred losses during the period of inquiry. Ausimont incurred these losses, at least in part, due to the fact that its U.S. production facility, which began operation in December 1990, did not operate at full capacity during the period of inquiry. (See Affirmative Preliminary Determination of Circumvention of Antidumping Duty Order on Granular PTFE Resin From Italy—Preliminary Difference in Value Analysis, Memorandum for the File From Case Analyst, August 31, 1992.) In this instance, given our method of calculating the difference in value, the allocation of those losses appears to reduce the value of PTFE wet raw polymer. We note that the calculated

difference in value decreases significantly if Ausimont's losses are not allocated to the value of PTFE wet raw polymer. (*Id.*) Because we know that the calculated difference in value is significantly inflated by the fact that Ausimont's U.S. facility was not operating at full capacity during the period of inquiry, we determine that, under these circumstances, the calculation does not provide a realistic measure of the true difference in value between PTFE wet raw polymer and granular PTFE resin. Therefore, we determine that it is both necessary and appropriate to place greater emphasis on our examination of the nature of Ausimont's U.S. processing, the extent of Ausimont's U.S. production facilities, and the level of Ausimont's U.S. investment in making our determination regarding the difference in value.

Nature of Processing

According to the description of the production process provided by the International Trade Commission (ITC), PTFE wet raw polymer is (1) Wet cut to achieve desired particle size, and (2) pelletized and dried to produce granular PTFE resin. Additionally, the ITC states that the pelletized resin can be ground to produce fine-cut granular PTFE resins, or ground and heated to just below the melting point to produce presintered granular PTFE resins (see ITC Final Determination, USITC Pub. 2042, August 1988 at A–5). Ausimont's U.S. production process for manufacturing various types of granular PTFE resin from PTFE wet raw polymer is, in general, the same as that described by the ITC.

In attempting to assess the value added by Ausimont's U.S. production process, we have analyzed that process in the context of the complete integrated production process for granular PTFE resin. The process begins with the production of tetrafluoroethylene (TFE) monomer. Production of TFE monomer involves the production of hydrogen fluoride and chloroform, which are combined and then converted to TFE monomer through a procedure known as pyrolysis. Because pyrolysis yields by-products that adversely affect TFE monomer polymerization, the TFE monomer must be purified using an extremely complex refinement process (Kirk-Othmer, Encyclopedia of Chemical Technology, 1980, Vol. 11 at 3).

After purification, the TFE monomer, which is stored in liquid form, is subject to a process known as suspension polymerization, which is also fairly complex. During this process, the TFE monomer is combined with an initiator and vigorously agitated to produce the solid raw polymer, which is the product being imported by Ausimont (see *id.* at 6). After polymerization, the product enters the post-treatment stage, in which the polymer is cut and dried. As described above, it is only this post-treatment stage that Ausimont performs in the United States.

The PTFE wet raw polymer that is produced by suspension polymerization has the fundamental chemical characteristics of granular PTFE resin. It is the suspension polymerization process itself that distinguishes granular PTFE resin from such other forms of PTFE resin as aqueous dispersions or fine powders. After suspension polymerization, the product has assumed a solid form that has the exact same chemical composition as granular PTFE resin. Ausimont does not add any additional materials to PTFE wet raw polymer, nor does it alter in any way the chemical composition of PTFE wet raw polymer. Rather, Ausimont performs the post-treatment operations described by the ITC.

In previous anti-circumvention inquiries involving production of a finished product in the United States from imported components, we have found that the difference in value is not small in part because respondents performed a variety of complex operations and added numerous materials to the imported components that fundamentally altered the nature of the imported components. (See PETs Preliminary, 56 FR at 46596; Forklifts Preliminary, 54 FR at 50262). However, in this instance, Ausimont has not added to the material composition of the imported product within the United States, and has not fundamentally altered the nature of the imported product. Based on the descriptions of the various stages of the production process, and in light of the fact that Ausimont does not add to or fundamentally alter the product in the United States, we determine that Ausimont's U.S. production process is not complex relative to the production and suspension polymerization of TFE monomer.

Extent of Production Facilities and Level of Investment

After closing an existing PTFE production facility in 1988, Ausimont began construction in 1989 of a new facility for the production of PTFE products from imported PTFE wet raw polymer. As discussed above, Ausimont performs only the post-treatment phase of granular PTFE resin production at its current U.S. facility. Ausimont contends that it invested a substantial amount of money not only in the construction of a new factory building, but also in the purchase of the sophisticated machinery required to produce granular PTFE resin from PTFE wet raw polymer. (The actual amount of Ausimont's investment is business proprietary information.) However, Ausimont did not indicate the extent of the production facility that it closed in 1988. Therefore, we lack a basis for determining the degree to which the extent of Ausimont's U.S. operations has changed, and the relative size of Ausimont's investment in its current U.S. facility. Further, we have no evidence regarding the level of investment that would be required to build an integrated facility in the United States for the production of granular PTFE resin. Thus, we have insufficient information to conclude that Ausimont's current U.S. production facility is extensive, or that it constitutes a significant investment in the United States.

In previous anti-circumvention inquiries involving production of a finished product in the United States from imported components, we have determined that the difference in value is not small in part because the extent of respondents' U.S. facilities was similar to that of their home market facilities, and because respondents made a significant investment in U.S. production facilities comparable in scale to production facilities in the home market. (*Id.*) However, we have insufficient information to determine whether respondents have made a significant investment in the United States.

In sum, we determine that the nominal, calculated difference in value presented above is inflated because Ausimont's U.S. facility is not operating at full capacity, and, therefore, does not provide a realistic measure of the true difference in value between PTFE wet raw polymer and granular PTFE resin. We further determine that the nature of Ausimont's U.S. processing is not complex relative to the processing performed in Italy. Finally, we determine that we lack sufficient evidence regarding the extent of Ausimont's U.S. facility and the level of its U.S. investment to conclude that Ausimont has established substantial production facilities in the United States. Therefore, we preliminarily determine that Ausimont's U.S. operations are mere finishing operations, and that Ausimont has made only a "slight change in [its] method of production or shipment." (S. Rep. No. 71, 100th Cong., 1st Sess. 101 (1987)). Thus, based on our analysis of the quantitative and qualitative factors discussed above, we preliminarily

determine that the difference in value is small in this instance. However, we intend to request additional information from respondents regarding the overall production process and the extent of Ausimont's investment in the United States subsequent to our issuance of this preliminary determination.

II. Factors

Having preliminarily determined that (1) The merchandise sold in the United States is of the same class or kind of merchandise as that subject to the antidumping duty, (2) the merchandise sold in the United States is completed in the United States from components imported from the country to which the antidumping duty order applies, and (3) the difference in value between the imported product and that sold in the United States is small, we have also examined the factors contained in the statute in making our preliminary determination in this inquiry. Thus, we have examined the pattern of trade, relationship between the parties, and the level of imports.

Pattern of Trade

In analyzing the pattern of trade, we examined the quantity of granular PTFE resin and PTFE wet raw polymer that Montefluos shipped to the United States between the issuance of the antidumping duty order in August 1988 and October 1991. After reaching peak levels in 1989, Montefluos' shipments of granular PTFE resin began to decline. By 1991, Montegluos' shipments of granular PTFE resin fell to less than half their 1989 level. Concurrently, Montefluos began shipping PTFE wet raw polymer to the United States in 1990. In 1991, Montefluos shipped nearly four times as much PTFE wet raw polymer to the United States as it did in 1990. Furthermore, Montefluos' shipments of PTFE wet raw polymer to the United States exceeded its shipments of granular PTFE resin to the United States in 1991.

The shift in Montefluos' pattern of trade away from shipments of granular PTFE resin toward shipments of PTFE wet raw polymer coincides with the commencement of operations, in December 1990, at Ausimont's new U.S. production facility, which produces granular PTFE resin from imported PTFE wet raw polymer. Neither Montefluos nor Ausimont sold PTFE wet raw polymer to unrelated parties in the United States during the period of inquiry; all of Montefluos' shipments of PTFE wet raw polymer went to Ausimont for production of granular PTFE resin (and small amounts of related products) at Ausimont's U.S. facility. Thus, the decline in Montefluos' shipments of granular PTFE resin and the increase in shipments of PTFE wet raw polymer, used solely by Ausimont for the production of granular PTFE resin in the United States, indicate that Montefluos and Ausimont are supplanting sales of imported granular PTFE resin with sales of granular PTFE resin processed in the United States from imported PTFE wet raw polymer.

Relationship

We typically consider circumvention to be more likely when the manufacturer/exporter of the parts or components is related to the party completing or assembling merchandise in the United States using the imported components. In this instance, the manufacturer of PTFE wet raw polymer, Montefluos, is related to Ausimont, the company that produced and sold finished granular PTFE resin in the United States.

Increase in Imports

Imports of PTFE wet raw polymer from Montefluos did not begin until after the issuance of the antidumping duty order. As stated above in our analysis of the pattern of trade, such imports increased nearly fourfold during the period of inquiry. Montefluos is the only known exporter of this merchandise from Italy.

Preliminary Affirmative Determination of Circumvention

We preliminarily determine that respondent is circumventing the antidumping duty order within the meaning of section 781(a) of the Tariff Act. Based on our analysis of the facts and circumstances present in this inquiry, we find that the difference between the value of granular PTFE resin sold in the United States and the value of imported PTFE wet raw polymer is small for this industry. Further, we find that the pattern of trade, the relationship between the parties, and the volume of imports are consistent with a finding of circumvention of the antidumping duty order. We note that our determination of "small" in this case is not necessarily synonymous with the determination of "small" that the Department will formulate in future anti-circumvention inquiries, because Congress has directed us to make such determinations on a case-by-case basis.

Because we have preliminarily determined that Ausimont and Montefluos are circumventing the antidumping duty order on granular PTFE resin from Italy, we have preliminarily determined to include PTFE wet raw polymer within the scope of this order. We are notifying Customs of this decision, and requesting that Customs suspend liquidation of imports of PTFE wet raw polymer from Italy at the current cash deposit rate for Montefluos.

Interested parties may request disclosure within five days of publication of this determination, and may request a hearing within ten days of publication. If requested, we will hold a public hearing one week after receipt of rebuttal briefs. Case briefs and/or written comments from interested parties may be submitted not later than two weeks after publication of this preliminary determination. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than one week after submission of case briefs. The Department will publish its final determination in this anti-circumvention inquiry, including the results of its analysis of any written or oral comments. Because we have preliminarily determined that Montefluos and Ausimont are circumventing the antidumping duty order on granular PTFE resin, we have notified the ITC in accordance with section 781(e) of the Tariff Act. We will issue our final determination on the latter of either (1) 15 days after receiving advice from the ITC, (2) three weeks after receipt of rebuttal briefs, or (3) if we hold a public hearing, three weeks after that hearing.

This preliminary affirmative determination of circumvention is in accordance with section 781(a) of the Tariff Act (19 U.S.C. 1677j(a)).

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-22661 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-831-803, A-832-803, A-822-803, A-447-803, A-938-803, A-834-803, A-835-803, A-449-803, A-451-803, A-841-803, A-821-803, A-842-803, A-843-803, A-823-803, A-844-803]

Titanium Sponge From the Baltic States and the Former Republics of the Soviet Union; Determination not to Revoke the Antidumping Findings on Titanium Sponge From the Baltic States and the Former Republics of the Soviet Union

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Determination not to revoke antidumping findings.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping findings on titanium sponge from the Baltic states and the former republics of the Soviet Union.

EFFECTIVE DATE: September 18, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC; telephone (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 34117) its intent to revoke the antidumping finding on titanium sponge from the U.S.S.R. (33 FR 12138; August 28, 1968). The Department may revoke a finding if the Department concludes that the finding is no longer of interest to parties. We had not received a request for an administrative review of this finding for the last four consecutive anniversary months, and therefore published a notice of intent to revoke pursuant to 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)).

On August 12, 1992, the Department transferred the finding to each of the Baltic states and the former republics of the Soviet Union (57 FR 36070).

On August 26, 1992, the Oregon Metallurgical Corporation, an interested party, objected to our intent to revoke the finding on titanium sponge from the U.S.S.R. Also on August 26, 1992, the Titanium Metals Corporation, an interested party, objected to our intent to revoke the findings on any of the Baltic states or former republics of the Soviet Union. Therefore, we no longer intend to revoke the findings.

Dated: September 10, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-22659 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-808]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination: Ferrosilicon From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 18, 1992.

FOR FURTHER INFORMATION CONTACT: Paulo Mendes, 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.

Alignment of Antidumping and Countervailing Duty Cases

On August 25, 1992, we published a preliminary affirmative countervailing duty determination pertaining to ferrosilicon from Venezuela (57 FR 38482). The notice stated that we would make our final countervailing duty determination by October 29, 1992.

On August 24, 1992, in accordance with section 705 (a)(1) of the Tariff Act of 1930, as amended (the "Act"), we received a request from petitioner to align the due date for the final countervailing duty determination with the date of the final determination in the antidumping duty investigation of ferrosilicon from Venezuela. Accordingly, we are extending the final determination in this countervailing duty investigation to not later than January 12, 1993.

In accordance with section 705 of the Act, and 19 CFR 355.20(c)(ii), the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty proceeding as of December 24, 1992. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters the United States on or after December 24, 1992. This suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to maintain the suspension of any entries suspended between August 24, 1992 and December 23, 1992, until the conclusion of this investigation.

The U.S. International Trade Commission is being advised of this postponement. This notice is published pursuant to section 705(d) of the Act.

Dated: September 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-22660 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce. The Caribbean Fishery Management Council (Council) and the Council's Administrative Committee will hold public meetings on September 22-25, 1992, in the Conference Room, Hotel on the Cay, Christiansted, St. Croix, U.S. Virgin Islands. Fishermen and other interested persons are invited to attend the meetings, which will be conducted in English. The public may submit oral or written statements regarding the agenda items.

Council—The Council will hold its 76th regular public meeting on September 23 at 9 a.m. and adjourn at 5 p.m. to discuss the Queen Conch, Shallow-Water Reef Fish, and Coral Fishery Management Plans. On September 24 the Council will reconvene at 9 a.m. and adjourn at 3:30 p.m. and meet on September 25 at 9:00 a.m. with adjournment at 12:00 noon.

Administrative Committee—The Committee will begin its public meeting on September 22 at 2 p.m. to discuss matters pertaining to the Council's administrative operations, and adjourn at 5 p.m.

For more information contact Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918-2577, telephone: (809) 766-5926.

Dated: September 14, 1992.

David S. Crestin,

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

[FR Doc. 92-22666 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Add Agenda Item and Change Meeting Date

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The agenda and date of a public meeting of the North Pacific Fishery Management Council (Council), originally published in the **Federal Register** at 57 FR 39671, on September 1, 1992, are changed as follows. The changes are noted below; all other information originally published at 57 FR 39671, remains unchanged.

Add agenda item: Review of a request submitted by Terra Marine Research & Education for an experimental fishing permit.

Change executive session meeting date from: September 22, 1992, at 12 noon to September 23, 1992, at 12 noon.

For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone: (907) 271-2809.

Dated: September 14, 1992.

David S. Crestin,

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

[FR Doc. 92-22665 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will hold a joint public meeting of its shrimp committee (SC) and shrimp advisory panel (SAP) on September 28-29, 1992, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC (803-571-1000). the joint meeting will convene on September 28 at 1:30 p.m. and adjourn at 5:30 p.m. On September 29 the meeting will reconvene at 8:30 a.m. and adjourn at noon.

The SC and SAP will review the results of input solicited from fishermen at the rock shrimp public scoping meetings to determine if management of the fishery is needed. After reviewing public comments, the SC and SAP will decide if they will recommend amendment of the shrimp fishery management plan to address problems in the rock shrimp fishery.

For more information contact Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699, telephone: (803) 571-4366.

Dated: September 14, 1992.

David S. Crestin,

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

[FR Doc. 92-22667 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council (Council) will hold meetings of the Snapper-Grouper Plan Development Team (Team) and Snapper-Grouper Advisory Panel (Panel) on September 29 through October 1, 1992, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC. The Panel will meet on September 29, from 1:30 p.m. to 5:30 p.m. The Snapper-Grouper Panel will meet jointly with the Team on September 30, from 9 a.m. to 12 p.m. The Team will meet from 1:30 p.m. to 5:30 p.m. on September 30, and from 9 a.m. to 12 p.m on October 1.

The agenda will include developing additional items for the next amendment to the snapper-grouper fishery management plan and to recommend levels of total allowable catch for the deep-water complex of snapper, grouper, and amberjacks. The 1992 snapper-grouper stock assessment will be reviewed.

For further information contact Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407-4699, telephone: (803) 571-4366.

Dated: September 14, 1992.

David S. Crestin,

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

[FR Doc. 92-22668 Filed 9-17-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

EFFECTIVE DATE: October 19, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On May 29, June 12, 19, July 10, 17, 24 and 31, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 22728, 25023, 27440, 30727, 31699, 32976 and 33943) of proposed additions to and deletion from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Clamp, Loop—5340-01-143-9255, 5340-01-106-2735

Bandage, Gauze—6510-00-582-7993

(50% of the Government Requirement)

Bag, Dental Prosthesis—6520-00-926-9041

Plate, Paper—7350-00-899-3054, 7350-00-899-3055, 7350-00-899-3056

Services

Commissary Shelf Stocking & Custodial, Fort Rucker, Alabama.

Commissary Shelf Stocking & Custodial, Fort Devens, Massachusetts.

Commissary Shelf Stocking & Custodial, Fort Hamilton, New York.

Commissary Shelf Stocking & Custodial, Seneca Army Depot, Seneca, New York.

Commissary Shelf Stocking, Custodial & Warehousing, Keesler Air Force Base, Mississippi.

Commissary Shelf Stocking, Custodial & Warehousing, Seymour-Johnson Air Force Base, North Carolina.

Food Service Attendant, Naval Station and Deperming Station, Norfolk, Virginia.

Grounds Maintenance, Naval Station, Mobile, Alabama.

Janitorial/Custodial, U.S. Department of Agriculture Forest Service, Humboldt Nursery, 4880 Cottage Grove Avenue, McKinleyville, California.

Janitorial/Custodial, (except buildings 3722, 4235, 4510 and 4543), Barksdale Air Force Base, Louisiana.

Janitorial/Custodial, Mifflin County USARC, Lewistown, Pennsylvania.

Janitorial/Custodial, Naval Station Commissary, Charleston, South Carolina.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following service is hereby deleted from the Procurement List:

Janitorial/Custodial, U.S. Army Corps of Engineers, Raystown Lake, Raystown, Pennsylvania.

Beverly L. Milkman,

Exeuctive Director.

[FR Doc. 92–22663 filed 9–17–92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind an Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 19, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approve the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List

Commodities

Bag, Polyethylene—8105–LL–S05–0146, 8105–LL–S05–0147, 8105–LL–S05–0148

(Requirements for the Naval Supply Center, Bremerton, WA only)

Nonprofit Agency: Open Door Center, Valley City, North Dakota

Line, Tent—8340–00–252–2270

Nonprofit Agency: Brown County Association for Retarded Citizens, Inc., Green Bay, Wisconsin

Hood, Sleeping Bag—8465–00–518–2769

Nonprofit Agency: North Bay Rehabilitation Services, Inc., San Rafael, California at its facility in Rohnert Park, California

Services

Food Service Attendant—Air National Guard Base, Building 600, Lincoln, Nebraska

Nonprofit Agency: Lincoln Goodwill Industries, Lincoln, Nebraska

Janitorial/Custodial—Marine Corps Reserve Training Center, 3506 South Memorial Parkway, Huntsville, Alabama

Nonprofit Agency: Huntsville Rehabilitation Foundation, Huntsville, Alabama

Janitorial/Custodial—Basewide, Scott Air Fore Base, Illinois

Nonprofit Agency: Specialized Services, Inc. Granite City, Illinois

Janitorial/Custodial—Defense Logistics Agency, DNSZ Curtis Bay Depot, Baltimore, Maryland

Nonprofit Agency: Baltimore Association for Retarded Citizens, Inc., Baltimore, Maryland

Janitorial/Custodial—Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota

Nonprofit Agency: Tasks Unlimited, Inc., Minneapolis, Minnesota

Janitorial/Custodial—Federal Office Building, 909 First Avenue Seattle, Washington

Nonprofit Agency: Northwest Center for the Retarded Seattle, Washington

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–22664 Filed 9–17–92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10455–000—Arkansas]

JDJ Energy Company; Intention To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings

September 14, 1992.

JDJ Energy Company (applicant) filed on November 30, 1990, an application for license to construct and operate the River Mountain Pumped Storage Hydroelectric Project, to be located on the Arkansas River in Logan County, Arkansas, approximately 10 miles west of the City of Russellville.

The project's lower reservoir would be the existing 34,300-acre Lake Dardanelle, a Corps of Engineers (Corps) reservoir formed by Dardanelle Lock and Dam. The project's upper reservoir would be located at the crest of River Mountain and would be formed by constructing an elliptical rockfill embankment that is approximately 10,700 feet long, 20 feet wide, and ranging from 25 to 120 feet high. The upper reservoir at normal maximum surface elevation would have an area of 183 acres.

The proposed underground powerhouse would be an excavation, 292 feet long, 81 feet wide, and 162 feet high. It would contain three 200-megawatt (MW) pump-turbine units, for a total installed capacity of 600 MW.

Electricity both generated by the project and used for pumping would be transmitted by a single 500-kilvolt (kV) circuit that extends 2,700 feet through the project's access tunnel to the surface of River Mountain and then along a 1.8-mile-long, surface transmission line to an existing 500-kV transmission line owned by Arkansas Power & Light.

The applicant's proposal would include: (1) The construction of three miles of access roads; (2) the upgrading and paving of the existing, unpaved

River Mountain Road; and (3) the construction and operation of day-use recreation facilities on the Lake Dardenelle shoreline near the project's intake/outlet structure.

The FERC staff has determined that licensing the proposed project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the River Mountain Project in accordance with the National Environmental Policy Act.

The staff's EIS will consider both site specific and cumulative environmental impacts of the proposed project and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the FERC staff and considered in a final EIS.

Scoping Meetings

The FERC staff will conduct two scoping meetings: The afternoon meeting will focus on resource agency concerns; the evening meeting is designed to obtain input from the general public. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

To help focus discussions, a preliminary EIS scoping document outlining subject areas to be addressed at the meeting will be distributed by mail to persons and entities on the FERC mailing list. Copies of the preliminary scoping document will also be made available at the scoping meetings.

The resource agency meeting will be held from 1.30 p.m. to 4:30 p.m. on Wednesday, October 21, 1992, at the Arkansas Soil & Water Conservation Commission Meeting Room, Suite 350 (third floor), 101 East Capitol, in Little Rock, Arkansas 72201.

The evening public meeting will be held at the Subiaco Roundhouse in Subiaco, Arkansas on Thursday, October 22, 1992, from 7:30 p.m. to 10:30 p.m. (or later). The Roundhouse is located at St. Benedict's Parish on Highway 197 North (off Route 22) in Subiaco, Arkansas 72865.

Objectives

At the scoping meetings, the Commission staff will: (1) Summarize the environmental issues tentatively identified for analysis in the planned EIS; (2) solicit from the meeting participants all available information, especially quantified data, on the resources at issue, and (3) encourage statements from experts and the public on issues that should be analyzed in the EIS.

Individuals, organizations, and agencies with environmental expertise and concerns are encourage to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Meeting Procedures

The meetings will be recorded by a stenographer and, thereby, will become a part of the formal record of the Commission proceeding on the River Mountain Project. Individuals presenting statements at the meetings will be asked to identify themselves for the record.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, until October 30, 1992.

All correspondence should clearly show the following caption on the first page: River Mountain Pumped Storage Project, No. 10455-000, Arkansas.

For further information, please contact Jim Haimes at (202) 219-2780.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22596 Filed 9-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-72-000]

Ozark Gas Transmission System; Prefiling Conference

September 14, 1992.

Take notice that a prefiling conference will be convened in the above-captioned proceeding on October 2, 1992, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, Hearing Room 1, NE., Washington, DC. If it becomes necessary to change the location of the conference, a future notice will state a new location.

The purpose of this conference is to address Ozark Gas Transmission System's proposed restructuring plan as summarized in its revised proposal dated September 4, 1992.

All interested persons are invited to attend. However, attendance at the conference will not confer party status.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22598 Filed 8-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-162-000]

Superior Offshore Pipeline Company; Informal Settlement Conference

September 14, 1992.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10 a.m., on October 1, 1992, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, (Room 3400-C), for the purpose of exploring the possibility of settlement.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 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) (1992).

For additional information please contact John J. Keating (202) 208-0762 or Anja M. Clark (202) 208-2094.

Lois D. Cashell,

Secretary.

[FR Doc. 92-22597 Filed 9-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER92-244-000]

Wisconsin Electric Power Company; Filing

September 11, 1992.

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on September 4, 1992, tendered for filing revised Page D-3 of Service Schedule D to the Interchange Agreement between itself and Madison Gas and Electric Company (MG&E). The revision caps the price of Daily Short Term Power and Energy at the rate for weekly service.

Wisconsin Electric and MG&E respectfully requests an effective date of September 1, 1992.

Copies of the filing have been served on MG&E, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 25, 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. 92-22600 Filed 9-17-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-91-NG]

Amoco Energy Trading Corporation; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amoco Energy Trading Corporation (Amoco), blanket authorization to import up to 300 Bcf of natural gas from Canada over a two-year term, beginning on the date of first delivery after September 22, 1992, the day Amoco's current two-year blanket authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 11, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-22654 Filed 9-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-76-NG]

Anadarko Trading Company; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Anadarko Trading Company blanket authorization to import up to 30 Bcf of natural gas from Canada over a two-year term, beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

Issued in Washington, DC, September 11, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-22655 Filed 9-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-74-NG]

J. Aron & Company; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefield Natural Gas, From Canada, Mexico, and Other Countries

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting J. Aron & Company authorization to import or export up to 350 Bcf of natural gas, including liquefied natural gas, from and to Canada, Mexico, and other countries over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 11, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-22656 Filed 9-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-73-NG]

OXY USA Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting OXY USA INC. blanket authorization to import from Canada and to export to Mexico a combined total of up to 29.2 Bcf of natural gas, over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

Issued in Washington, DC, September 11, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-22653 Filed 9-17-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4506-5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075. Availability of Environmental Impact Statements Filed September 7, 1992 through September 11, 1992 pursuant to 40 CFR 1506.9.

EIS No. 920363, Draft EIS, BLM, NM, Dark Canyon Special Management Area, Oil and Gas Leasing, Permit for Approval to Drill near Carlsbad Caverns National Park, Eddy County, NM, Due: November 20, 1992, Contact: Don Boyer (505) 438-7439.

EIS No. 920364, Final EIS, AFS, CA, Duncan/Sunflower Timber Sales, Implementation, Duncan Canyon, Tahoe National Forest, Foresthill Ranger District, Placer County, CA, Due: October 19, 1992, Contact: Phil Tuma (916) 367-2225.

EIS No. 920365, Final EIS AFS. MT, Stillwater Valley Platinum-Palladium Mining and Milling Project, Amendment to Plan of Operations and Approval of Permit, Stillwater River Valley Custer National Forest, Stillwater County, MT, Due: October 19, 1992, Contact: Grey Visconty (406) 444-2074.

EIS No. 920366, Draft EIS, COE, CA, Bolsa Chica Project, Construction/Road Construction, Restoration and Flood Control Improvement, section 10/404 Permits and Land Use Plan, City of Huntington Beach, Orange County, CA, Due: December 17, 1992, Contact: Frank Piccola (213) 894-0244.

EIS No. 920367, Draft EIS AFS, AR, Mount Magazine State Park,

Construction, Operation and Maintenance, Special Use Permit, Ozark National Forest, Logan County, AR, Due: November 2, 1992, Contact: Rob Kopack (501) 963-3076.

EIS No. 920368, Final EIS, BPA, WA, Adoption—South Fork Tolt River Hydroelectric Project, FERC No. 2959, Power Acquisition through the Granting of a Billing Credit to Seattle City Light and Possible Section 404 Permit, King County, WA, Due: October 19, 1992, Contact: Charles Alton (503) 230-5878.

The US Department of Energy, Bonneville Power Administration has adopted portions of the US Federal Energy Regulatory Commission's FEIS for the Snohomish River Basin Hydroelectric Project, WA which was filed with the US Environmental Protection Agency on 6-26-87.

EIS No. 920369, Draft EIS, DNA, NM, WI, WA, NM, TX, WA, Superconducting Magnetic Energy Storage—Engineering Test Model Program, Construction, Testing, Operation, Conceptual Designs and Selection Site, Otero and Lincoln Counties, NM; Ward Co., TX; Sauk Co; WI and Benton and Franklin Counties, WA, Due: November 6, 1992, Contact: Mike Eubanks (205) 694-3861.

EIS No. 920370, Final Supplement, COE, NM, Rio Grande Floodway Flood Protection Plan, San Acacia to Bosque del Apache Unit, Implementation, Section 404 Permit, Updated Information, Elephant Butte Reservoir, Socorro County, NM, Due: October 19, 1992, Contact: Mark Sifuentes (505) 766-3577.

EIS No. 920371, Final Supplement, UMT, CA, Los Angeles Metro Rail Rapid Transit Project, Updated Information and Change in the Designation of the Locally Preferred Alternative to the Pico/San Vicente Alternative, Stations at Olympic/Crenshaw and Pico/San Vicente, Funding, Los Angeles County, CA, Due: October 19, 1992, Contact: A. Joseph Ossi (202) 366-0096.

EIS No. 920372, Final Supplement, UMT, DC, Metropolitan Washington Regional Rapid Rail Transit System, Updated Information, Green Line E Route Mid City Segment (Sections E-2c, E4), from 14th and V Streets, Northwest to Fort Totten Drive Northeast, Funding, District of Columbia, Due: October 19, 1992, Contact: A. Joseph Ossi (202) 366-0096.

Amended Notices

EIS No. 920215, Draft EIS, BLM, NV, Stateline Resource Area, Land and Resource Management Plan, Implementation, Clark and Nye Counties, NV, Due: December 31, 1992, Contact: Jerry C. Wickstrom (702) 647-5000. Published FR-06-19-92—Review period extended.

Dated: September 15, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-2266 Filed 9-17-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4506-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 31, 1992 through September 4, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D-SCS-K39033-NV Rating EO2, Moapa Valley Unit, Irrigation Systems, Irrigation Water Management Delivery System Improvements, Colorado River Salinity Control Program, Funding and Possible Section 404 Permit, Clark and Lincoln Counties, NV.

Summary: EPA had environmental objections to the project as proposed because there is no clear plan to mitigate for adverse wetland impacts. Without a detailed wetlands mitigation plan and a strong commitment from SCS to mitigate losses of up to 258 acres of wetlands, EPA believed that the project could adversely affect Moapa Valley wetlands.

ERP No. DR-UMT-K54020-CA Rating LO, Tasman Corridor Mass Transit System Improvements, between Milpitas and Northern San Jose and Mountain View/Sunnyvale, Additional Information and Locally Preferred Alternative, Funding, Santa Clara County, CA.

Summary: EPA expressed a lack of objections with the proposed action, as modified.

ERP No. DS-COE-E30032-FL Rating EC2, Palm Beach County Beach Erosion Control Project, Protective Beach Construction along the Mid-Town Segment, Implementation, Palm Beach County, FL.

Summary: EPA had environmental concerns about how extensively the beach replenishment project would affect adjacent hard bottom communities. A monitoring plan should be implemented to identify and respond to any significant adverse, long-term environmental impacts.

ERP No. DS-TVA-A82062-00 Rating EC2, Vector Control Program, Integrated Pest Management and Recreational and Interpretive Facilities Construction, Land Acquisition, Funding and COE Section 10 and 404 Permits, Bedford, Roanoke and Franklin Counties, VA.

Summary: EPA had no objection to the proposed project.

ERP No. F-UMT-K54019-HI Honolulu Rapid Transit System Improvements, Waiawa through Downtown Honolulu to Waikiki and the University of Hawaii, Funding, Possible COE, Coast Guard Bridge and EPA Permits, Honolulu County, HI.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. FS-USA-B11010-00 Fort Huachuca Base Realignment and Cancellation of Transfer of Missions and Functions, Cochise County, AZ.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F1-BLM-L70001-WA Spokane District Resource Management Plan Amendment (RMP), Fluid Mineral Leasing, Approval, Yakima River Canyon and Upper Crab Creek Plan, Updated Information.

Summary: EPA is concerned about the use of insecticides in aquatic areas and the effects of highly toxic compounds on species and any human health effects. Additional information is requested in areas such as cumulative impacts.

Final EISs

ERP No. F-AFS-L65131-WA Leola Sullivan Timber Sale, Implementation, Colville National Forest, Sullivan Lake Ranger District, Pend Oreille County, WA.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F-COE-E36170-MS Hickahala-Senatobia Creeks Watershed, Channel Modification Project and Demonstration Erosion Control, Implementation, Arkabutla Lake, Yazoo Basin, Tate County, MS.

Summary: EPA no longer had environmental objections to the proposal, on the basis of the Vicksburg District's mitigation plan and project design modification.

ERP No. F-NPS-D60004-VA Roanoke River/Blue Ridge Parkway Extension, Roanoke/Vinton City Limits to Smith Mountain Lake Management Areas, Several Counties, WA.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

Dated: September 15, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-22670 Filed 9-17-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-961-DR]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: September 12, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA-961-DR), dated September 12, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 12, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Hawaii, resulting from Hurricane Iniki on September 11, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, except that for the first 10 days, you are authorized to provide funds for debris removal and emergency protective measures under section 403(a) at 90 percent of the total eligible costs, if warranted.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. A. Roy Kite of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Hawaii to have been affected adversely by this declared major disaster:

The islands of Oahu, Maui, Hawaii, Kauai, Niihau, Lanai, and Kahoolawe for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92-22637 Filed 9-17-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-956-DR]

Louisiana; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: August 30, 1992.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-956-DR), dated August 26, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 30, 1992.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-22635 Filed 9-17-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-960-DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: September 9, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-960-DR), dated September 9, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 9, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from excessive rain and hail on May 1, 1992 through July 30, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Disaster Unemployment Assistance and administrative expenses in the designated areas.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Al Hahn of the Federal

Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The counties of Bailey, Briscoe, Castro, Cochran, Crosby, Floyd, Hale, Hockley, Lamb, Lubbock, Parmer, and Swisher for Disaster Unemployment Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92-22636 Filed 9-17-92; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Seaspirit Cruise Line, Inc, and RSVP Travel Productions, Inc., 2800 University Avenue Southeast, Minneapolis, MN 55414-3293.

Dated: September 14, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-22611 Filed 9-17-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BB&T Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. BB&T Financial Corporation, Wilson, North Carolina; to acquire First Fincorp, Inc., Kinston, North Carolina, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9); and operating a consumer loan company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22624 Filed 9-17-92; 8:45 am]

BILLING CODE 6210-01-F

Chemical Banking Corporation, et al.; Applications to Engage in Asset Management Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposals can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 2, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Chemical Banking Corporation, New York, New York; to engage *de novo* in asset management activities through its indirect subsidiary, The CIT Group/Asset Management Inc., New York, New York. The Board has previously approved bank holding companies to engage in asset management activities. *See, e.g., Michigan National Corporation*, 78 Federal Reserve Bulletin 65 (1992); *NCNB Corporation*, 77 Federal Reserve Bulletin 124 (1991). Chemical Banking Corporation also seeks to provide asset management services with respect to loans and leases which may not necessarily have been originated by a bank or savings institution, or an affiliate of a bank or savings institution.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. The Dai-Ichi Kangyo Bank, Limited, Tokyo, Japan; to engage *de novo* in asset management activities through its indirect subsidiary, The CIT Group/Asset Management Inc., New York, New

York. The Board has previously approved bank holding companies to engage in asset management activities. *See, e.g., Michigan National Corporation*, 78 Federal Reserve Bulletin 65 (1992); *NCNB Corporation*, 77 Federal Reserve Bulletin 124 (1991). The Dai-Ichi Kangyo Bank, Limited, also seeks to provide asset management services with respect to loans and leases which may not necesarily have been originated by a bank or savings institution, or an affiliate of a bank or savings institution.

Board of Governors of the Federal Reserve System, September 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22623 Filed 9-17-92; 8:45 am]

BILLING CODE 6210-01-F

FC Banc Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 9, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. FC Banc Corp., Bucyrus, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers Citizens Bank, Bucyrus, Ohio.

2. First Financial Bancorp, Hamilton, Ohio; to merge with Jennings Union Bankcorp., North Vernon, Indiana, and thereby indirectly acquire Union Bank & Trust Company, North Vernon, Indiana.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Bellwood Community Holding Co., Bellwood, Nebraska; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of the Valley, Bellwood, Nebraska.

2. Commerce Bancshares, Inc., Kansas City, Missouri; to acquire Union Financial Corporation, Manhattan, Kansas, and thereby indirectly acquire Union National Bank and Trust Company, Manhattan, Kansas. Union Financial Corporation will merge with a wholly-owned subsidiary of Commerce Bancshares, CBI Central Kansas, Inc., Kansas City, Missouri, which will thereby become a bank holding company.

Board of Governors of the Federal Reserve System, September 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22625 Filed 9-17-92; 8:45 am]

BILLING CODE 6210-01-F

North Cascades Bancshares, Inc.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1992.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. North Cascades Bancshares, Inc., Chelan, Washington; to engage *de novo* on a nationwide basis, through its subsidiary, North Cascades Financial Services, Inc., Chelan, Washington, in full service brokerage activities pursuant to § 225.25(b)(15)(ii) and investment advisory services pursuant to § 225.25(b)(4); and insurance agency activities in Chelan and Omak, Washington, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22626 Filed 9-17-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-112-GNC]

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During FY 1993

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

ACTION: General notice with comment period.

SUMMARY: This notice describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program beginning October 1, 1992. The results of these evaluations are considered whenever HCFA enters into, renews, or terminates an intermediary agreement or carrier contract or takes other contract actions (e.g., assigning or

reassigning providers of services to an intermediary, designating regional or national intermediaries, etc.).

This notice is published in accordance with sections 1816(f) and 1842(b)(2) of the Social Security Act. We are publishing for public comment in the Federal Register those criteria and standards against which we evaluate intermediaries and carriers.

DATES: Effective Date: The criteria and standards are effective October 1, 1992. Comments: We will consider revising the criteria and standards based on public comments. Comments will be considered if we receive them at the appropriate address as provided below no later than 5 p.m. (EDT) on October 19, 1992.

ADDRESSES: Mail written comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–112–GNC, P.O. Box 26676, Baltimore, MD 21207.

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

Room 309–G, Hubert H. Humphrey, Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BPO–112–GNC. Written comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's office at 200 Independence Avenue, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245–7890). Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

FOR FURTHER INFORMATION CONTACT: Larry Pratt (301) 966–7403.

SUPPLEMENTARY INFORMATION:

A. Background

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with the Secretary of Health and Human Services. These agencies or organizations, known as fiscal intermediaries, determine whether medical services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the health care providers on behalf of the beneficiaries. Section 1816(f) of the Act requires us to develop criteria, standards, and procedures to evaluate an intermediary's performance of its functions under its agreement. We evaluate intermediary performance through the Contractor Performance Evaluation Program (CPEP).

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians, and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the payable amount for the services or supplies and then make payment to the appropriate party. Under section 1842(b)(2) of the Act, we are required to develop criteria, standards, and procedures to evaluate a carrier's performance of its functions under its contract.

We are publishing the criteria and standards in the Federal Register in order to allow the public an opportunity to comment before implementation. In addition to the statutory requirement, our regulations at 42 CFR 421.120 and 421.122 provide for publication of a Federal Register notice to announce criteria and standards for intermediaries prior to implementation. The current criteria and standards were published in the Federal Register on September 20, 1991 (56 FR 47758).

To the extent possible, we make every effort to publish the criteria and standards prior to the beginning of the Federal fiscal year; i.e., October 1st. In general, the evaluation period which the criteria and standards measure is the Federal fiscal year.

If we do not publish a Federal Register notice before the new fiscal year begins, readers may presume that until and unless notified otherwise, the criteria and standards which were in effect for the previous fiscal year remain in effect.

In those instances where we are unable to meet our goal of publishing the subject Federal Register notice before the beginning of the fiscal year, we may publish the criteria and standards notice at any subsequent time during the year. If we choose to publish a notice in this manner, the evaluation period for any such criteria and standards which are the subject of the notice will be revised to be effective on the first day of the first month following publication. Hence, any revised criteria and standards will measure performance prospectively; that is, we will not apply new measurements to assess performance on a retroactive basis.

Also, it is not our intention to revise the criteria and standards which will be used during the evaluation period once this information has been published in a Federal Register notice. However, on occasion, either because of Administrative mandate or Congressional action, there may be a need for changes which have direct impact upon the criteria and standards previously published, or which require the addition of new criteria or standards, or that cause the deletion of previously published criteria and standards. Should such changes be necessitated, we will issue a Federal Register notice prior to implementation of the changes.

In all instances, necessary manual issuances will be published each year to ensure that the criteria and standards are implemented uniformly and accurately. Also, as in previous years, the Federal Register notice will be republished and the effective date revised if changes are warranted as a result of the public comments received on the criteria and standards.

B. Incentive Payments to Carriers

In accordance with section 1842(c)(1)(B) of the Act, this notice also describes the current methodology that will be used to award incentive payments to carriers that successfully increase the proportion of physicians in the Carrier's service area who are participating physicians, or the proportion of payments to participating physicians. We have requested a legislative change to end the incentive payments to carriers effective October 1, 1992. Currently, we issued carrier incentive payments by September 30 following each annual enrollment period. The amount of these payments will be included in line 10 of the carrier's Notice of Budget Approval, Form HCFA–1524. Section 1842(h) of the Act sets forth the Medicare participating physician program. "Participating" means accepting assignment on all Medicare claims. "Accepting assignment" means physicians accept Medicare's approved charge as full payment, with the beneficiary responsible for only the Medicare deductible and coinsurance amounts. The main goal of the program is to reduce the financial impact of medical costs upon beneficiaries by establishing incentives for physicians to accept assignment on all Medicare claims. The provisions give all physicians an opportunity annually to enroll or disenroll as a Medicare participating physician.

Section 1842(b)(3)(H) of the Act requires Medicare carriers to implement programs to recruit and retain physicians as participating physicians. These programs include educational and outreach activities and the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians. These programs are also designed to familiarize beneficiaries with the participating physician program and to assist the beneficiaries in locating participating physicians.

We intend to pay incentive bonuses to any carrier that achieved an increase of at least one-tenth of one percent in the participating physicians' rate or proportion of payments for participating physicians' services in the carrier's total service area. Carriers that achieve an increase in physician's participation or payments for participating physician services of less than 2 percentage points will be paid a partial incentive payment. Carriers that achieve an increase of at least 2 percentage points will be paid the full incentive payment. Carriers that achieve an increase of more than 2 percentage points will be paid a bonus for each additional 2 percentage point increase.

As required by section 1842(c) of the Act, the amount of the total incentive payable to carriers is one percent of the total payments to carriers for claims processing costs for the fiscal year. The total incentive pool is calculated by summing the total claims processing costs reported by each carrier in the fiscal year and multiplying the total by one percent.

For the purpose of determining each carrier's eligibility for an incentive payment, we make two comparisons. We compare the carrier's physician participation rate after the latest enrollment period with the physician participation rate after the prior enrollment date. We make a similar comparison of the proportion of covered charges for services by participating physicians during the quarter following the enrollment period with those of the quarter following the prior enrollment period. We intend to use whichever difference yields the higher percentage increase to determine eligibility for award of the incentive payment.

C. Criteria and Standards—General

The basic tenet of the Medicare program is to pay claims promptly and accurately and to foster good beneficiary and provider relations. Keeping this key concept in mind, we have developed a CPEP (one for intermediaries and one for carriers) that will measure contractor performance; improve contractor performance; promote contractor initiative to improve Medicare program quality, service, and efficiency; and serve as a basis of information for contract management activities (such as those described in the law). We have restructured CPEP into two parts, designed to meet these objectives. This restructuring effort considered comments from HCFA components as well as the Medicare contractor community and beneficiary and provider groups which have commented on past CPEP **Federal Register** notifications. Part I of CPEP, titled Program Requirements, follows the format of the FY 1992 CPEP and measures contractor performance against program requirements. Standards continue to be allotted a determined number of points out of a total of 100. Standards have been structured on a pass/fail basis. An intermediary or carrier will pass a standard if they meet the minimum requirements of the appropriate operational instructions. It is believed that this concept will continue to promote satisfactory performance in all areas measured by CPEP and, at the same time, provide contractors with flexibility to effectively manage and administer the Medicare program in areas not part of CPEP.

In the Program Requirements criteria, we have combined several standards where such an evaluation will yield a more efficient outcome and added a new standard, as required by section 1816(f)(2) of the Act, to measure target reimbursement rate adjustments. The Part A evaluation criteria are Bill Processing and Service, Payment Safeguards, and Administrative Management. The Part B evaluation criteria are Claims Processing, Payment Safeguards, Service, and Administrative Management. Within each evaluation criterion we have identified those performance standards, which when measured, will evidence how well each contractor is performing program requirements. Part II, titled Program Improvements, evaluates contractor efforts to improve performance; achieve program efficiencies; and develop and implement ideas for improving program quality, service and efficiency. Part II complements Part I which looks at meeting manual requirements. However, no numerical scoring will be undertaken in Part II. Thus, it encourages contractor ideas for improvement without the threat or risk of penalty. Prior to the start of the fiscal year (or early thereafter), HCFA will develop core ideas and measures for improving program performance. Contractors will have the option to present additional ideas for improving the program. Part II will also acknowledge contractor performance improvements in Part I of the FY 1993 CPEP as compared to the same measure for FY 1992. The results of HCFA developed ideas (i.e., "core ideas"), contractor developed successful ideas (i.e., successful in meeting the idea's objective), and contractor improvements in performance in FY 1993 (compared to FY 1992) will be considered in contract management activities along with the results from Part I of CPEP. Successful program improvement ideas will be shared within the contractor community to help improve the administration of the Medicare program. For both Part A and B, the evaluation criteria for Part II are Quality, Service and Efficiency.

We have also developed separate (i.e., separate and apart from the "traditional" CPEP) criteria and standards which measure only the activities of Regional Home Health Intermediaries (RHHIs) and Common Working File (CWF) Hosts.

Section 1816(e)(4) of the Act requires the Secretary to designate regional agencies or organizations, which are already Medicare intermediaries under section 1816, to perform bill processing functions with respect to freestanding home health agency (HHA) bills. The law requires that we limit the number of such regional intermediaries (i.e., RHHIs) to not more than ten; there are currently nine (see 42 CFR 421.117 and the **Federal Register** published on May 19, 1988 (53 FR 17936) for more details about the RHHIs).

In addition, section 1816(e)(4) of the Act requires the Secretary to develop criteria and standards in order to determine whether to designate an agency or organization to perform services with respect to hospital affiliated HHAs. We have developed criteria and standards for RHHIs in order to measure the distinct RHHI functions. These functions include the processing of freestanding HHA, hospital affiliated HHA, and Hospice bills. Through the evaluation of these criteria and standards we will determine whether the RHHI functions should be moved from one intermediary to another in order to ensure effective and efficient administration of the program benefit.

At this time, CWF Hosts are selected from existing Medicare contractors under the authority of section 1842 of the Act which allows the Secretary to enter into or amend carrier contracts. The CWF Hosts perform functions of making available to Medicare contractors (intermediaries and carriers) and their

providers within the CWF territory, or "sector," Medicare beneficiary entitlement and utilization data; and providing intermediaries and carriers with prepayment approval of Part A bills and Part B claims of all types. These functions are distinctly different than those of the traditional Medicare carrier in that the CWF Host does not adjudicate claims and determine the amount of payment. For this reason, it is necessary to evaluate CWF Host performance with a separate set of criteria and standards.

Action Based on Performance Evaluations

We may initiate administrative actions as a result of the evaluation of contractor performance based on these performance criteria and standards. Under sections 1816 and 1842 of the Act, we consider the results of the evaluation in our determinations on:

- Entering into, renewing, or terminating agreements or contracts with contractors; and
- Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These decisions are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:
  + Relative overall performance compared to other contractors;
  + Number of standards in which deficient performance occurs;
  + Extent of each deficiency;
  + Relative significance of the standards for which deficient performance occurs within the overall CPEP; and
  + Efforts to improve program quality, service, and efficiency.
- Decisions concerning the assignment or reassignment of providers and designation of regional or national intermediaries for classes of providers. We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the effective and efficient administration of the Medicare program.

D. Scoring System

For both intermediaries and carriers under Part I, Program Requirements, the maximum score attainable is 100 points. Each of the CPEP's Program Requirement standards is assigned a given portion of the 100 points available based on the measured activity's relative importance to all other measured activities.

For CWF Hosts and RHHIs, the maximum score attainable is 30 points each. The CWF Host and RHHI criteria and standards will be scored separately from the traditional CPEP for intermediaries and carriers. Each of the CWF Host and RHHI CPEPs' performance standards is assigned a given portion of the 30 points available based on the measured activity's relative importance to all other measured activities.

A contractor's performance is evaluated against each applicable standard. If a contractor meets the level of performance required by operational instructions, it achieves all of the points allocated to that standard. Any rating below basic operational expectations constitutes a deficiency. In most instances, there are varying degrees of deficiency which allow contractors to receive a portion of the total points available. The contractor may be required to develop and implement a corrective action plan when performance problems are identified. The contractor will be monitored to assure effective and efficient compliance with the corrective action plan and improved performance where criteria and/or standards are not met.

Part II, Program Improvement, will not be scored. However, like Part I, the results will, in general, be used for contract management activities. Also like Part I, the results will, in general, be published in the contractor's annual performance report, the Annual Contractor Evaluation Report, which is available to the public.

E. Criteria and Standards for Intermediaries

Part I Program Requirements

As stated previously, we will use 3 criteria to evaluate the overall performance of an intermediary in Part I. They are: (1) Bill Processing and Service; (2) Payment Safeguards; and (3) Administrative Management.

The 3 criteria contain a total of 21 standards. There are 7 for Bill Processing and Service, 10 for Payment Safeguards, and 4 for Administrative Management.

1. Bill Processing and Service Criterion (Total Points=28)

Bills are processed timely and accurately and providers and beneficiaries are served in accordance with program laws, regulations, and general instructions.

Standard 1 95% of clean non-Periodic Interim Payment (PIP) bills paid within mandated timeframes. (4 points)

Standard 2 95% of all bills processed within 60 days. (3 points)

Standard 3 Intermediary system processing accuracy rate of 95%. (4 points)

Standard 4 95% of reconsideration are accurately processed and 75% are processed within 60 days and 90% processed within 90 days. (5 points)

Standard 5 95% of inquiries are accurately and timely answered. (4 points)

Written inquiries are to be answered in 30 days and telephone calls are to be answered in 120 seconds.

Standard 6 95% of appeal reversals reflect accurate intermediary determinations. (2 points)

Standard 7 Achieve Electronic Media Claims (EMC) goals. (6 points)

Contractors are advised of their specific EMC goals through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix and historical performance.

2. Payment Safeguards Criterion (Total Points = 50)

The Medicare program is safeguarded against inappropriate program expenditures.

Standard 1 97.5% of Medical Review (MR) coverage decisions, including decisions on SNF demand bills, are accurate. (6 points)

Standard 2 Focused MR program is effective. (6 points)

Detailed requirements for measuring MR effectiveness under this standard are contained in Part II of the Medicare Intermediary Manual (MIM), Section 2901.2.

Standard 3 Administer the Medicare Secondary Payer (MSP) Program accurately. (6 points)

Detailed requirements for measuring the MSP Program accuracy under this standard are contained in Part II of the MIM, Section 2901.2.

Standard 4 Identify and recover mistaken Medicare payments. (6 points)

Detailed requirements for identifying and recovering mistaken Medicare payments under this standard are contained in Part II of the MIM, Section 2901.2.

Standard 5 Interim provider payments approximate actual reimbursable costs. (4 points)

Detailed requirements for measuring the accuracy of interim provider payments under this standard are contained in Part II of the MIM, section 2901.2.

Standard 6 Process TEFRA target rate adjustments, exceptions, and exemptions within mandated timeframes. (2 points)

TEFRA target rate adjustments, exceptions, and exemptions must be processed within 75 days if the application is complete. If the application is incomplete, the intermediary has 60 days to provide instructions for accurate completion.

Standard 7 Cost reports/statements are 93% accurate. (6 points)

Standard 8 90% of provider cost reports are timely settled. (4 points)

Standard 9 Provider overpayments collected within 24 days. (4 points)

Standard 10 Fraud and abuse cases are detected and properly developed. (6 points)

Detailed requirements for detection and development of fraud and abuse cases are contained in Part II of the MIM, section 3950ff.

3. Administrative Management Criterion (Total Points = 22)

Medicare program instructions and workloads are effectively managed within negotiated budget.

Standard 1 Priority I critical tasks are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in Part II of the MIM, Section 2901.3.

Standard 2 Regional Office requests and instructions are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in Part II of the MIM, section 2901.3.

Standard 3 Budget and Performance Requirements are met. (6 points)

Budget and Performance Requirements, sent to each contractor prior to the fiscal year, set forth the comprehensive level of work to be completed by contractors.

Standard 4 Total actual expenditures are at or below budget authority and administrative funds drawn are in line with monthly expenditures. (6 points)

Part II Program Improvements

We will use 3 criterias to evaluate each intermediary's efforts to achieve the goals of the Program Improvements portion of CPEP. They are (1) Quality; (2) Service; and (3) Efficiency. There are no specific standards under the Part II criteria. Specific HCFA core and intermediary developed ideas will be looked at in each criterion to determine an intermediary's success in improving performance and achieving program efficiencies. In addition, performance improvements in FY 1993 as compared to FY 1992 will be recognized.

1. Quality Criterion

We will review specific plans developed both by HCFA and the intermediary to improve quality and determine the degree of success achieved. We will also determine the degree of improvement in Part I of the FY 1993 CPEP as compared to FY 1992 CPEP performance for the same measures.

2. Service Criterion

We will review the intermediary's efforts to enhance customer satisfaction. Public relations activities, educational programs, publications, customer satisfaction surveys, along with all other intermediary initiatives will be reviewed to ascertain the success of each effort.

3. Efficiency Criterion

We will review the intermediary's efforts to reduce cost, increase EMC beyond established goals, operate in a shared processing environment, and implement efficiency plans.

F. Criteria and Standards for Carriers

Part I Program Requirements

We will use 4 criteria to evaluate overall carrier performance in Part I. They are: (1) Claims Processing; (2) Payment Safeguards; (3) Service; and (4) Administrative Management. The 4 criteria contain a total of 24 standards. There are 9 for Claims Processing, 7 for Payment Safeguards, 4 for Service, and 4 for Administrative Management.

1. Claims Processing Criterion (Total Points=36)

Claims are processed timely and accurately and providers and beneficiaries are served in accordance with program laws, regulations, and general instructions.

Standard 1 95% of clean participation physician claims processed within mandated timeframes. (4 points)

Standard 2 95% of other clean claims processed within mandated timeframes. (3 points)

Standard 3 95% of all claims processed within 60 days. (3 points)

Standard 4 Claims processed with an accuracy of 98.5%. (6 points)

Standard 5 97.5% of HCFA Common Procedure Coding System codes and related pricing are properly installed. (4 points)

Standard 6 Properly calculate and install all fee schedules and reasonable charge updates. (5 points)

Standard 7 95% of reviews are accurate and clear and completed within 45 days. (3 points)

Standard 8 90% of carrier hearings are accurate and completed within 120 days. (2 points)

Standard 9 Achieve Electronic Media Claims (EMC) goals. (6 points)

Contractors are advised of their specific EMC goals through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's claim mix and historical performance.

2. Payment Safeguards Criterion (Total Points=29)

The Medicare program is safeguarded against inappropriate program expenditures.

Standard 1 97.5% of MR coverage decisions are accurate. (4 points)

Standard 2 Focused MR is effective. (4 points)

Detailed requirements for measuring MR effectiveness under this standard are contained in Part II of the Medicare Carriers Manual (MCM), Section 5261.2.

Standard 3 Postpayment MR program is effective. (4 points)

Detailed requirements for measuring MR effectiveness under this standard are contained in Part II of the MCM, Section 5261.2.

Standard 4 Administer the Medicare Secondary Payer (MSP) Program accurately. (4 points)

Detailed requirements for measuring MSP Program accuracy under this standard are contained in Part II of the MCM, section 5261.2.

Standard 5 Identify and recover mistaken Medicare payments. (4 points)

Detailed requirements for identifying and recovering mistaken Medicare payments under this standard are contained in Part II of the MCM, section 5261.2.

Standard 6 Fraud and abuse cases are detected and properly developed. (6 points)

Detailed requirements for detection and development of fraud and abuse cases are contained in Part II of the MCM, section 14000ff.

Standard 7 90% of overpayment cases are properly handled. (3 points)

3. Service Criterion (Total Points = 13)

Beneficiaries and providers are treated in accordance with all applicable laws, regulations, and general instructions.

Standard 1 97.5% of telephone inquiries are responded to accurately and timely. (4 points)

Telephone calls are to be answered within 120 seconds and callers are not to get a busy signal more than 20% of the time.

Standard 2 95% of correspondence is accurate and clear and answered within 30 days. (4 points)

Standard 3 Requirements of the participating physician program are met. (2 points)

Detailed requirements for measuring the participating physician program under this standard are contained in Part II of the MCM, section 5261.3.

Standard 4 98% of Explanations of Medicare Benefits (EOMBs) are properly generated. (3 points)

4. Administrative Management Criterion (Total Points = 22)

Medicare program instructions and workloads are effectively managed within negotiated budget.

Standard 1 Priority I critical tasks are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in Part II of the MCM, section 5261.4.

Standard 2 Regional Office requests and instructions are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in Part II of the MCM, section 5261.4.

Standard 3 Budget Performance Requirements are met. (6 points)

Budget Performance Requirements, sent to each contractor prior to the fiscal year, set forth the comprehensive level of work to be completed by contractors.

Standard 4 Total actual expenditures at or below budget authority and administrative funds drawn are in line with monthly expenditures. (6 points)

Part II Program Improvements

We will use 3 criteria to evaluate each carrier's efforts to achieve the goals of the Program Improvements portion of CPEP. They are (1) Quality; (2) Service; and (3) Efficiency. There are no specific standards under the Part II criteria.

Specific HCFA core and carrier developed ideas will be looked at in each criterion to determine a carrier's success in improving performance and achieving program efficiencies.

1. Quality Criterion

We will review specific plans developed both by HCFA and the carrier to improve quality and determine the degree of success achieved. We will also determine the degree of improvement in Part I of the FY 1993 CPEP as compared to FY 1992 CPEP performance for the same measures.

2. Service Criterion

We will review the carrier's efforts to enhance customer satisfaction. Public relations activities, educational programs, publications, customer satisfaction surveys, along with all other carrier initiatives will be reviewed to ascertain the success of each effort.

3. Efficiency Criterion

We will review the carrier's efforts to reduce cost, increase EMC beyond established goals, operate in a shared processing environment, and implement efficiency plans.

G. Criterion and Standards for Common Working File (CWF) Hosts

CWF Host Criterion (Total Points = 30)

The CWF Host must process transactions for satellites (i.e., intermediaries and carriers) within and out of its sector and maintain complete beneficiary entitlement and claims history records; provide services to its satellite sites, including operational and maintenance support; and take all necessary measures to ensure compliance with HCFA directives. We will use this criterion containing 6 standards to evaluate CWF Host performance.

Standard 1 Provide on-line access to CWF records for at least 98% of the required available hours. (6 points)

Available hours are specified in section 3.4 of the currently applicable Proposal Submission Requirements (PSR).

Standard 2 Meet the twenty-four hour turnaround requirement for all satellites for at least 98% of files. (6 points)

Standard 3 Notify satellites within 15 minutes of discovery of major downtime and report occurrences to HCFA within two hours of discovery. (3 points)

Standard 4 Accurately install, test and implement CWF software by due date. (6 points)

Accuracy requirements and due dates are published in each CWF software release.

Standard 5 Submit accurate Schedule II and IIA reports by the 30th day following the period covered by the reports. (3 points)

Standard 6 Maintain and update beneficiary entitlement and claims history records with an accuracy rate of 98.5% (6 points)

CWF hosts transmit to HCFA beneficiary entitlement and claims history data. The data are evaluated and validated by the CWF Data Quality Assurance Program (QAP). Output reports from the CWF Data QAP will be used to measure the host's performance.

H. Criterion and Standards for Regional Home Health Intermediaries (RHHIs)

RHHI Criterion (Total Points = 30)

We will use this criterion containing 8 standards to review a RHHI's performance with respect to handling the HHA/Hospice workload. This includes processing HHA/Hospice bills timely and accurately, properly paying and settling HHA cost reports, and processing reconsideration from beneficiaries, HHAs, and Hospices timely and accurately.

Standard 1 95% of clean non-PIP HHA/Hospice bills paid within mandated timeframes. (4 points)

Standard 2 95% of all HHA/Hospice bills processed within 60 days. (3 points)

Standard 3 HHA cost reports are 93% accurate. (5 points)

Standard 4 90% of freestanding HHA cost reports timely settled. (4 points)

Standard 5 Interim payments for freestanding HHAs approximate actual reimbursement. (4 points)

Detailed requirements for measuring the accuracy of interim provider payments under this standard are contained in the Part II of MIM, Section 2903.1.

Standard 6 97.5% of HHA/Hospice MR coverage decisions are accurate. (3 points)

Standard 7 95% of HHA/Hospice reconsideration are accurately processed, and 75% of HHA/Hospice reconsideration are processed within 60 days and 90% within 90 days. (3 points)

Standard 8 Achieve Electronic Media Claims (EMC) goals. (4 points)

Contractors are advised of their specific EMC goals through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix and historical performance.

I. Contractor Replacement Under Section 2326(a) of the Deficit Reduction Act of 1984 (DEFRA)

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89), Public Law 101-239, extended through FY 1993 the authority of section 2326(a) of DEFRA, Public Law 99-369, whereby each year up to two intermediaries and up to two carriers, which over a period of time have been in the lowest 20th percentile of contractors, may be replaced. OBRA 89 also redefined "over a period of time" to be "over a 2-year period of time." Consequently, the methodology for separately identifying intermediaries and carriers for potential replacement under section 2326(a) of DEFRA, as amended, will be as follows:

• Performance, as measured by the Secretary's criteria and standards, will be considered for the most recent 2 evaluation periods.

• Each evaluation period's overall performance will be captured in the form of an unweighted performance rating—points earned as a percentage of points available, as determined by the performance criteria and standards. For example, FY 1993 performance ratings will be calculated based upon the CPEP's Part I criteria and standards used for the October 1992—September 1993 review period.

• Each period's performance rating will be weighted to provide extra emphasis for the most recent performance. The weights, to be multiplied by each period's performance rating, are:

	Weight
Most recent period	3
Prior period	2

• For each contractor, the weighted performance rating for each of the two periods will be summed.

• The contractors will be ranked from highest points to lowest points.

• Careful study of the bottom 20th percentile of contractors will be undertaken to fully assess considerations such as performance that is improving/deteriorating, factors beyond the contractor's control, and other factors pertinent to a particular territory.

The methodology will be applied separately to intermediaries and carriers.

J. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are unable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble and, if we proceed with a revised notice, we will respond to the comments in the preamble of that notice.

K. Regulatory Impact Statement

This notice merely announces contracting criteria through a medium of general circulation. This notice is not a proposed rule and does not alter any regulation or policy. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act, or section 1102(b) of the Act (concerning impact on small rural hospitals).

Authority: (Secs. 1102, 1816, 1842, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, and 1395hh)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and Program No. 13.774, Medicare Supplementary Medical Insurance.)

Dated: June 18, 1992.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 92-22581 Filed 9-17-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting of the Deafness and Other Communication Disorders Programs Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Deafness and Other Communication Disorders Programs Advisory Committee on October 9, 1992. The meeting will take place from 8:30 a.m. to 5 p.m. in Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which will be open to the public, consists of a report from the Director, NIDCD, and discussion of the Extramural Research and Training Support programs. Attendance by the public will be limited to space available.

Further information concerning the Committee meeting may be obtained from Dr. Ralph F. Naunton, Executive Secretary, NDCD Programs Advisory Committee, National Institute on Deafness and Other Communication Disorders, Executive Plaza South, room 400B, National Institutes of Health, Bethesda, Maryland 20892, 301-496-1804. A summary of the meeting and roster of the members may also be obtained from his office.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: September 14, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-22658 Filed 9-17-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on September 4, 1992.

(Call PHS Reports Clearance Officer on 202-690-7100 for copies of package).

1. National Surveillance of Dialysis-Associated Diseases—0920-0033—this annual survey of hemodialysis facilities is conducted to determine the incidence and trends in hemodialysis-associated diseases so that appropriate control measures can be devised. *Respondents*: Businesses or other for-profit; *Number of Respondents*: 2,250; *Number of Responses per Respondent*: 1; *Average Burden per Response*: .5835 hours; *Estimated Annual Burden*: 1,313 hours.

2. National Sexually Transmitted Disease Morbidity Surveillance System—0920-0011—The national sexually transmitted disease (STD) morbidity surveillance system monitors STD disease burden and trends. Data from the system are used to support and evaluate the progress of STD control efforts; to assist State and local STD program managers in standardizing data collection procedures; and to provide baseline data for the development of new intervention strategies. *Respondents*: State or local governments; *Number of Respondents*: 60; *Number of Responses per Respondent*: 22; *Average Burden per Response*: .945 hours; *Estimated Annual Burden*: 1,248 hours.

3. Pulmonary Function Testing Course—0920-0138—The National Institute of Occupational Safety and Health (NIOSH) maintains a pulmonary function testing course approval program for certifying courses for training technicians in pulmonary function testing. Course sponsors must apply to NIOSH for course approval. *Respondents*: State or local governments; Businesses or other for-profit; *Number of Respondents*: 78; *Number of Responses Per Respondent*: 1; *Average Burden per Response*: .5306 hours; *Estimated Annual Burden*: 52 hours.

4. Surveillance Core Questionnaire and Supplemental Modules—New—The Agency for Toxic substances and Disease Registry will develop, implement, and monitor a health surveillance program on hazardous waste workers, private citizens living near a hazardous waste site, and private citizens being permanently relocated from a hazardous waste site in order to investigate and determine if these sets

of defined populations are experiencing an elevated occurrence of morbidity and/or mortality. *Respondents*: Individuals or households; Businesses or other for-profit.

Title	No. of respondents	No. of responses per respondent	Average burden per response
Individuals	5,000	1	.94 hrs.
Medical Providers	1,000	1	.25 hrs.

Estimated Annual Burden: 4,938 hours.

Desk Officer: Shannah Koss.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: September 14, 1992.

Phyllis M. Zucker,

Acting Director, Office of Health Planning and Evaluation.

[FR Doc. 92-22628 filed 9-17-92; 8:45 am]

BILLING CODE 4160-17-M

Indian Health Service; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), Chapter HG, Indian Health Service (IHS), 52 FR 47053-67, December 11, 1987, as most recently amended at 57 FR 34300-34301, August 4, 1992, is amended to reflect the following changes in the organization and functions of the IHS: (1) The establishment of an organizational substructure for the Office of Human Resources; (2) the revision of the organizational substructure for the Office of Administration and Management; and (3) the revision of the organizational substructure for the Office of Health Programs to more accurately reflect current activities.

Indian Health Service

Under Chapter HG, Section HG-20, Functions, after the statement for the Office of Human Resources (HGAB), insert the following:

Planning and Development Staff (HGAB-2)

(1) Develops and maintains strategic and long-range human resources master plans to ensure a knowledgeable, skilled, and capable work force to meet the current and future IHS management, program delivery, and administrative support needs; (2) assesses senior executives and managers training and development requirements and advises on opportunities; (3) develops and maintains standards and methodologies for the review and evaluation of IHS human resource recruitment, training, development and retention activities; (4) prepares reports and studies to agency management and others on the status, activities, and plans in human resources recruitment, management, and retention; and (5) conducts special projects on a variety of human resources requirements, utilization, and related matters.

Division of Personnel Management (HGAB2)

(1) Provides personnel management advice and assistance on matters affecting the IHS as a whole or on matters arising from the field requiring Headquarters action; (2) develops personnel management policies, programs, and reports; (3) within the Headquarters servicing area, provides the full range of personnel management and personnel administrative services including manpower planning and utilization, staffing, recruitment, compensation and classification, training, career development and upward mobility, and labor and employee relations; (4) provides advice, consultation, and assistance to IHS management and tribal officials on personnel policy issues associated with the implementation of Public Law (Pub. L.) 93-638; (5) coordinates commissioned officer orders, billets, efficiency reports and promotions; (6) provides liaison for commissioned corps activities IHS-wide with Division of Commissioned Personnel, Office of the Assistant Secretary for Health; (7) develops and/or provides training and career development programs, and manages nominations for executive level training programs IHS-wide; (8) assures implementation of the Indian Preference policy in all personnel practices; and (9) represents IHS in personnel management matters within and outside the Department of Health and Human Services.

Division of Data and Management Analysis (HGAB3)

(1) Serves as the IHS focal point for human resource data policy analysis, coordination and development of work force data collection and analytical activities, and related data and information systems management; (2) provides policy guidance, technical support, and advice to the Office of the Associate Director in the conduct of a comprehensive work force analytical program; (3) retrieves, establishes, and manages information and data on the IHS work force; (4) conducts work force data analyses, including trends and projections, identifying work force needs by major personnel systems, categories, and disciplines; (5) prepares technical reviews and data policy impact analysis of human resources studies, reports and activities performed by other IHS components; (6) monitors the allocation, expenditure, and utilization of IHS resources for staffing, training, development, and retention; and (7) provides technical and expert assistance to other IHS components to modify, refine, update, and develop forecasting models in the preparation of forecasts and reports on management, program support, and health care professions.

Division of Health Professions Recruitment and Training (HGAB4)

(1) Develops the IHS program to recruit, select, assign, and retain health care professionals in accordance with policies and guidance provided by the Division of Personnel Management; (2) assesses IHS professional staffing needs; (3) provides research and analysis functions for Chief Medical Officers, Clinical Directors, and senior clinicians; (4) manages continuing medical and scholarship education programs; and (5) coordinates activities and provides support for IHS clinical programs.

Under Chapter HG, Section HG-20, Functions, after the statement for, Division of Resources Management (HGA23), delete the statement for the

Division of Personnel Management (HGA24) in its entirety.

Under Chapter HG, Section HG–20, Functions, after the statement for, Division of Health Care Administration and Contract Health Services (HGA53), delete the statement for the Division of Health Professions Recruitment and Training (HGA54) in its entirety.

Under Section HG.40, Delegations of Authority insert: All delegations and redelegations of authority made to IHS officials that were in effect immediately prior to this reorganization and that are consistent with the reorganization effective July 24, 1992, shall continue in effect pending further redelegation.

September 11, 1992.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 92–22622 Filed 9–17–92; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-96]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN–ZCI–P; rm. 1E671, Pentagon, Washington, DC 20310–2600; (703) 693–4583; Dept. of Agriculture: Marsha Pruitt, Realty Officer, USDA, South Bldg. rm. 1566, 14th and Independence Ave. SW., Washington, DC 20250; (202) 447–3338; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW., Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; (These are not toll-free numbers).

Dated: September 11, 1992.

Randall H. Erben,

Acting Assistant Secretary for Community Planning and Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 09/18/92

Suitable/Available Properties

Buildings (by State)

Arkansas

Bldg. 294, M. Willis Residence
201 Avenue Street
Hot Springs Co: Garland AR 71901–
Landholding Agency: Interior
Property Number: 619230001
Status: Unutilized
Comment: 936 sq. ft., one story metal frame, most recent use—residence, off-site use only.

California

Yunker House (07–108)
Redwood National Park
Hiouchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619140004
Status: Unutilized
Comment: 900 sq. ft., 1 story frame residence, off-site use only.

Idaho

Bldg. 705, Ditchrider House

Boise Project
Notus Co: Cayon ID 83656–
Location: T5N, R3W, Sec 2, SE¼, SW¼, SW¼
Landholding Agency: Interior
Property Number: 619120010
Status: Unutilized
Comment: 586 sq. ft., 1 story residence, needs major rehab, off-site use only.

Bldg. 508–Warehouse
Black Canyon Dam
Emmett Co: Gem ID 83611–
Landholding Agency: Interior
Property Number: 619120011
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

Bldg. 510–Carpenter Shop
Black Canyon Dam
Emmett Co: Gem ID 83611–
Landholding Agency: Interior
Property Number: 619120012
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

Kentucky

Bldg. 0236, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230306
Status: Underutilized
Comment: 3032 sq ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 0655, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230307
Status: Underutilized
Comment: 1500 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only

Bldg. 1063, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230308
Status: Underutilized
Comment: 1600 sq. ft., 1-story, needs rehab, most recent use—instruction bldg., off-site use only

Bldg. 1373, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230309
Status: Underutilized
Comment: 2034 sq. ft., 1-story, needs rehab, most recent use—admin, off-site use only

Bldg. 2415, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230310
Status: Underutilized
Comment: 7525 sq. ft., 2-story, needs rehab, most recent use—admin, off-site use only

Bldg. 2417, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230311
Status: Underutilized
Comment: 7540 sq. ft., 2-story, needs rehab, most recent use—admin, off-site use only

Bldg. 2707, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230312
Status: Underutilized
Comment: 4596 sq. ft., 2-story, needs rehab, most recent use—admin, off-site use only

Bldg. 2708, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230313
Status: Underutilized
Comment: 3560 sq. ft., 2-story, needs rehab, most recent use—offices, off-site use only

Bldg. 2711, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230314
Status: Underutilized
Comment: 1275 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 7001, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230315
Status: Underutilized
Comment: 962 sq. ft., 1-story, needs rehab, most recent use—admin., off-site use only

Bldg. 7002, Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230316
Status: Underutilized
Comment: 3085 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Missouri

Bldg. T142
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230222
Status: Underutilized
Comment: 733 sq. ft., 1-story, presence of asbestos, most recent use—snack bar, needs rehab, off-site use only

Bldg. T1984
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230223
Status: Unutilized
Comment: 3762 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only

Bldg. T1985
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230224
Status: Underutilized
Comment: 3536 sq. ft., 1-story, presence of asbestos, most recent use—support facility, off-site use only

Bldg. T1654
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230225
Status: Underutilized
Comment: 820 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only

Bldg. T1991
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230226
Status: Underutilized
Comment: 1600 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only

Bldg. T1911
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230227
Status: Underutilized
Comment: 1600 sq. ft., 1-story, presence of asbestos, most recent use—support facility, off-site use only

Bldg. T2383
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230228
Status: Underutilized
Comment: 9267 sq. ft., 1-story, presence of asbestos, most recent use—general purpose facility, off-site use only

Bldg. T3051
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230229
Status: Underutilized
Comment: 1475 sq. ft., 1-story, presence of asbestos, most recent use—support bldg., off-site use only

Bldg. T3052
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230230
Status: Underutilized
Comment: 2650 sq. ft., 1-story, presence of asbestos, most recent use—support bldg., off-site use only

Bldg. T2353
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230231
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—clinic, off-site use only

Bldg. T2177
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230232
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of asbestos, most recent use—gymnasium, off-site use only

Bldg. T2137
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230233
Status: Underutilized
Comment: 3783 sq. ft., 1-story, presence of asbestos, most recent use—exchange branch, off-site use only

Bldg. T1378
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230234
Status: Underutilized

Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—personnel bldg., off-site use only

Bldg. T414
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230235
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1307
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230236
Status: Underutilized
Comment: 2284 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1376
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230237
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1327
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230238
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1352
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230239
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1652
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230240
Status: Underutilized
Comment: 4588 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1683
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230241
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T2356
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230242
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of asbestos, most recent use—Hqts. bldg., off-site use only

Bldg. T1330
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230243
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—instruction bldg., off-site use only

Bldgs. T1479, T1480
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230244
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of asbestos, most recent use—instruction bldg., off-site use only

Bldgs. T5132, T5133, T5134
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230245
Status: Underutilized
Comment: 360 sq. ft., 1-story, presence of asbestos, most recent use—instruction bldg., off-site use only

Bldgs. T419, T2358
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230246
Status: Underutilized
Comment: approximately 2300 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only

Bldgs. T2102, T2103
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230247
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. T2333
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230248
Status: Underutilized
Comment: 14362 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. T457
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230249
Status: Underutilized
Comment: 6136 sq. ft., 2-story, presence of asbestos, most recent use—education facility, off-site use only

Bldgs. T458, T462
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230250
Status: Underutilized
Comment: 5310 sq. ft., 2-story, presence of asbestos, most recent use—education facility, off-site use only

Bldgs. T1325, T1326, T1331
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230251
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—barracks, off-site use only

Bldgs. T1346, T1355, T1356, T1360, T1361, T1379
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230252
Status: Underutilized
Comment: 4720 sq. ft. each, 2-story, presence of asbestos, most recent use—barracks, off-site use only

Bldg. T1487
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230253
Status: Underutilized
Comment: 2366 sq. ft., 2-story, presence of asbestos, most recent use—barracks, off-site use only

Bldg. T1493
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230254
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of asbestos, most recent use—barracks, off-site use only

Bldg. T3068
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230255
Status: Underutilized
Comment: 5310 sq. ft., 2-story, presence of asbestos, most recent use—barracks, off-site use only

Bldg. T1328
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230256
Status: Underutilized
Comment: 2360 sq. ft., 1-story, presence of asbestos, most recent use—mess, off-site use only

Bldgs. T1339, T1373
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230257
Status: Underutilized
Comment: 2360 sq. ft., 1-story, presence of asbestos, most recent use—dining facility, off-site use only

Bldg. T2160
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230258
Status: Underutilized
Comment: 2892 sq. ft., 1-story, presence of asbestos, most recent use—mess, off-site use only

Bldgs. T2355, T2371
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000

Landholding Agency: Army
Property Number: 219230259
Status: Underutilized
Comment: 2360 sq. ft., 1-story, presence of asbestos, most recent use—mess, off-site use only

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230260
Status: Underutilized
Comment: 18270 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T1311
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230261
Status: Underutilized
Comment: 2740 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T1337
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230262
Status: Underutilized
Comment: 1296 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T1333
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230263
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T1345
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230264
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T3073
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230265
Status: Underutilized
Comment: 2750 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T416
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230266
Status: Underutilized
Comment: 2084 sq. ft., 1-story, presence of asbestos, most recent use—guard house, off-site use only

Bldg. T466
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230267
Status: Underutilized
Comment: 5310 sq. ft., 2-story, presence of asbestos, most recent use—guard house, off-site use only

Bldg. T3003
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230268
Status: Underutilized
Comment: 6440 sq. ft., 1-story, presence of asbestos, most recent use—shed, off-site use only

Bldg. T1175
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230269
Status: Underutilized
Comment: 3108 sq. ft., 1-story, presence of asbestos, most recent use—motor repair shop, off-site use only

Bldg. T3009
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230270
Status: Underutilized
Comment: 4687 sq. ft., 1-story, presence of asbestos, most recent use—motor repair shop, off-site use only

Bldg. T3291
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230271
Status: Underutilized
Comment: 3108 sq. ft., 1-story, presence of asbestos, most recent use—motor repair shop, off-site use only

Bldg. T1593
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230272
Status: Underutilized
Comment: 144 sq. ft., 1-story, presence of asbestos, most recent use—gas station, off-site use only

Bldg. T3000
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230273
Status: Underutilized
Comment: 158 sq. ft., 1-story, presence of asbestos, most recent use—gas station, off-site use only

Bldg. T2367
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219230274
Status: Underutilized
Comment: 166 sq. ft., 1-story, presence of asbestos, most recent use—pump station bldg., off-site use only

New Mexico

Old Helium Plant
Gallup Co: McKinley NM 87301-
Location: ¼ mile north of Gallup, adjacent to Old US Highway 666.
Landholding Agency: Interior
Property Number: 619010002
Status: Excess
Comment: 7653 sq. ft., 1 story office and warehouse space, possible asbestos, on 4.65 acres, secured area with alternate access

North Carolina

Bldg. A-3347, Fort Bragg
Ft. Bragg Co: Cumberland NC 28307-
Landholding Agency: Army
Property Number: 219230276
Status: Unutilized
Comment: 800 sq. ft., 1-story wood, most recent use—storage, off-site use only

Bldg. M-2637, Fort Bragg
Ft. Bragg Co: Cumberland NC 28307-
Landholding Agency: Army
Property Number: 219230277
Status: Unutilized
Comment: 4720 sq. ft., 2-story wood, most recent use—storage, needs rehab, off-site use only

Ohio

Safreit, Josephine A-8939
Sec. 25 & Sec. 24.30 Co: Monroe OH
Landholding Agency: Agriculture
Property Number: 159220002
Status: Excess
Comment: 2948 sq. ft., 1½ floors, frame residence, utilities disconnected, needs rehab, off-site removal only

Dye, Franklin A-8720
T4N, R6W, Sec. 7
Co: Monroe OH
Landholding Agency: Agriculture
Property Number: 159220003
Status: Excess
Comment: 2724 sq. ft., 1½ floors, frame residence, utilities disconnected, needs rehab, off-site removal only

15 Units
Military Family Housing
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266-9297
Landholding Agency: Army
Property Number: 219230354
Status: Unutilized
Number of Units: 15
Comment: 3 bedroom (7 units)—1,824 sq. ft. each, 4 bedroom 8 units)—2,430 sq. ft. each, 2-story wood frame, presence of asbestos, off-site use only

7 Units
Military Family Housing Garages
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266-9297
Landholding Agency: Army
Property Number: 219230355
Status: Unutilized
Number of Units: 7
Comment: 1-4 stall garage and 6-3 stall garages, presence of asbestos, off-site use only

Oklahoma

Bldg. T-3660, Fort Sill
3660 Tary Street
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219230275
Status: Unutilized
Comment: 4659 sq. ft., 1-story wood frame, off-site use only

Oregon

Bldg. #3 (Ranger Residence)
1900 Caves Highway
Cave Junction Co: Josephine OR 97523–
Landholding Agency: Interior
Property Number: 619130004
Status: Excess
Comment: 732 sq. ft., one story cabin, off-site use only

Texas

Bldg. 239, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230282
Status: Unutilized
Comment: 1575 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only

Bldg. 810, Fort Hood
Ft. Hood Co: Bell TX 76544—
Landholding Agency: Army
Property Number: 219230283
Status: Unutilized
Comment: 4779 sq. ft., 2-story, most recent use—storage, needs rehab, off-site use only

Bldg. 822, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230284
Status: Unutilized
Comment: 1350 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only

Bldg. 823, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230285
Status: Unutilized
Comment: 1350 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only

Bldg. 2235, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230286
Status: Unutilized
Comment: 2025 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. 2817, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230287
Status: Unutilized
Comment: 1998 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only

Bldg. 3473, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230288
Status: Unutilized
Comment: 6903 sq. ft., 2-story, most recent use—storage, needs rehab, off-site use only

Bldg. 3475, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230289
Status: Unutilized
Comment: 7239 sq. ft., 2-story, most recent use—storage, needs rehab, presence of asbestos, off-site use only

Bldg. 3476, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230290
Status: Unutilized
Comment: 7239 sq. ft., 2-story, most recent use—storage, needs rehab, presence of asbestos, off-site use only

Bldg. 3477, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230291
Status: Unutilized
Comment: 7239 sq. ft., 2-story, most recent use—storage, needs rehab, presence of asbestos, off-site use only

Bldg. 3478, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230292
Status: Unutilized
Comment: 7239 sq. ft., 2-story, most recent use—admin., needs rehab, presence of asbestos, off-site use only

Bldg. 4101, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230293
Status: Unutilized
Comment: 1453 sq. ft., 2-story, most recent use—storage, needs rehab, off-site use only

Bldg. 4102, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230294
Status: Unutilized
Comment: 727 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. 58616, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230295
Status: Unutilized
Comment: 1883 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only

Bldg. 866, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230317
Status: Unutilized
Comment: 972 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 878, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230318
Status: Unutilized
Comment: 1770 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 880, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230319
Status: Unutilized
Comment: 978 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 883, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230320
Status: Unutilized
Comment: 972 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldgs. 895, 896 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230321
Status: Unutilized
Comment: 1332 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 1343 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230322
Status: Unutilized
Comment: 2469 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 5314 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230323
Status: Unutilized
Comment: 1086 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 5315 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230324
Status: Unutilized
Comment: 347 sq. ft., 1-story metal structure, most recent use—storehouse, needs repair, off-site use only

Bldg. 5323 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230325
Status: Unutilized
Comment: 113 sq. ft., 1-story metal structure, most recent use—storehouse, needs repair, off-site use only

Bldg. 5337 Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230326
Status: Unutilized
Comment: 186 sq. ft., 1-story metal structure, most recent use—storehouse, needs repair, off-site use only

Bldg. 11215, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230327
Status: Unutilized
Comment: 738 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only

Bldg. 4201, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230328
Status: Unutilized
Comment: 10157 sq. ft., 2-story theater, needs repair, off-site use only

Bldg. 4746, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230329
Status: Unutilized
Comment: 873 sq. ft., 1-story wood, most recent use—day room, presence of asbestos, off-site use only

Bldg. 5312, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230330

Status: Unutilized
Comment: 2809 sq. ft., 1-story wood frame chapel, off-site use only

Bldg. S11267, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230331
Status: Unutilized
Comment: 2804 sq. ft., 2-story chapel, off-site use only

Bldg. 5342, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230332
Status: Unutilized
Comment: 2747 sq. ft., 1-story wood frame gymnasium, off-site use only

Bldg. 5429, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230333
Status: Unutilized
Comment: 873 sq. ft., 1-story wood, most recent use—NCO Club, off-site use only

Bldg. 7089, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230334
Status: Unutilized
Comment: 6684 sq. ft., 1-story wood, most recent use—YMCA bldg., needs rehab, off-site use only

Bldg. 11189, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230335
Status: Unutilized
Comment: 2889 sq. ft., 1-story wood frame, most recent use—skill development center, needs rehab, off-site use only

Bldgs. 869-870, 872, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230336
Status: Unutilized
Comment: 3540 sq. ft., 2-story wood frame, most recent use—classrooms, off-site use only

Bldgs. 5327, 5331, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230337
Status: Unutilized
Comment: 1770 sq. ft. each, 1-story wood frame, most recent use—classrooms, off-site use only

Bldgs. 5338, 5339, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230338
Status: Unutilized
Comment: 1770 sq. ft., 1-story wood frame, most recent use—classrooms, off-site use only

Bldg. 5347, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230339
Status: Unutilized
Comment: 1382 sq. ft., 1-story wood, most recent use—classroom, off-site use only

Bldg. 5417, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230340
Status: Unutilized
Comment: 1770 sq. ft., 1-story wood, most recent use—classroom, off-site use only

Bldg. 11224, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230341
Status: Unutilized
Comment: 2173 sq. ft., 1-story wood frame, most recent use—classroom, off-site use only

Bldg. 873, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230342
Status: Unutilized
Comment: 1200 sq. ft., 1-story wood frame, most recent use—admin., off-site use only

Bldgs. 876, 879, 882 Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230343
Status: Unutilized
Comment: 858 sq. ft., 1-story wood frame, most recent use—admin., off-site use only

Bldg. 4745, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230344
Status: Unutilized
Comment: 873 sq. ft., 1-story wood, most recent use—admin., presence of asbestos, off-site use only

Bldg. 5313, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230345
Status: Unutilized
Comment: 1690 sq. ft., 1-story wood frame, most recent use—admin., off-site use only

Bldg. 5336, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230346
Status: Unutilized
Comment: 1770 sq. ft., 1-story wood frame, most recent use—admin., off-site use only

Bldg. 11178, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230347
Status: Unutilized
Comment: 9381 sq. ft., 1-story wood frame, most recent use—admin., needs rehab, off-site use only

Bldg. 11322, Fort Bliss
Biggs Army Airfield
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230348
Status: Unutilized
Comment: 432 sq. ft., metal structure, most recent use—admin., off-site use only

Bldg. 2644, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230349
Status: Unutilized
Comment 108 sq. ft., 1-story, most recent use—chlorinator bldg., off-site use only

Bldg. 7142, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230350
Status: Unutilized
Comment: 222 sq. ft., most recent use—chlorinator bldg., needs rehab, off-site use only

Bldgs. 2645, 2646, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230351
Status: Unutilized
Comment: 270 sq. ft. each, 1-story concrete structures, most recent use—bath houses, off-site use only

Bldg. 7134, Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230352
Status: Unutilized
Comment 897 sq. ft., bath house, off-site use only

Bandstand & Pavillon
Fort Bliss
El Paso Co: El Paso TX 79916-
Landholding Agency: Army
Property Number: 219230353
Status: Unutilized
Comment: concrete and flag stone, off-site use only

Administration Bldg.
Guadalupe Mountains National Park
Pine Springs Co: Culberson TX 79847-
Landholding Agency: Interior
Property Number: 619130005
Status: Excess
Comment: 2016 sq. ft., one story frame structure, most recent use—office, off-site use only.

Virginia

Bldg. 626, Fort Story
626 Manus Road
Ft. Story Co: Princess Ann VA 23459-5000
Landholding Agency: Army
Property Number: 219230278
Status: Unutilized
Comment: 4800 sq. ft., 1-story wood frame, needs rehab, most recent use—barracks w/o dining, off-site use only

Bldg. 624, Fort Story
624 Manus Road
Ft. Story Co: Princess Ann VA 23459-5000
Landholding Agency: Army
Property Number: 219230279
Status: Unutilized
Comment: 4800 sq. ft., 1-story wood frame, needs rehab, most recent use—barracks w/o dining, off-site use only

Bldg. 512, Fort Eustis
512 Sternberg Avenue
Newport News VA 23604-
Landholding Agency: Army
Property Number: 219230280
Status: Unutilized
Comment: 2000 sq. ft., 1-story wood frame, needs rehab, possible asbestos, most recent use—storehouse, off-site use only

Bldg. 513, Fort Eustis
513 Sternberg Avenue
Newport News VA 23604-
Landholding Agency: Army
Property Number: 219230281
Status: Unutilized

Comment: 2000 sq. ft., 1-story wood frame, needs rehab, possible asbestos, most recent use—storehouse, off-site use only

Bldg. 615, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230296
Status: Unutilized
Comment: 2926 sq. ft., 1-story, most recent use—vet clinic, presence of asbestos, off-site use only

Bldg. 621, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230297
Status: Unutilized
Comment: 1309 sq. ft., 1-story, most recent use—vet clinic, presence of asbestos, off-site use only

Bldg. T1816, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230298
Status: Unutilized
Comment: 4720 sq. ft., 2-story, most recent use—operations bldg., needs rehab, presence of asbestos, off-site use only

Bldg. T1817, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230299
Status: Unutilized
Comment: 4720 sq. ft., 2-story, most recent use—admin., needs rehab, presence of asbestos, off-site use only

Bldg. T2205, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230300
Status: Unutilized
Comment: 4820 sq. ft., 2-story, most recent use—admin., needs rehab, presence of asbestos, off-site use only

Bldg. T2252, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230301
Status: Unutilized
Comment: 4830 sq. ft., 2-story, most recent use—billets, needs rehab, presence of asbestos, off-site use only

Bldg. T2253, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230302
Status: Unutilized
Comment: 4830 sq. ft., 2-story, most recent use—billets, needs rehab, presence of asbestos, off-site use only

Bldg. T2259, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230303
Status: Unutilized
Comment: 4830 sq. ft., 2-story, most recent use—billets, needs rehab, presence of asbestos, off-site use only

Bldg. T2268, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230304
Status: Unutilized
Comment: 4830 sq. ft., 2-story, most recent use—billets, needs rehab, presence of asbestos, off-site use only

Bldg. T2271, Fort Belvoir
Fort Belvoir Co: Fairfax VA 22060–
Landholding Agency: Army
Property Number: 219230305
Status: Unutilized
Comment: 4830 sq. ft., 2-story, most recent use—billets, needs rehab, presence of asbestos, off-site use only

Washington

Thompson Boathouse
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030011
Status: Unutilized
Comment: 693 sq. ft., 1 story boathouse, no utilities, needs rehab, off-site use only.

Spracklen Utility Shed
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526–
Landholding Agency: Interior
Property Number: 619030012
Status: Unutilized
Comment: 150 sq. ft., frame utility shed, limited utilities, off-site use only.

Suitable/Unavailable Properties

Buildings (by State)

Utah

Bryce Canyon Admin. Site
Near Bryce Canyon National Park
Bryce Canyon Co: Garfield UT 84717–
Landholding Agency: Interior
Property Number: 619140005
Status: Underutilized
Comment: 7 houses and other bldgs. on 66 acre site, seasonal use, one story wood frame structures, 48 thru 1400 sq. ft., environmentally protected.

Washington

Thompson Main Residence
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030001
Status: Unutilized
Comment: 2 story residence, no utilities, needs rehab, off-site use only.

Thompson Older Residence
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030002
Status: Unutilized
Comment: 888 sq. ft., 1 story residence, no utilities, needs rehab, off-site use only.

Thompson Garage
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030003
Status: Unutilized
Comment: 240 sq. ft., 1 story garage, no utilities, needs rehab, off-site use only.

Thompson Shop
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030009
Status: Unutilized
Comment: 300 sq. ft., 1 story shop, no utilities, needs rehab, off-site use only.

Thompson Powerhouse
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030010
Status: Unutilized
Comment: 160 sq. ft., 1 story powerhouse, no utilities, needs rehab, off-site use only.

Dahinden Storage Building
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526–
Landholding Agency: Interior
Property Number: 619030013
Status: Unutilized
Comment: 240 sq. ft., frame storage building, no utilities, needs rehab, off-site use only.

Bldg. 1185
Lake Crescent Ranger Station HC 62, Box 10
Carter Storage Building
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030016
Status: Unutilized
Comment: 92 sq. ft., 1 story storage building, no utilities, off-site use only.

Haas Barn
c/o Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040001
Status: Excess
Comment: 1408 sq. ft., 1 story wood frame barn, potential utilities, poor condition, off-site use only.

Haas Barn
c/o Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040002
Status: Excess
Comment: 480 sq. ft., 1 story wood frame shed, poor condition, off-site use only.

Haas Shed
c/o Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040003
Status: Excess
Comment: 64 sq. ft., wood frame shed, poor condition, off-site use only.

Haas Residence
c/o Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040006
Status: Excess
Comment: 624 sq. ft., 1 story wood frame residence, potential utilities, poor condition, off-site use only.

Bldg. 1323
Jensen Barn
% Quinault Ranger Station, Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–

Landholding Agency: Interior
Property Number: 619040007
Status: Excess
Comment: 4200 sq. ft., wood frame barn, most recent use—storage, no utilities, off-site use only.

Wyoming

Administration Bldg.
Fontenelle Camp
Fontenelle Co: Lincoln WY
Location: Approximately 24 miles southeast of Labarge, off State Road 372 and on County Road 316.
Landholding Agency: Interior
Property Number: 619030017
Status: Excess
Comment: 4464 sq. ft., 2 story brick structure with a 2880 sq. ft. wood frame addition, needs rehab, possible asbestos, off-site use only.

Land (by State)

Arizona

Tract No. APO-HR-12-GSA-001
Central Arizona Project
Scottsdale Co: Maricopa AZ 85251-
Landholding Agency: Interior
Property Number: 619230002
Status: Excess
Comment: 16.22 acres, powerline and road easements, access subject to a private road, land near a historic landmark

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 8359, Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898-5000
Landholding Agency: Army
Property Number: 219230189
Status: Unutilized
Reason: Secured Area

Bldg. 8942, Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898-5000
Landholding Agency: Army
Property Number: 219230190
Status: Unutilized
Reason: Secured Area

Bldg. 8418, Fort Rucker
Ft. Rucker Co: Dale AL 36362-
Landholding Agency: Army
Property Number: 219230191
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 8421, Fort Rucker
Ft. Rucker Co: Dale AL 36362-
Landholding Agency: Army
Property Number: 219230192
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Alaska

Bldg. 1126, Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99505-
Landholding Agency: Army
Property Number: 219230183
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 1578, Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99505-
Landholding Agency: Army
Property Number: 219230184
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 962, Fort Richardson
Ft. Richardson Co: Anchorage AK 99505-
Landholding Agency: Army
Property Number: 219230185
Status: Unutilized
Reason: Within airport runway clear zone, Other
Comment: Extensive deterioration

Bldg. 968, Fort Richardson
Ft. Richardson Co: Anchorage AK 99505-
Landholding Agency: Army
Property Number: 219230186
Status: Unutilized
Reason: Within airport runway clear zone, Other
Comment: Extensive deterioration

Bldg. 67700, Fort Richardson
Ft. Richardson Co: Anchorage AK 99505-
Landholding Agency: Army
Property Number: 219230187
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Arkansas

Bldg. 240
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230147
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3727
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230148
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3728
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230149
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3729
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230150
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3730
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230151
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3731
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230152
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3732
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230153
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3733
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230154
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3734
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230155
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3735
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230156
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3737
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230157
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3738
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230158
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3739
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230159
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3740
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230160
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3741
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230161

Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3742
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230162
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3743
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230163
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3744
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230164
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3745
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230165
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3746
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230166
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3747
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230167
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3748
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230168
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 3749
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230169
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 4465
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230170
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 4550
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230171
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 4667
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230172
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 5169
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219230173
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 289, L Parrish Residence
1702-D West Grand
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220003
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 290 L Parrish Rent House
1702-C West Grand
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220004
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 291 L Parrish Rent House
1702-A&B West Grand
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220005
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 292 M Mashburn Residence
26 Conway Terrace
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220006
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 293, B. Riley Residence
106 Akin
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220007
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 295, S. Guinn Residence
Crabtree Cemetary Road
Hot Springs Co: Garland AR 71901-
Landholding Agency: Interior
Property Number: 619220008
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

California

Bldg. S-20, Sharpe Site
Lathrop Co: San Joaquin CA 95331-
Landholding Agency: Army
Property Number: 219230178
Status: Underutilized
Reason: Secured area

Bldg. S-290, Sharpe Site
Lathrop Co: San Joaquin CA 95331-
Landholding Agency: Army
Property Number: 219230179
Status: Underutilized
Reason: Secured area

Bldg. S-367, Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219230180
Status: Unutilized
Reason: Secured area

Bldg. S-1202A
Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219230181
Status: Underutilized
Reason: Secured Area

Bldg. T-1212
Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219230182
Status: Underutilized
Reason: Secured Area

Hawaii

Bldg. T-506
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230128
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1514
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230129
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1515A
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230130
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1516
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230131
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1529
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230132
Status: Unutilized

Reason: Other
Comment: Extensive Deterioration

Bldg. T-1534
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230133
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1606
Fort Shafter
Honolulu Co: Honolulu HI 96819-
Landholding Agency: Army
Property Number: 219230134
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1180A
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230135
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2214
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230136
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2261
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230137
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2263
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230138
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2264
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230139
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2265
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230140
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2267
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230141
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2268
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230142
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2269
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230143
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2270
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230144
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2275
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230145
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-2276
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786-
Landholding Agency: Army
Property Number: 219230146
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Illinois

Bldg. 250
Savanna Army Depot Activity
Savanna Co: Carroll IL 61074-
Landholding Agency: Army
Property Number: 219230126
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 253
Savanna Army Depot Activity
Savanna Co: Carroll IL 61074-
Landholding Agency: Army
Property Number: 219230127
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Indiana

Fuel Station
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124-1096
Landholding Agency: Army
Property Number: 219230030
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Post Exchange
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124-1096
Landholding Agency: Army
Property Number: 219230031
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 701
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966-
Landholding Agency: Army
Property Number: 219230032
Status: Unutilized
Reason: Secured Area

Bldg. 711
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966-
Landholding Agency: Army
Property Number: 219230033
Status: Unutilized
Reason: Secured Area

Bldg. 2501
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111-
Landholding Agency: Army
Property Number: 219230034
Status: Unutilized
Reason: Secured Area

Bldg. 2522
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111-
Landholding Agency: Army
Property Number: 219230035
Status: Unutilized
Reason: Secured Area

Bldg. 2619
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111-
Landholding Agency: Army
Property Number: 219230036
Status: Unutilized
Reason: Secured Area

Bldg. 2628
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111-
Landholding Agency: Army
Property Number: 219230037
Status: Unutilized
Reason: Secured Area

Iowa

Bldg. 257
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219230005
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 268
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219230006
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 269
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219230007
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 270
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219230008

Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 271
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230009
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 272
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230010
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 273
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230011
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 274
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230012
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 275
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230013
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 277
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230014
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 278
Iowa Army Ammunition Plant
Middletown Co Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230015
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 279
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230016
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 314
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230017
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 500–72–1
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230018
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. A0274
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230019
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. A0278
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230020
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. A0280
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230021
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1019
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230022
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1020
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230023
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1021
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230024
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1022
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230025
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1023
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230026
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1024
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230027
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1027
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230028
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. 1034
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219230029
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Kentucky

Bldg. T00122 KA2
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230038
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. T00129 KA
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230039
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. T00129 KC
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230040
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. T00129 KD
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230041
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. T00143 KD
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230042
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. T00145 KD
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–

Landholding Agency: Army
Property Number: 219230043
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T00161 KC
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230044
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T00161 KD
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230045
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T00167 KC
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230046
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T0069 KC
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230047
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T02266 T
Fort Campbell
Old Hospital Complex
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219230048
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 0164
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230049
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 0230
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230050
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 0702
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230051
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2414
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230052
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2712
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230053
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2716
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230054
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2792
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230055
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2833
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230056
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2834
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230057
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 2835
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230058
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 6649
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230059
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 7309
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230060
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 7311
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230061
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9215
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230062
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9616
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230063
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9617
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230064
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9618
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230065
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9619
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230066
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9620
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230067
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9709
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230068
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9711
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219230069
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 9714
Fort Knox
Ft. Knox Co: Hardin KY 40121–

Landholding Agency: Army
Property Number: 219230070
Status: Underutilized
Reason: Other
Comment: Extensive Deterioration

Louisiana

Bldg. 715
Fort Polk
715 Colorado Avenue
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219230081
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 716
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219230082
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 7469
Fort Polk
7469 F Avenue
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219230083
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 7470
Fort Polk
7470 F Avenue
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219230085
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 8603
Fort Polk
8603 Ordinance Road
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219230086
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. A–102
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219230087
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Maryland

Bldg. 128
Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Number: 219230088
Status: Underutilized
Reason: Secured Area

Bldg. 4900
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219230089
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 361
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230193
Status: Unutilized
Reason: Secured Area

Bldg. 375
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230194
Status: Unutilized
Reason: Secured Area

Bldg. 8497
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230195
Status: Unutilized
Reason: Secured Area

Bldg. 288
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230196
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 362
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230197
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 363
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230198
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 365
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230199
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 366
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230200
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 367
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230201
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 368
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230202
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 383
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230203
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 384
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230204
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 385
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230205
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 386
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230206
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 387
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230207
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 388
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230208
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 1990
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230209
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2221
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230210
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2223
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230211
Status: Unutilized

Reason: Other
Comment: Extensive deterioration

Bldg. 2225
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230212
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2226
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230213
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2227
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230214
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2822
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230215
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2823
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230216
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2824
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230217
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2825
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230218
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2826
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230219
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2841
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230220
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 2842
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219230221
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Massachusetts

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area, Other
Comment: Extensive deterioration

Bldg. 3596, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230096
Status: Unutilized
Reason: Secured Area

Montana

Lolo Work Cntr. Messhall #1001
Highway 12—Approx. Mile Marker 15
Co: Missoula MT 59801–
Landholding Agency: Agriculture
Property Number: 159220004
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, other
Comment: Extensive deterioration

Lolo Work Cntr Bunkhouse #2001
Highway 12—Approx. Mile Marker 15
Co: Missoula MT 59801–
Landholding Agency: Agriculture
Property Number: 159220005
Status: Unutilized
Reason: Floodway, Other
Comment: Extensive deterioration

Nebraska

Bldg. 1L–19
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803–
Landholding Agency: Army
Property Number: 219230092
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 1CH19
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803–
Landholding Agency: Army
Property Number: 219230093
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 1P019
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803–
Landholding Agency: Army
Property Number: 219230094
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Nevada

Bldg. OA11C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219230090
Status: Unutilized
Reason: Secured Area

New Jersey

Bldg. 65A
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230118
Status: Unutilized
Reason: Secured Area

Bldg. 80D
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230119
Status: Unutilized
Reason: Secured Area

Bldg. 90
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230120
Status: Unutilized
Reason: Secured Area

Bldg. 603F
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230121
Status: Unutilized
Reason: Secured Area

Bldg. 1036B
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230122
Status: Unutilized
Reason: Secured Area

Bldg. 1304
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230123
Status: Unutilized
Reason: Secured Area

Bldg. 1414
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230124
Status: Unutilized
Reason: Secured Area

Bldg. 1414A
Armament Research Dev. & Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219230125
Status: Unutilized
Reason: Secured Area

Bldg. 76, Main Post
Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219230174
Status: Unutilized

Reason: Floodway

Bldg. 80, Main Post
Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219230175
Status: Unutilized
Reason: Secured Area

Bldg. 692, Main Post
Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 00073–
Landholding Agency: Army
Property Number: 219230176
Status: Unutilized
Reason: Secured Area

Bldg. 701, Main Post
Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703–
Landholding Agency: Army
Property Number: 219230177
Status: Unutilized
Reason: Secured Area

New Mexico

Farmington Office and Yard
900 La Plata Highway
Farmington Co: San Juan NM 87499–
Landholding Agency: Interior
Property Number: 619010001
Status: Unutilized
Reason: Within airport runway clear zone

New York

Bldg. 110
Senaca Army Depot
Romulus Co: Senaca NY 14541–5001
Landholding Agency: Army
Property Number: 219230091
Status: Unutilized
Reason: Secured Area

2 Buildings
Ant Saugerties
Saugerties Co: Ulster NY 12477–
Landholding Agency: DOT
Property Number: 879230005
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

North Carolina

Bldg. A–5228
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219230097
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 4–2133
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219230098
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 8–3315
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219230099
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Oregon

Eugene District Office Site
751 South Danebo
Eugene Co: Lane OR 97402–
Landholding Agency: Interior
Property Number: 619010003
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

Bldg. 5340
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230107
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Swimming Pools
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219230108
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 265
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230109
Status: Unutilized
Reason: Secured Area

Bldg. 331
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230110
Status: Unutilized
Reason: Secured Area

Bldg. 1449
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230111
Status: Unutilized
Reason: Secured Area

Bldg. 1545
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230112
Status: Unutilized
Reason: Secured Area

Bldg. 1546
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230113
Status: Unutilized
Reason: Secured Area

Bldg. 1548
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230114
Status: Unutilized
Reason: Secured Area

Bldg. 1549
Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Location: 18 miles west of Texarkana, U.S. Hwy. 82
Landholding Agency: Army
Property Number: 219230115
Status: Unutilized
Reason: Secured Area

Bldg. 56116
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230116
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. 56167
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219230117
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Alaniz House (Tract #105–11)
Immed. adjacent to Mission San Juan
San Antonio Co: Bexar TX 78214–
Landholding Agency: Interior
Property Number: 619220001
Status: Excess
Reason: Other
Comment: Extensive deterioration

Garcia House (Tract #105–03)
Immed. adjacent to Mission San Juan
San Antonio Co: Bexar TX 78214–
Landholding Agency: Interior
Property Number: 619220002
Status: Excess
Reason: Other
Comment: Extensive deterioration

Virginia

Bldg. US 100–02
Radford Army Ammunition Plant
Radford VA 24141–
Landing Agency: Army
Property Number: 219230100
Status: Unutilized
Reason: Secured Area

Bldg. 6208
Radford Army Ammunition Plant
Radford VA 24141–
Landholding Agency: Army
Property Number: 219230101
Status: Unutilized
Reason: Secured Area

Bldg. 9477–5
Radford Army Ammunition Plant
Radford VA 24141–
Landholding Agency: Army
Property Number: 291230102
Status: Unutilized
Reason: Secured Area

Bldg. 9481
Radford Army Ammunition Plant
Radford Va 24141–
Landholding Agency: Army
Property Number: 219230103
Status: Unutilized

Reason: Secured Area
Bldg. T-551
Fort Monroe
Ft. Monroe VA 23651-
Landholding Agency: Army
Property Number: 219230104
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldg. T-1625
U.S. Army Combined Arms Support Command
Ft. Lee Co: Prince George VA 23801-
Landholding Agency: Army
Property Number: 219230105
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Bldgt. T-11613
U.S. Army Combined Arms Support Command
Ft. Lee Co: Prince George VA 23801-
Landholding Agency: Army
Property Number: 219230106
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Washington

Bldg. 1302
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5500
Landholding Agency: Army
Property Number: 219230071
Status: Unutilized
Reason: Secured Area

Bldg. 1303
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230072
Status: Unutilized
Reason: Secured Area

Bldg. 1304
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230073
Status: Unutilized
Reason: Secured Area

Bldg. 1305
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230074
Status: Unutilized
Reason: Secured Area

Bldg. T02257
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230075
Status: Unutilized
Reason: Secured Area

Bldg. T03200
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230076
Status: Unutilized
Reason: Secured Area

Bldg. T04427
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230077
Status: Unutilized
Reason: Secured Area

Bldg. T04429
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230078
Status: Unutilized
Reason: Secured Area

Bldg. T04430
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230079
Status: Unutilized
Reason: Secured Area

Bldg. T04431
Fort Lewis
Ft. Lewis Co: Pierce WA 98433-5000
Landholding Agency: Army
Property Number: 219230080
Status: Unutilized
Reason: Secured Area

Dahinden Chicken Coop
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526-
Landholding Agency: Interior
Property Number: 619030014
Status: Unutilized
Reason: Other
Comment: Chicken coop

Dahinden Outhouse
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526-
Landholding Agency: Interior
Property Number: 619030015
Status: Unutilized
Reason: Other
Comment: Detached latrine

Haas Chicken Coop
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526-
Landholding Agency: Interior
Property Number: 619040004
Status: Excess
Reason: Other
Comment: Chicken coop

Haas Lean-to
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526-
Landholding Agency: Interior
Property Number: 619040005
Status: Excess
Reason: Other
Comment: Lean-to

Bldg. #36—Stehekin District
Company Creek Road
Stehekin Co: Chelen WA 98852-
Landholding Agency: Interior
Property Number: 619130001
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 689—Comfort Station
Olympic Hot Springs Wilderness Backcountry
Port Angeles Co: Clallam WA 98362-6796
Landholding Agency: Interior
Property Number: 619130002
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 252—Storage Shed
Olympic Hot Springs Wilderness Backcountry
Port Angeles Co: Clallam WA 98362-6798
Landholding Agency: Interior
Property Number: 619130003
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. L-103
Mount Rainier National Park
Longmire Maintenance Complex
Longmire Co: Pierce WA 98397-
Landholding Agency: Interior
Property Number: 619130007
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. L-234
Mount Rainier National Park
Longmire Maintenance Complex
Longmire Co: Pierce WA 98397-
Landholding Agency: Interior
Property Number: 619130008
Status: Excess
Reason: Other
Comment: Extensive deterioration

Wisconsin

Kapsey Property #3961
Co: Taylor WI
Location: Sec. 2, T31N, R3W from junction of State Hwy. 64 & 73, go north on Hwy. 73 1¾ miles—turn right on Co. Hwy. G—go 2¾ miles, turn right on FR 121, turn left on 1st road past Yellow River
Landholding Agency: Agriculture
Property Number: 159220001
Status: Unutilized
Reason: Floodway

Land (by State)

Alaska

Campbell Creek Range
Fort Richardson
Anchorage Co: Greater Anchora AK 99507-
Landholding Agency: Army
Property Number: 219230188
Status: Unutilized
Reason: Other
Comment: Inaccessible

Arizona

Elliott Homes—Canal
West of 77th Ave. and South of Cholla Street
Peoria Co: Maricopa AZ 85345—
Landholding Agency: Interior
Property Number: 619130006
Status: Surplus
Reason: Other
Comment: Lateral canal

Puerto Rico

119.3 acres
Culebra Island PR 00775—
Landholding Agency: Interior
Property Number: 619210001
Status: Excess
Reason: Floodway

[FR Doc. 92-22416 Filed 9-17-92; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3362; FR 3190-N-06]

HOPE for Public and Indian Housing Homeownership Program (HOPE 1); Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Anouncement 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 announcement notifies the public of funding decisions made by the Department in a competition for funding under the HOPE for Public and Indian Housing Homeownership program (HOPE 1). The announcement contains the names and addresses of the award winners and the amounts of the awards for planning grants.

DATES: September 17, 1992.

FOR FURTHER INFORMATION CONTACT: Gary Van Buskirk, Office of Resident Initiatives, Department of Housing and Urban Development, room 4112, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4233. The TDD number for the hearing impaired is (202) 708-9300. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to award planning grants to assist eligible applicants in developing a homeownership program, including the development of resident organizations, feasibility studies, counseling and training of residents and homebuyers, activities necessary for the development of a homeownership program, and preparation of an application for an implementation grant.

The 1992 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on January 14, 1992 (57 FR 1550). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $24 million was awarded for 184 planning grants. 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 names, addresses, and amounts of those awards appears at the end of this Notice.

Dated: September 10, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

FY 1992 THIRD QUARTER FUNDING DECISIONS HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE 1)
RECIPIENTS OF FINAL FUNDING DECISIONS FOR PLANNING GRANT AWARDS

Region	Funding recipient	Housing authority and development site	Dollar amount approved
4	The Housing Authority of the City of Auburn 931 Booker St. Auburn, AL 36830.	City of Auburn Housing Authority, East Park/AL-50-1	$5,600
4	The Housing Authority of the City of Auburn, 931 Booker St., Auburn, AL 36830.	City of Auburn Housing Authority, East Park/AL-50-3	6,400
4	The Housing Authority of the City of Auburn, 931 Booker St, Auburn, AL 36830.	City of Auburn Housing Authority, Redgecrest	40,400
4	The Housing Authority of the City of Auburn, 931 Booker St, Auburn, AL 36830.	City of Auburn Housing Authority, Sparkman Park	12,400
4	The Housing Authority of the City of Auburn, 931 Booker St, Auburn, AL 36830.	City of Auburn Housing Authority, East Park/AL-50-5A	7,200
4	Housing Authority of Greene County, P.O. Box 389, S. Prairie Ave, Eutaw, AL 35462.	The Greene County Housing Authority, William McKinley Branch Heights.	96,400
6	North Little Rock Housing Authority, P.O. Box 516, NLR, AR 72115, North Little Rock, AR 72114.	City of North Little Rock Housing Authority, Windemere Hills	56,400
6	Housing Authority of the City of Little Rock, 1000 Wolfe St., Little Rock, AR 72202.	City of Little Rock Housing Authority, Amelia B. Ives Homes	54,700
6	Pine Bluff Housing Authority, 2503 Belle Meade Drive, Pine Bluff, AR 71601.	City of Pine Bluff Housing Authority, Cottonwood Park Development	106,000
6	Pine Bluff Housing Authority, 2503 Belle Meade Drive, Pine Bluff, AR 71601.	City of Pine Bluff Housing Authority, Hallmark Manor	107,150
9	Housing Department of Maricopa County, 1510 S. 19th Drive, Phoenix, AZ 85009.	The Maricopa County Housing Authority, John Hammond Homes	100,000
9	San Francisco Housing Authority, 440 Turk St., San Francisco, CA 94102.	City of San Francisco Housing Authority, Potrero Terrace/Potrero Annex.	222,800
9	San Francisco Housing Authority, 440 Turk St., San Francisco, CA 94102.	City of San Francisco Housing Authority, Alemany	171,000
9	Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017.	City of Los Angeles Housing Authority, Avalon Gardens	109,293
9	Estrada Courts Resident Management Corporation, 1305 S. Concord St. ;18, Los Angeles, CA 90023.	City of Los Angeles Housing Authority, Estrada Courts	121,250
9	Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017.	City of Los Angeles Housing Authority, Dana Strand Village	252,407
9	Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017.	City of Los Angeles Housing Authority, Mar Vista Gardens	401,683
9	Concerned Citizens of South Central L.A., 4111 S. Central Ave., Los Angeles, CA 90011.	City of Los Angeles Housing Authority, Pueblo del Rio, Pueblo Del Rio Extension.	200,000
9	Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017.	City of Los Angeles Housing Authority, Rancho San Pedro	318,304
9	Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017.	City of Los Angeles Housing Authority, Romona Gardens	330,794
9	Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308.	The Kern County Housing Authority, Oro Vista	194,000
9	Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308.	The Kern County Housing Authority, Valle Vista	154,100

FY 1992 THIRD QUARTER FUNDING DECISIONS HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE 1)
RECIPIENTS OF FINAL FUNDING DECISIONS FOR PLANNING GRANT AWARDS—Continued

Region	Funding recipient	Housing authority and development site	Dollar amount approved
9	Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308.	The Kern County Housing Authority, John W. Sams Park	194,000
9	Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308.	The Kern County Housing Authority, Rosa Vista	117,600
9	Housing Authority of the County of Kern, 525 Roberts Lane, Bakersfield, CA 93308.	The Kern County Housing Authority, Adelante Vista	114,700
9	Housing Authority of the City of Richmond, 330-24th. St./P.O. Box 515, Sta. A, Richmond, CA 94808.	City of Richmond Housing Authority, Easter Hill Village	67,800
9	Housing Authority of the County of Riverside, 5555 Arlington Ave., Riverside, CA 92504.	The Riverside County Housing Authority, Fort Drive	13,600
9	Housing Authority of the County of Riverside, 5555 Arlington Ave., Riverside, CA 92504.	The Riverside County Housing Authority, Gloria Street	11,200
9	Housing Authority of the County of Riverside, 5555 Arlington Ave., Riverside, CA 92504.	The Riverside County Housing Authority, Gloria Street	16,000
9	Housing Authority of the City of Calexico, 1006 E. Fifth St., Calexico, CA 92231.	City of Calexico Housing Authority, Casas Del Sol	158,600
9	Benicia Housing Authority, 28 Riverhill Drive/P.O. Box 275, Benicia, CA 94510.	Benicia Housing Authority, Capitol Heights	92,100
9	Marin City Tenant's Council, 105 Drake Avenue, Marin City, CA 94965	The Marin County Housing Authority, Marin City	300,000
9	Area Housing Authority of the County of Ventura, 99 S. Glenn Dr., Camarillo, CA 93010.	County Area-Wide Housing Authority, The Roth Apartments	15,352
9	Area Housing Authority of the County of Ventura, 99 S. Glenn Dr., Camarillo, CA 93010.	Ventura County Area-Wide Housing Authority, Leggett Court	20,352
9	Area Housing Authority of the County of Ventura, 99 S. Glenn Dr., Camarillo, CA 93010.	Ventura County Area-Wide Housing Authority, Ellis Terrace	41,082
8	Housing Authority of the City of Pueblo, 1414 N. Santa Fe Ave. F1 10, Pueblo, CO 81003-3795.	City of Pueblo Housing Authority C0002004/C0002006/C0002009	116,500
8	Jefferson County Housing Authority, 1445 Holland St., Lakewood CO 80215.	The Jefferson County Housing Authority, Jefferson County Public Housing.	68,000
1	Housing Authority of the City of Hartford, 475 Flatbush Ave., Hartford, CT 06106.	City of Hartford Housing Authority, Scattered Sites I, II, III	100,000
1	Housing Authority of the City of Hartford, 475 Flatbush Ave., Hartford, CT 06106.	City of Hartford Housing Authority, Nelton Court	100,000
1	Waterbury Housing Authority, 70 Lakewood Rd., Waterbury, CT 06704	City of Waterbury Housing Authority, Austin Roads Apartments	100,000
1	Housing Authority, City of Danbury, 2 Mill Ridge Rd., Danbury, CT 06811.	City of Danbury Housing Authority, Eden Drive	97,000
3	Washington Innercity Self Help, 1419 V St., NW., Washington, DC 20009.	City of Washington DC Housing Authority, Capitol View Plaza	158,200
4	Blodgett, 605 Court E, Unit 325, Jacksonville, FL 32209	City of Jacksonville Housing Authority, Blodgett	73,119
4	Forest Meadows East RMC, 1935 Forest Blvd., suite 18, 19, Jacksonville, FL 32216.	City of Jacksonville Housing Authority, Forest Meadows East	90,000
4	Hogans Creek, 1320 Broad St., ;1004, Jacksonville, FL 32209	City of Jacksonville Housing Authority, Hogans Creek	73,119
4	Jacksonville Urbag League, Inc., 233 West Duval St., 14th floor, Jacksonville, FL 32202.	City of Jacksonville Housing Authority, Anders Park	200,000
4	City of Jacksonville Dept. of Hsg. & Urban Dev., 1300 Broad St., Jacksonville, FL 32260.	City of Jacksonville Housing Authority, Brentwood Resident Development Corp., Inc.	150,000
4	Centennial Towers, 1300 Broad St., Jacksonville, FL 32206	City of Jacksonville Housing Authority, Centennial Towers	85,300
4	Golfbrook, 5339 Golfbrook Dr., ;10, Jacksonville, FL 32208	City of Jacksonville Housing Authority, Golfbrook	73,119
4	Jacksonville Beach, 925 5th Ave., South, Jacksonville Beach, FL 32216.	City of Jacksonville Housing Authority, Jacksonville Beach	73,119
4	City of Jacksonville Dept. of Hsg. & Urban Dev., 1300 Broad St., Jacksonville, FL 32260.	City of Jacksonville Housing Authority, Pottsburg Park Housing Development.	148,000
4	Durkeeville, 1711 Eaverson St., Jacksonville, FL 32209	City of Jacksonville Housing Authority, Durkeeville	73,119
4	Twin Towers, 617 W. 44th St, ;176, Jacksonville, FL 32208	City of Jacksonville Housing Authority, Twin Towers	73,119
4	The Housing Authority of the City of Tampa, 1514 Union St., Tampa, FL 33607.	City of Tampa Housing Authority, Ponce De Leon Courts	285,000
4	Dade County Department of Housing & Urban Devel., 1401 NW 7th St., Miami, FL 33125.	The Dade County Housing Authority, Venetian Gardens	127,300
4	Dade County Dept. of Housing & Urban Development, 1401 NW. 7th Street, Miami, FL 33125.	The Dade County Housing Authority, Richmond Homes	86,000
4	The Hsg. Auth. of the City of Daytona Beach, FL, 118 Cedar Street, Daytona Beach, FL 32114.	City of Daytona Beach Housing Authority, Walnut Oak Apartments	174,000
4	Ocala Housing Authority, 1415 NE. 32 Terrace, Ocala, FL 32670	City of Ocala Housing Authority, N.H. Jones	100,000
4	Hialeah Housing Authority, 70 E. 7th St., Hialeah, FL 33010	City of Hialeah Housing Authority, Seminola Villas	97,000
4	Tallahassee Housing Authority, 2940 Grady Road, Tallahassee, FL 32312.	City of Tallahassee Housing Authority, Orange Avenue Apartments	183,000
4	Housing Authority of Savannah, 200 E. Broad St., Savannah, GA 31401.	City of Savannah Housing Authority, Fred Wessels Homes	114,800
4	The Housing Authority of Columbus Georgia, 1000 Wynnton Road, Columbus, GA 31906.	City of Columbus Housing Authority, Resident Homeownership Program.	18,000
4	University Community Development Corporation, 736 Beckwith St., SW, Atlanta, GA 30314.	City of Atlanta Housing Authority, University/John Hope Homes	400,000
4	Valdosta Housing Authority, P.O. Box 907, Valdosta, GA 31603	City of Valdosta Housing Authority, Hudson Dockett Homes	12,848
4	Housing Authority of the City of Alamo, P.O. Box 478, Alamo, GA 30411.	Housing Authority of the City of Alamo	20,000

FY 1992 THIRD QUARTER FUNDING DECISIONS HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE 1)
RECIPIENTS OF FINAL FUNDING DECISIONS FOR PLANNING GRANT AWARDS—Continued

Region	Funding recipient	Housing authority and development site	Dollar amount approved
4	Housing Authority of the City of Glenwood, GA, 1 Project St., Glenwood, GA 30428.	Housing Authority of the City of Glenwood, GA	60,000
9	Nanakuli Neighborhood Housing Services, Inc., 87-2070 Farrington Hwy Suite 13, Nanakuli, HI 96792.	City of Hawaii Housing Authority, Nanakuli Homes	120,205
7	City of Clinton, Iowa Housing Authority, 611 S. Third St., P.O. Box 2958, Clinton, IA 52733-2958.	City of Clinton Housing Authority, Southside Development	70,350
7	Knoxville Low Rent Housing Agency, 305 S. 3rd, Knoxville, IA 50138	Knoxville Low Rent Housing Agency, Valley View Apartments	20,557
5	Chicago Housing Authority, 22 W. Madison, Chicago, IL 60602	City of Chicago Housing Authority, Wentworth Gardens Annex	200,000
5	LeClaire Courts Resident Management Corporation, 4373 S. Lamon Ave., Chicago, IL 60638.	City of Chicago Housing Authority, LeClaire Courts Extension	200,000
5	The Housing Authority of the City of Kokomo, 210 E. Taylor Box 1207, Kokomo, IN 46903-1207.	City of Kokomo Housing Authority, Gateway Gardens	94,220
4	Housing Authority of Louisville, 420 South 8th Street, Louisville, KY 40203.	City of Louisville Housing Authority, LaSalle Place	98,700
6	Desire Area Resident Council, 3373 Desire Pkwy, New Orleans, LA 70126.	City of New Orleans Housing Authority, Desire	338,500
6	Christopher Park Homebuyers Association, 2000 Murl St., New Orleans, LA 70114.	City of New Orleans Housing Authority, Christopher Park Homes	199,700
6	Shreveport Housing Authority, 623 Jordan St., Shreveport, LA 71101	City of Shreveport Housing Authority, Wilkinson Terrace	139,300
1	Boston Housing Authority, 52 Chauncy St., Boston, MA 02111	City of Boston Housing Authority, Heath Street	125,200
1	Boston Housing Authority, 52 Chauncy St., Boston, MA 02111	City of Boston Housing Authority, Bromley Park	333,500
1	Holyoke Housing Authority, 475 Maple St., Holyoke, MA 01040	City of Holyoke Housing Authority, Jackson Parkway	200,000
1	Fall River Housing Authority, 85 Morgan St., Fall River, MA 02721	City of Fall River Housing Authority, George E. Riley Plaza	60,000
1	New Bedford Housing Authority, 134 S. Second St., New Bedford, MA 02740.	City of New Bedford Housing Authority, Evergreen Park/Replacement Housing.	58,400
1	Lawrence Housing Authority, 353 Elm St., Lawrence, MA 01850	City of Lawrence Housing Authority, Market & Lorings Sts. (Beshara & Alpers).	100,000
1	Springfield Massachusetts Housing Authority, 25 Saab Court/P.O. Box 1609, Springfield, MA 01101.	City of Springfield Housing Authority, Pendleton Apts/Marble Apts/Pine-Renee Apts.	100,000
1	Bangor Housing Authority, 161 Davis Rd., Bangor, ME 04401	City of Bangor Housing Authority, Capehart	75,000
1	Westbrook Housing Authority, P.O. Box 349, Westbrook, ME 04098	City of Westbrook Housing Authority, Pine Knoll Terrace	110,400
1	South Portland Housing Authority, 51 Landry Circle, P.O. Box 2128, South Portland, ME 04116-0128.	City of South Portland Housing Authority, Scattered Site Family Housing Developments.	100,000
5	Iron Mountain Housing Commission, 1010 1st St., South, Hopkins, MN 55343.	City of Iron Mountain Housing Commission, Iron Mountain Housing Commission.	7,500
5	Boyne City Housing Commission, 829 S. Park St., Boyne City, MI 49712.	Boyne City Housing Commission, Conkle Development and Conkle Development Annex.	85,500
5	Glendale Resident Management Corp., 90 St. Mary's Ave. SE., Minneapolis, MN 55414.	City of Minneapolis Housing Authority, Glendale Townhome	99,720
5	Hopkins Housing and Redevelopment Authority, 1010 First St., South, Hopkins, MN 55343.	Housing and Redevelopment Authority of Hopkins, Dow Towers	100,000
7	St. Louis Housing Authority, 4100 Lindell Blvd., St. Louis, MO 63108	City of St. Louis Housing Authority, South Broadway Apartments	100,000
7	Cochran Tenant Management Corporation, 112 North 9th St., St. Louis, MO 63101.	City of St. Louis Housing Authority, Cochran Plaza Apartments	200,000
7	Carr Square Tenant Corporation, 1521 Carr Drive, St. Louis, MO 63106	City of St. Louis Housing Authority, Carr Square Village	242,370
7	Housing Authority of St. Louis County, 8865 Natural Bridge Rd., St. Louis, MO 63121.	The St. Louis County Housing Authority, Springwood	131,000
4	Housing Authority of the City of Laurel, 701 Beacon St., Laurel, MS 39440.	City of Laurel Housing Authority, Beacon Homes	100,000
4	Housing Authority of the City of Laurel, 701 Beacon St., Laurel, MS 39440.	City of Laurel Housing Authority, West Beacon Homes	60,000
4	Housing Authority of the City of Laurel, 701 Beacon St., Laurel, MS 39440.	City of Laurel Housing Authority, Windsor Court	95,000
4	Housing Authority of the City of Laurel, 701 Beacon Street, Laurel, MS 39440.	City of Laurel Housing Authority, Brown Circle Homes	95,000
4	Housing Authority of the City of Biloxi, MS, 300 Bencahi Ave., Biloxi, MS 39530.	City of Biloxi Housing Authority, Pinecrest Apartments	100,000
4	Housing Authority of the City of Biloxi, MS, 330 Benachi Ave., Biloxi, MS 39530.	City of Biloxi Housing Authority, Covenant Square Apartments	181,500
4	Housing Authority of the City of Biloxi, MS, 330 Benachi Ave., Biloxi, MS 39530.	City of Biloxi Housing Authority, Beauvoir Beach Apartments	191,100
4	Housing Authority of the City of Biloxi, MS, 330 Benachi Ave., Biloxi, MS 39530.	City of Biloxi Housing Authority, Pinecrest Apartments	169,500
4	Housing Authority of the City of Vicksburg, 131 Elizabeth Circle, Vicksburg, MS 39180.	City of Vicksburg Housing Authority, Rolling Acres	142,426
4	Housing Authority of the City of Jackson, MS, Bldg. B, 3430 Albermarle Rd., Jackson, MS 39213-6596.	City of Jackson Housing Authority, White Rock Homes	117,000
4	Housing Authority of the City of Charlotte, NC, 1301 S. Blvd., P.O. Box 36795, Charlotte, NC 28236-6795.	City of Charlotte Housing Authority, Earle Village	133,815
4	New Bern Housing Authority, 837 Tryon Palace Dr., New Bern, NC 28563.	City of New Bern Housing Authority, Trent Court	92,300
4	Housing Authority of the City of High Point, 500 E. Russell Avenue, High Point, NC 27260.	City of High Point Housing Authority, Springfield Townhouses	110,600
4	Housing Authority of the City of Winston-Salem, 901 Cleveland Ave., Winston-Salem, NC 27101.	City of Winston-Salem Housing Authority, Old Winston Apartments	30,000

FY 1992 THIRD QUARTER FUNDING DECISIONS HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE 1)
RECIPIENTS OF FINAL FUNDING DECISIONS FOR PLANNING GRANT AWARDS—Continued

Region	Funding recipient	Housing authority and development site	Dollar amount approved
4	Housing Authority of the City of Durham, 300 E. Main St., Durham, NC 27702.	City of Durham Housing Authority, Club Boulevard	143,350
4	Housing Authority of the City of Salisbury, 200 S. Boundary St., P.O. Box 159, Salisbury, NC 28145-0159.	City of Salisbury Housing Authority, NC19P016009	194,000
4	Housing Authority of The City of Greenville, 1103 Broad St., Greenville, NC 27858.	City of Greenville Housing Authority, Newtown	200,000
4	Town of Chapel Hill Dept of Housing & Comm. Dev., 317 Caldwell St. Ext., Chapel Hill, NC 27516.	City of Chapel Hill Housing Authority, Airport Gardens	50,000
7	Hall County Housing Authority, 911 Baumann Drive, Grand Island, NE 68803.	Hall County Housing Authority, Western Apartments	100,000
1	Dover Housing Authority, 62 Whittier St., Dover, NH 03820-2994	City of Dover Housing Authority, Mineral and Whittier Park	76,700
2	Housing Authority of the City of Trenton, 875 New Willow St., Trenton, NJ 08636.	City of Trenton Housing Authority, Charles J. Miller Homes	190,000
2	Housing Authority of the City of Atlantic City, 227 N. Vermont Ave., Atlantic City, NJ 08401.	The Atlantic City Housing Authority, Scattered sites	100,000
2	Civic League of Greater New Brunswick, 47-49 Throop Ave., New Brunswick, NJ 08901.	City of New Brunswick Housing Authority, New Brunswick Homes Project 22-31.	76,727
2	Challenge Unlimited, Inc., 45 Clyde Potts Drive, Morristown, NJ 07960	City of Morristown Housing Authority, Manahan Village	200,000
6	Santa Fe Civic Housing Authority, P.O. Box (664 Alta Vista St.), Santa Fe, NM 87502.	City of Santa Fe Housing Authority, Villa Verde (Gallegos Lane)	168,900
9	Housing Authority of The City of Las Vegas, 420 N. 10th Street, Las Vegas, NV 89101.	City of Las Vegas Housing Authority, Ernie Cragin Annex No. 3	85,720
9	Housing Authority of The City of Las Vegas, 420 N. 10th St., Las Vegas, NV 89101.	City of Las Vegas Housing Authority, Marble Manor	141,850
9	Housing Authority of The City of Las Vegas, 420 N. 10th St., Las Vegas, NV 89101.	City of Las Vegas Housing Authority, Weeks Plaza	164,873
9	Housing Authority of the City of Las Vegas, North J St. and Monroe St., Las Vegas, NV 89106.	City of Las Vegas Housing Authority, Evergreen Arms	74,575
2	Buffalo Municipal Housing Authority, 300 Perry St., Buffalo, NY 14204	The City of Buffalo Municipal Housing Authority, Langfield Homes	176,000
2	New York City Housing Authority, 250 Broadway, New York, NY 10007	City of New York Housing Authority, Madison	320,082
2	New York City Housing Authority, 250 Broadway, New York, NY 10007	City of New York Housing Authority, Franklin	553,392
2	Albany Housing Authority, 4 Lincoln Square, Albany, NY 12202-1698	City of Albany Housing Authority, Lincoln Park Square, Bldg. 4	200,000
2	Binghamton Housing Authority, 35 Exchange St., P.O. Box 1906, Binghamton, NY 13902.	City of Binghamton Housing Authority, Saratoga Heights, Bldgs 6, 7, 10, 11, 12, 13, 14, 15.	200,000
2	Freeport Housing Authority, Three Buffalo Ave., Freeport, NY 11520	City of Freeport Housing Authority, Moxey A. Rigby Apartments	200,000
2	Schenectady Municipal Housing Authority, 375 Broadway, Schenectady, NY 12305.	City of Schenectady Housing Authority, Steinmetz Homes	100,000
2	Lackawanna Municipal Housing Authority, 135 Odell St., Lackawanna, NY 14218.	The City of Lackawanna Municipal Housing Authority, Baker Homes	200,800
2	The Dunkirk Housing Authority, 15 N. Main St., Dunkirk, NY 14048	City of Dunkirk Housing Authority, Court Apartments	45,460
5	Lakeview Terrace Resident Management Firm, Inc., 2700 Washington Ave., Cleveland, OH 44113.	The Cuyahoga Metropolitan Housing Authority, Lakeview Terrace Resident Management Firm, Inc.	453,300
5	Butler Metropolitan Housing Authority, 4110 Hamilton-Middletown Rd., Hamilton, OH 45011.	The Butler Metropolitan Housing Authority, Middletown Estates	127,000
5	Pickaway Metropolitan Housing Authority, 176 Rustic Drive, Circleville, OH 43113.	Pickaway Metropolitan Housing Authority, Circleville/Asheville Public Housing.	100,000
5	Logan County Metropolitan Housing Authority, 116 N. Everett St., Bellefontaine, OH 43311.	Logan County Metropolitan Housing Authority, LC Estates	100,000
6	Tulsa Housing Authority, 415 E. Independence, Tulsa, OK 74106	City of Tulsa Housing Authority, South Haven Manor	200,000
6	Housing Authority of The City of Shawnee, 1002 W. 7th St.—P.O. Box 3427, Shawnee, OK 74801.	City of Shawnee Housing Authority, Shawnee Public Housing	100,000
3	Friends Neighborhood Guild, Inc., 703 N. 8th St., Philadelphia, PA 19123.	City of Philadelphia Housing Authority, Spring Garden Apartments and Ludlow Homes.	200,000
3	Greater Germantown Housing Development Corporation, 48 E. Penn St., Philadelphia, PA 19144.	City of Philadelphia Housing Authority, Morton Homes Public Housing Complex.	200,000
3	Housing Association of Delaware Valley, 1314 Chestnut St., Philadelphia, PA 19107.	City of Philadelphia Housing Authority, Queen Lane I and III (I & II?)	200,000
3	Abbottsford Homes Tenant Management Corporation, 3210 B. McMichael St., Philadelphia, PA 19129.	Philadelphia Housing Authority, Abbottsford Homes	318,000
3	Housing Authority of The City of McKeesport, Ohio & Brownlee Sts., McKeesport, PA 15132.	City of McKeesport Housing Authority, E.R. Crawford Village	200,000
3	Housing Association of Delaware Valley, 1314 Chestnut St., Philadelphia, PA 19107.	The Chester City Housing Authority, Ruth L. Bennett Homes	208,000
3	Housing Association of Delaware Valley, 1314 Chestnut St., Philadelphia, PA 19107.	The Chester City Housing Authority, Lamokin Village	208,000
3	Interfaith Community Development Corp. Inc., 503 King St., Pottstown, PA 19464.	The Montgomery County Housing Authority, Penn Village and William Penn Homes.	136,691
3	Fayette County Community Action Agency, Inc., 137 N Beeson Avenue, Uniontown, PA 15401.	The Fayette County Housing Authority, Lemonwood Acres	138,570
3	Housing Authority of Chester County, 222 N. Church St., West Chester, PA 19380.	The Chester County Housing Authority, Coatesville—Hillcrest/Broadview.	97,700
1	The Providence Housing Authority, 100 Broad St., Providence, RI 02903.	City of Providence Housing Authority, Scattered Site Development	100,000
1	Church Community Housing Corporation, 50 Washington Square, Newport, RI 02840.	City of Newport Housing Authority, Chapel Terrace	100,000

FY 1992 THIRD QUARTER FUNDING DECISIONS HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE 1) RECIPIENTS OF FINAL FUNDING DECISIONS FOR PLANNING GRANT AWARDS—Continued

Region	Funding recipient	Housing authority and development site	Dollar amount approved
1	Town of Johnston Housing Authority, 8 Forand Circle, Johnston, RI 02919.	City of Johnston Housing Authority, New Start Homes	36,000
1	Town of North Providence Housing Authority, 701 Beacon St., Laurel, MS 39440.	City of North Providence Housing Authority, 71 Eliot Street	66,000
4	Public Housing Administration of Puerto Rico, 427 Barbosa Ave., Malco Bldg., San Juan, PR 00936.	Yaguez & Marini Farm	200,000
4	Municipality of Villalba, Munoz Rivera St., P.O. Box 1506, Villalba, PR 00766.	The Puerto Rico Public Housing Administration, Residencial Maximino Miranda.	57,000
4	Public Housing Administration of Puerto Rico, 427 Barbosa Ave., Malco Bldg., San Juan, PR 00936.	The Puerto Rico Public Housing Administration, Las Delicias & Padre Nazario.	200,000
4	Public Housing Administration of Puerto Rico, 427 Barbosa Ave., Malco Bldg., San Juan, PR 00936.	The Puerto Rico Public Housing Administration, Villas de los Santos I & II.	165,000
4	Public Housing Administration of Puerto Rico, 427 Barbosa Ave., Malco Bldg., San Juan, PR 00936.	The Puerto Rico Public Housing Administration, La Rosa & Antigua Via Housing Developments.	182,000
4	Palmetto Legal Services, 2109 Bull St., Columbia, SC 29201	City of Columbia Housing Authority, Jaggers Terrace	128,020
4	North Charleston Housing Authority, 3817 Goodman Blvd., North Charleston, SC 29405.	City of North Charleston Housing Authority, North Park Village	83,943
4	Division of Housing and Community Development, 701 N. Main St., Memphis, TN 38107.	City of Memphis Public Housing Authority, Ford Road Subdivision	160,000
4	Metropolitan Development and Housing Agency, 701 South 6th Street, Nashville, TN 37206.	The Metropolitan Development & Housing Agency, Parkway Terrace	35,000
4	Kingsport, Tenn. Housing Authority, 906 E. Sevier St., Kingsport, TX 37662.	City of Kingsport Housing Authority, Holly Hills	40,200
4	Jackson Housing Authority, 175 Preston St., Jackson, TN 37303-0188	City of Jackson Housing Authority, Kingfield	106,000
4	Regional Education & Community Health Srvces, Inc., 100 Main St., P.O. Box 209, Jacksboro, TN 37757.	City of Lafollette Housing Authority, Oneida	68,420
4	Regional Education & Community Health Srvces, Inc., 100 Main Street, Jacksboro, TN 37757.	City of Lafollette Housing Authority, Pleasant Ridge Apartments	140,673
4	Morristown Housing Authority, 600 Sulphur Springs Rd., Morriston, TN 37814.	City of Morriston Housing Authority, Julia Bales Callaway Homes	42,000
4	Newport Housing Authority, 1226 Buda Street, Newport, TN 37821	City of Newport Housing Authority, Dr. Branch Homes: Jaybird Section	84,450
4	Elizabethton Housing and Development Agency, Inc., 901 Pine Ridge Circle, Elizabethton, TN 37643.	The Elizabethton Housing and Development Agency, South Hills Estates.	64,710
6	Housing Authority of the City of Galveston, 920 53rd Street, Galveston, TX 77550.	City of Galveston Housing Authority, Palm Terrace and Palm Terrace Addition.	263,600
6	Cameron County Housing Authority, PO Box 5806, Brownsville, TX 78520.	Housing Authority of Cameron County, Las Palmas Housing Development.	171,250
3	P.E.A.R.L. Inc., 610 16th St., Newport News, VA 23607-0753	The Newport News Redevelopment Housing Authority, Lassiter Courts	200,000
3	Richmond Redevelopment and Housing Authority, 901 Chamberlayne Pkwy., Richmond, VA 23220.	City of Richmond Housing Authority, Overlook & Mimosa Neighborhood.	71,825
3	Richmond Redevelopment and Housing Authority, 901 Chamberlayne Pkwy., Richmond, VA 23220.	City of Richmond Housing Authority, Randolph Neighborhood	198,900
3	Lynchburg Redevelopment and Housing Authority, 1101 Court Street, Lynchburg, VA 24504.	The Lynchburg Redevelopment and Housing Authority	23,600
3	Petersburg Redevelopment and Housing Authority, 128 S. Sycamore St., P.O. Box 311, Petersburg, VA 23803.	City of Petersburg Housing Authority, Pecan Acres Estate	119,540
3	Petersburg Redevelopment and Housing Authority, 128 S. Sycamore St., P.O. Box 311, Petersburg, VA 23803.	City of Petersburg Housing Authority, Cedar Lawn Estates	39,918
3	Wise County Redevelopment and Housing Authority, North Route 72, P.O. Box 630, Coeburn, VA 24230.	Litchfield Manor	195,850
3	Cumberland Plateau Regional Housing Authority, P.O. Box 1328, Lebanon, VA 24266-1328.	The Cumberland Plateau Regional Housing Authority, Seven Oaks	200,000
10	Housing Authority of Grant County, 1139 Larson Blvd., Moses Lake, WA 98837.	The Grant County Housing Authority	11,600
10	Lummi Indian Business Council, 2616 Kwina Rd., Bellingham, WA 98226.	Lummi Tribal IHA, Balch Road and McKenzie	70,300
5	Housing Authority of the City of Milwaukee, 809 N. Broadway, Milwaukee, WI 53202.	City of Milwaukee Housing Authority, Scattered Sites	100,000
5	Menominee Tribal Housing Authority, P.O. Box 459, Keshena, WI 54135.	Menominee Tribal IHA, To be determined	46,800
3	Charleston Human Rights Commission, 115 Lee Street, W., Charleston, WV 25302.	City of Charleston Housing Authority, Littlepage Terrace	100,000

[FR Doc. 92-22413 Filed 9-17-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-110-6310-257A; G2-446]

Medford District Advisory Council; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice announces a series of meeting dates for the Medford District Advisory Council—October 23, November 6, November 20 and December 11. The meetings will be held in the Medford District Office, 3040 Biddle Road, Medford, Oregon. This notice is given in accordance with Public Law 990463.

FOR FURTHER INFORMATION CONTACT: Kurt Austermann, Medford District Office, 3040 Biddle Road, Medford, Oregon, 97504; telephone 503-770-2424.

SUPPLEMENTARY INFORMATION: The meetings will begin at 8:30 a.m., October 23, November 6 and December 11. The meeting November 20 will begin at 2 p.m. All meetings will be held in the Oregon Room of the Bureau of Land Management office at 3040 Biddle Road, Medford, Oregon. The agenda for the Advisory Council is to review the Medford District's Resource Management Plan Preferred Alternative and prepare for the District Manager a recommendation on the Preferred Alternative. Persons interested in making oral statements during any Council meeting may do so following conclusion of the Council's agenda, or written statements may be submitted for the Council's consideration. Anyone wishing to make an oral statement at any Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business October 22, November 5, November 19, and December 10. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 11, 1992.

David A. Jones,

District Manager.

[FR Doc. 92-22601 Filed 9-17-92; 8:45 am]

BILLING CODE 4310-33-M

[UT-942-4214-11; U-011167]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 40-acre withdrawal for the Central Utah Project continue for an additional 88 years. The land would remain closed to surface entry and mining, but has been and would remain open to mineral leasing.

DATES: Comments should be received by December 17, 1992.

ADDRESSES: Comments should be sent to State Director, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155.

FOR FURTHER INFORMATION CONTACT: Randy Massey, BLM State Office, (801) 539-4119.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing land withdrawal made by the Commissioner Order of November 14, 1955, be continued for a period of 88 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Salt Lake Meridian

T. 3 S., R. 21 E.,
Sec. 27, SE¼SE¼

The area described contains 40 acres in Uintah County.

The purpose of the withdrawal is to protect Steinaker Dam and Reservoir, near Vernal, Utah. The withdrawal segregates the land from settlement, sale, location, and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed 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 Chief, Branch of Lands and Minerals Operations, Utah State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will 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.

JoAn C. Robbins,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92-22675 Filed 9-17-92; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

Civil War Sites Advisory Commission Meeting

AGENCY: National Park Service. U.S. Department of the Interior.

ACTION: Notice of Meeting of the Civil War Sites Advisory Commission.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on Friday, October 9, 1992, at the U.S. Department of Interior, Large Buffet Room, 1849 C Street, NW., Washington, DC 20240. The meeting will begin at 9 a.m. and conclude before 3:30 p.m.

This meeting constitutes the tenth meeting of the Commission. The primary focus of the meeting will be on the subject of evaluating and preserving Civil War sites and preparing the Commission's draft report. The Commission will welcome input from the public on the subject of Civil War site evaluation and preservation, especially as it relates to Civil War sites in Washington, DC and surrounding states.

Space and facilities to accommodate members of the public may be limited and persons will be accommodated on a first-come, first-served basis. Anyone may file a written statement with the Commission concerning matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Ms. Jan Townsend, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013-7127 (telephone 202-343-3936). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in Suite 250, 800 N. Capitol St., NW., Washington, DC 20002.

Dated: September 14, 1992.

Lawrence E. Aten,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 92-22577 Filed 9-17-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[332-334]

United States-Canada Free-Trade Agreement: Probable Economic Effect on U.S. Industries and Consumers of Immediate Elimination of U.S. Tariffs on Certain Articles from Canada (Third Report)

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 28, 1992, of a request from the U.S. Trade Representative (USTR) pursuant to authority delegated by the President, the Commission instituted investigation No. 332-334 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to advise the President, with respect to each dutiable article listed in Annex I of the USTR's notice published in the **Federal Register** of September 4, 1992 (57 FR 40720), of its judgment as to the probable economic effect of the immediate elimination of the U.S. tariff, under the United States-Canada Free-Trade Agreement, on domestic industries producing like or directly competitive articles, and on consumers.

The USTR asked that the Commission provide its advise not later than 90 days after the Commission received the request, or in this case by November 27, 1992.

EFFECTIVE DATE: September 11, 1992.

FOR FURTHER INFORMATION CONTACT: The Project Leader, Ms. Gail Burns (202-205-2501), General Manufactures Division, Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091). The media should contact Edward Carroll, Acting Director, Office of Public Affairs (202-205-1819). For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

(1) Agricultural products, Ms. Joan Gallagher (202-205-3317)

(2) Textiles and apparel, Ms. Mary Elizabeth Sweet (202-205-3455)

(3) Chemical products, Mr. Larry Johnson (202-205-3351)

(4) Minerals and metals, Ms. Deb. McNay (202-205-3425)

(5) Machinery and equipment, Mr. Dave Slingerland (202-205-3400)

(6) General manufactures, Mr. Dennis Luther (202-205-3497)

(7) Services and electronic technology, Mr. Thomas Sherman (202-205-3389)

Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on 202-205-1810.

BACKGROUND: The United States-Canada Free-Trade Agreement (CFTA), which entered into force on January 1, 1989, provides that all products of Canada imported into the United States and all products of the United States imported into Canada shall be free of duty by January 1, 1998. In the United States, it was approved and implemented by the United States-Canada Free-Trade Agreement Implementation Act of 1988.

Article 401(5) of the CFTA provides that, at the request of either government, the two governments are to undertake consultation to consider agreeing to accelerate the elimination of the duties on specific products in the schedule of each government. Section 201(b) of the Implementation Act grants the President, subject to certain requirements, the authority to proclaim any such agreed acceleration of the elimination of a U.S. duty. One of the requirements of section 103 of the Implementation Act is that the President obtain advice from the Commission.

PUBLIC HEARING: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on October 26, 1992, and continuing, as required, on October 27 and 28. All persons will have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear not later than October 19, 1992. Prehearing briefs (original and 14 copies) should also be filed with the Acting Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, not later than 5 p.m., October 21, 1992. Any post-hearing briefs must be filed by November 4, 1992.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on November 4, 1992. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Acting Secretary at the Commission's office in Washington, DC.

Issued: September 14, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-22613 Filed 9-17-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Commission of Intent to Perform Interstate Transportation for Certain Nonmembers

September 15, 1992.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Western Co-Op Transport Association, Box 794; (2) Montevideo, MN 56265; (3) Western Co-Op Transport Association Office, East Highway 212,

Montevideo, MN 56265; (4) Gerald L. Morrow, Manager, Box 794 Montevideo, MN 56265.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22645 Filed 9-17-92; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)91) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Larson Metal Manufacturing, Inc., South County Industrial Park, Route #6, Jamestown, New York 14701.

2. Wholly-owned subsidiary which will participate in the operations and State of incorporation: R.W. Trucking, Inc., New York State corporation.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22646 Filed 9-17-92; 8:45 am]

BILLING CODE 7035-01-M

Privacy Act Records; Fee Billing and Collection System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of additional Privacy Act system of records.

SUMMARY: Pursuant to 5 USC 552a(e)(4), the Commission publishes a notice pertaining to the existence and character of an additional Privacy Act System of Records. The category of individuals covered by the system is the holders of fee billing accounts with the Commission. The categories of records in the system are developed from information which is supplied by individuals or entities that apply for accounts and financial information which may be obtained from credit bureaus or the Commission field staff. The information obtained will be available to the Commission and its staff and may be made available to government agencies such as the Internal Revenue Service, the Department of Justice, the General Accounting Office and credit bureaus and debt collection contractors for the purposes of collecting debt owed to the Commission.

EFFECTIVE DATE: November 17, 1992.

ADDRESSES: The System is located at the Interstate Commerce Commission Headquarters in Washington, DC. The System Manager and address are as follows: Chief, Budget and Fiscal Office, Interstate Commerce Commission, Room 1330, 12th and Constitution Avenue, NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King 202-927-5493, [TDD for hearing impaired: 202-927-5712]

SUPPLEMENTARY INFORMATION: The above described System is called Fee Billing and Collection System (32-20-0014). The policies and practices for storing, retrieving, accessing, retaining, and disposing of the records in the System are as follows: The records are maintained on magnetic discs and kept in a locked file cabinet under direct control of the responsible official. The record source categories for the System are the individuals and entities who request fee billing accounts, credit bureaus, and ICC field staff. Access to these files will be made upon request and presentation of proper identification. Notification and contesting record procedures are the same as for all other Privacy Act files. No exemption in the Privacy Act applies to this system of record. The authority for maintenance of this System is found at 49 USC 10321, and 31 USC 3711 *et seq.* and 9701.

By the Commission, S. Arnold Smith, Privacy Officer.

Sidney L. Strickland, Jr.,

Secretary.

Pursuant to 5 USC 552a(e)(4), the Interstate Commerce Commission publishes this notice pertaining to the existence and character, of an additional system of records.

32-20-0014

SYSTEM NAME:

Fee Billing and Collection System.

SYSTEM LOCATION:

Interstate Commerce Commission, Budget and Fiscal Office, Room 1330, 12th and Constitution Avenue, NW., Washington, DC 20423.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities that hold fee billing accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual or entities submit Form ICC-1032 to request establishment of an account for fee billing purposes. Files contain a record of charges, including applicable interest, penalties and administrative charges and payments for fee billing accounts. Files include correspondence and other documentation relating to collection activities of the ICC. The files may include financial information obtained from credit bureaus or developed by ICC field staff.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for maintenance of the system is found in 49 USC 10321, 31 USC 3711 *et seq.* and 9701.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintaining a recordkeeping and accounting system to record charges, including applicable interest, penalties and administrative charges, and payments for fee billing accounts.

The information in the system of records may be provided to other federal agencies and entities including but not limited to the Internal Revenue Service, the General Accounting Office, and the Department of Justice. The information also may be provided to credit bureaus and debt collection contractors, as authorized by the Debt Collection Act of 1982, 31 USC 3711, *et seq.* The information also may be used to publish a list of delinquent account holders.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Budget and Fiscal files consist of paper records maintained in folders, and on automated data storage devices and magnetic computer discs Files are secured at all times.

RETRIEVABILITY:

Indexed in data base by account number and name of account holder. Paper records filed by account number.

SAFEGUARDS:

Access to the records is limited to authorized staff in the Budget and Fiscal Office and to other authorized officials or employees of the ICC on a need-to-know basis as determined by the Budget and Fiscal Office. All records are kept in limited access areas during duty hours and in locked files at all other times.

RETENTION AND DISPOSAL:

To be retained for 5 years.

SYSTEM MANAGER AND ADDRESS:

Interstate Commerce Commission, Chief, Budget and Fiscal Office, Room 1330, 12th and Constitution Avenue, NW., Washington, DC 20423.

NOTIFICATION PROCEDURES:

See 49 CFR part 1007.

RECORD ACCESS PROCEDURES:

See 49 CFR part 1007.

CONTESTING RECORD PROCEDURES:

See 49 CFR part 1007.

RECORD SOURCE CATEGORIES:

Account holders, credit bureaus, ICC field staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 92-22647 Filed - -92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 425X)]

CSX Transportation, Inc.—Abandonment Exemption—In Mineral County, WV

Applicant CSX Transportation, Inc., has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonment to abandon its 0.69-mile rail line between milepost BWL-0.00 and milepost BWL-0.69 (the end of the track), at Harrison, in Mineral County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period, and (4) that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to government 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 39 U.S.C. 10505(d) must be filed.

This exemption will be effective on October 18, 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 29, 1992. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 8, 1992, with: Officer of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEE will issue an environmental assessment (EA) by September 23, 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 11, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22644 Filed 9-17-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30186 (Sub No. 2)]

Tongue River Railroad Co.—Construction and Operation of Additional Rail Line From Ashland to Decker, in Rosebud and Big Horn Counties, MT

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: We are responding to a petition from the Northern Plains Resource Council, and other requests, seeking a 30-day extension of time for the comment period on the Draft Environmental Impact Statement (DEIS) in the above-referenced proceeding. Comments were originally due September 21, 1992. The request to extend the comment period is reasonable.

DATES: The comment period on the DEIS will be extended to October 21, 1992, 30 days from the original comment due date.

ADDRESSES: Send an original and 10 copies of comments referring to Finance Docket 30186 (Sub No. 2) to: Dana White, Section of Energy and Environment, room 3214, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of the railroad's representative: Mr. Thomas Ebzery, Village Center I, suite 165, 1500 Poly Drive, Billings, MT 59102.

FOR FURTHER INFORMATION CONTACT: Dana White (202) 927-6214 or Elaine Kaiser, Chief, Section of Energy and Environment (202) 927-6248. TDD for hearing impaired: (202) 927-5721.

SUPPLEMENTARY INFORMATION: Reasons for the requested 30-day extension include the need for additional time to: gather substantive data; analyze the lengthy transcripts generated by the recent hearings in this case; investigate issues addressed in the DEIS, and address possible discrepancies between the DEIS and the environmental documentation on the already-approved 89-mile line between Miles City and Ashland.

Dated: September 14, 1992.

By the Commission, Elaine K. Kaiser, Chief, Section of Energy and Environment.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-22639 Filed 9-17-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background:

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will

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[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 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.

publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 523-5095).

Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Office of Labor-Management Standards, Office of Management and Budget, room 3208, Washington DC 20503 ((202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirements which has been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Revision

Office of Labor-Management Standards.

Labor Organization Annual Financial Reports (Proposed Rule), 1214-0001, LM-4.

Annually

Non-profit institutions.

14,000 respondents; 1 hour per response; 1 form; 14,000 total burden hours.

The Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) requires each covered labor organization to file annual financial reports. The proposed abbreviated annual financial report (Form LM-4) provides adequate information to ensure proper disclosure of union finances while reducing the reporting burden on small unions with annual receipts of less than $10,000.

In addition, on April 17, 1992, a notice of proposed rulemaking was published (57 FR 14244) which proposes to revise the regulations pertaining to the filing of forms LM-2 and LM-3.

This proposed rule modifies these reporting forms to require that certain disbursements be attributed and reported by function classification. The proposed rule additionally modifies the reporting forms by changing the methods of accounting from a cash basis to an accrual basis in conformity with generally accepted accounting principles. The proposed rule also increases the ceiling for filing the simplified annual report form LM-3 from $100,000 to $200,000 in total annual receipts. The proposed burden for the LM-2: 5,096 respondents, 111.25 average hours per respondent, 566,930 total burden hours; the LM-3, 16,275 respondents, 77.31 average hours per respondent, 1,258,275 total burden hours.

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

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 92-22679 Filed 9-17-92; 8:45 am]

BILLING CODE 4510-86-M

Labor Advisory Committee for Trade Negotiations and Trade Policy

Meeting notice

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 14, 1992, 10 am-12 noon, Rm. N-3437 C&D, Department of Labor Building, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION, CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC this 14th day of September 1992

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 92-22680 filed 9-17-92; 8:45 am]

BILLING CODE 4510-28-M

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage

determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. CO91-14, dated May 29, 1992.

Agencies with construction pending projects, to which this wage decision would have been applicable, should utilize the project determination procedure by submitting a SF-308. (See Regulations, 29 CFR part 1, § 1.5.) Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is within ten (10) days of this notice, the contract specifications need not be affected.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Delaware:
DE91-6 (Sept. 18, 1992) ..... p. all.
Florida:
FL91-50 (Sept. 18, 1992) ..... p. all.
FL91-51 (Sept. 18, 1992) ..... p. all.
FL91-52 (Sept. 18, 1992) ..... p. all.
Maryland:
MD91-37 (Sept. 18, 1992) ..... p. all.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT91-1 (Feb. 22, 1991) ..... p. 63, p. 64
District of Col.:
DC91-1 (Feb. 22, 1991) ..... p. all.
Delaware:
DE91-1 (Feb. 22, 1991) ..... p. all.
Georgia:
GA91-31 (Feb. 22, 1991) ..... p. all.
Kentucky:
KY91-29 (Feb. 22, 1991) ..... p. 403, pp. 404-409, pp. 416-417, 419.
Maryland:
MD91-1 (Feb. 22, 1991) ..... p. all.
MD91-8 (Feb. 22, 1991) ..... p. all.
New York:
NY91-9 (Feb. 22, 1991) ..... p. 869, p. 870.
NY91-10 (Feb. 22, 1991) ..... p. 873, p. 874
Virginia:
VA91-5 (Feb. 22, 1991) ..... p. all.
VA91-73 (Feb. 22, 1991) ..... p. all.
West Virginia:
WV91-3 (Feb. 22, 1991) ..... p. 1445, pp. 1446-1449, p. 1456.

Volume II

Illinois:
IL91-12 (Feb. 22, 1991) ..... p. 171, p. 172.
IL91-14 (Feb. 22, 1991) ..... p. 195, p. 196.
Indiana:
IN91-1 (Feb. 22, 1991) ..... p. 243, pp. 244-248, pp. 250-258.
Michigan:
MI91-7 (Feb. 22, 1991) ..... p. all.
Ohio:
OH91-2 (Feb. 22, 1991) ..... p. 821, p. 826.
OH91-29 (Feb. 22, 1991) ..... p. 903, p. 912.

Volume III

Colorado:
CO91-5 (Feb. 22, 1991) ..... p. all.
Washington:
WA91-6 (Feb. 22, 1991) ..... p. all.
WA91-10 (Feb. 22, 1991) ..... p. all.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

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

Alan L. Moss,

Director, Division of Wage Determinations

[FR Doc. 92-22371 Filed 9-17-92; 8:45 am]

BILLING CODE 4510-27-01

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new revision, or extension: Revision.

2. The title of the information collection: Reactor Operator and Senior Reactor Operator Licensing Training and Requalification Programs.

3. The form number if applicable: N/A.

4. How often the collection is required: Annually.

5. Who will be required or asked to report: All reactor licensees and applicants for an operating license at power and non-power reactors.

6. An estimate of the number of responses: 132 for power reactors and 30 for non-power reactors annually.

7. An estimate of the total number of hours needed to complete the requirement or request: 1,760 hours annually for power reactors (approximately 13.3 hours per response) and 120 hours annually for non-power reactors (approximately 4 hours per response).

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC requests copies of training and requalification material from reactor licensees/applicants. This training material will be used by appropriate NRC staff to develop operator and senior operator licensing and requalification examinations.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer:

Ronald Minsk, Office of Information and Regulatory Affairs (3150-0101), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

NRC Clearance officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 10th day of September 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-22617 Filed 9-17-92; 8:45 am]

BILLING CODE 7590-01-M

Pathfinder Mines Corporation, Lucky MC Mine; Fremont County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Intent to Amend Source Material License SUA-672 for the Lucky MC Mine Mill to Incorporate Reclamation Schedules.

SUMMARY: The Nuclear Regulatory Commission is preparing to amend Source Material License SUA-672 to incorporate a revised reclamation schedule and to add a new license condition.

DATES: The comment period expires November 2, 1992.

ADDRESSES: Copies of the response from Pathfinder Mines Corporation and the staff evaluation of the licensee's request are available for inspection at the Uranium Recovery Field Office, 730 Simms Street, suite 100, Golden CO, and the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments should be mailed to David L. Meyer, Chief, Rules and Directives Review Branch, Office of Administration, P-223, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Director, Uranium Recovery Field Office, P.O. Box 25325, Denver, CO 80225.

Comments may be hand-delivered to Room P-223, 7920 Norfolk Avenue, Bethesda, MD, between 7:30 a.m. and 4:15 p.m., Federal workdays.

FOR FURTHER INFORMATION CONTACT: Ramon E. Hall, Director, Uranium Recovery Field Office, Region IV, U.S. Nuclear Regulatory Commission, Box 25325, Denver, CO. Telephone: 303-231-5800.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) which was published in the **Federal Register** on October 25, 1991 (56 FR 55434). The MOU requires that the NRC incorporate enforceable reclamation schedules for specific uranium mill sites into the corresponding licenses. The MOU also listed expected dates for completion of placement of a final earthen cover for each site.

The NRC requested by letter dated October 22, 1991, that the licensee submit a proposed schedule for reclamation milestones for NRC review and incorporation into the license. The licensee provided a response on July 31, 1992.

The proposed schedule calls for placement of the final cover by September 30, 1998, which is the same date as in the MOU for this mill. The NRC staff reviewed the reclamation milestone schedule and concluded that it is reasonable, and adherence to the schedule should assure satisfactory progress toward placement of the final cover by the specified date.

The NRC intends to amend Source Material License SUA-672 to incorporate the schedules proposed by the licensee by adding License Condition No. 61 as follows:

61. The licensee shall complete site reclamation in accordance with the approved reclamation plan and ground-water corrective action plan, as authorized by License Condition Nos. 54 and 60, respectively, in accordance with the following schedules.

A. To ensure timely compliance with target completion dates established in the Memorandum of Understanding with the Environmental Protection Agency (56 FR 55432, October 25, 1991), the licensee shall complete reclamation to control radon emissions as expeditiously as practicable, considering technological feasibility, in accordance with the following schedule:

(1) Windblown tailings retrieval and placement on the pile—September 30, 1996.

(2) Placement of the interim cover to decrease the potential for tailings dispersal and erosion—April 30, 1993.

(3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/ m^2/s above background—September 30, 1998.

B. Reclamation, to ensure required longevity of the covered tailings and ground-water protection, shall be completed as expeditiously as is reasonably achievable, in accordance with the following target dates for completion:

(1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of appendix A of 10 CFR part 40—September 30, 1999.

(2) Projected completion of ground-water corrective actions to meet performance objectives specified in the ground-water corrective action plan—September 30, 2004.

C. Any license amendment request to revise the completion dates specified in Section A must demonstrate that compliance was not technologically feasible (including inclement weather, litigation which compels delay to reclamation, or other factors beyond the control of the licensee).

D. Any license amendment request to change the target dates in Section B above, must address added risk to the

public health and safety and the environment, with due consideration to the economic costs involved and other factors justifying the request such as delays caused by inclement weather, regulatory delays, litigation, and other factors beyond the control of the licensee.

Dated at Denver, Colorado, this 8th day of September 1992.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 92-22543 Filed 9-17-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20549.

Extension: Form 15, File No. 270-170.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted Form 15 for extension of OMB approval. Form 15 is filed by issuers to certify termination of registration of a class of security registered under section 12 of the Securities Exchange Act of 1934 ("Exchange Act") or to provide notice that its duty to file reports pursuant to sections 13 and 15(d) of the Exchange Act has been suspended. Each of the estimated 1096 respondents filing Form 15 annually incurs an average 1.2 burden hours to comply with form requirements. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms.

General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman (PRA Project No. 3235-0167), Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 31, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22594 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31175; File No. SR-OCC-92-14]

Self-Regulatory Organizations; The Options Clearing Corp.; Proposed Rule Change Relating to Clearing-Level Spread Margin Treatment for Positions Carried in a Clearing Member's Customers' Account

September 11, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 5, 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 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 eliminate the requirement of OCC Rule 611 that spreads between long and short positions carried for the same customer be on a contract-for-contract basis. Accordingly, OCC would give clearing-level spread margin treatment to such pairs of positions provided that the customer's margin requirement has been reduced in accordance with applicable exchange margin rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to minimize the possibility that a Clearing Member will find itself financially "squeezed" between, on the one hand, a requirement in OCC's rules to deposit clearing-level margin to cover a customer's short option position and, on the other hand, the Member's inability to collect margin from the customer on the short position because the customer is entitled, under applicable exchange margin rules, to receive spread margin treatment (i.e., to offset the value of a long option position against the margin requirement for the short position). This change would be accomplished by amending OCC Rule 611. Rule 611 currently states that a Clearing Member may instruct OCC to release a customer's long position from segregation[2] only if (1) the Member is simultaneously carrying for the same customer a short position for "an equal number of option contracts of the same type of options relating to the same underlying security (or, in the case of index options, the same index group)," and (2) the margin on the short position required to be deposited by the customer with the customer's broker has been reduced as a result of the long position. As revised, OCC Rule 611 would state that a Clearing Member may instruct OCC to release a customer's long position from segregation if the Clearing Member is simultaneously carrying for the same customer a short position, and the margin on the short position required to be deposited by the customer with the customer's broker has been reduced as a result of the long position. The effect of the revised language would be to permit OCC to give clearing-level spread margin treatment to any spread consisting of a long position and a short position carried for a customer that receives customer-level spread margin treatment, and not just to a customer's spread in which each position is for "an equal number of option contracts of the same type of option relating to the same underlying security (or, in the case of index options, the same index group)."

The purpose of Rule 611 is, and has been since it was originally enacted in

[2] A long position is "segregated" for purposes of OCC's rules if it is not subject to OCC's lien. Conversely, a long position is "unsegregated" if it is subject to OCC's lien. Unsegregated long positions are available to the extent specified in OCC's rules, to reduce OCC's margin requirement with respect to short positions in the same account.

1975, to limit the use of clearing-level spread margin treatment to those customer spreads for which the customer's broker was providing spread margin treatment at the customer-level. The need for Rule 611 arose in 1975 when The Chicago Board Options Exchange ("CBOE"), American Stock Exchange ("AMEX"), and the New York Stock Exchange ("NYSE") adopted new customer margin rules. These rules provided, in effect, that where an option is carried in a short position in a customer's account and the account is also long an option on the same underlying security (or, in the case of an index option, on the same underlying index) that expires at the same time as or after the expiration date for the short position, the customer's margin requirement need not exceed the amount, if any, by which the exercise price of the long option exceeds the exercise price of the short option.[3] Before enactment of OCC Rule 611, OCC's margin rules prohibited Clearing Members from offsetting any portion of the value of the long positions in a customers' account against the margin required for short positions in that account. A Clearing Member that had customers with hedged long and short positions, as a result, found itself "squeezed" between a requirement to deposit clearing-level margin to cover a customer's short positions and its inability as a practical matter [4] to collect margin from the customer under applicable exchange rules.

Rule 611 was adopted, therefore, to permit OCC to provide clearing-level spread margin treatment to the hedged short and long positions of a customer, but only if the customer were subject to a reduced margin requirement for the short position as a result of the long position. The staff of the Commission expressed its view that provision by OCC of clearing-level spread margin treatment of customer positions was consistent with Exchange Act Rules 15c3–3, 15c2–1 and 8c–1, so long as such treatment was limited in this manner.[5]

As amended, Rule 611 would preserve the prohibition against clearing-level spread margin treatment for any customer spread unless the customer were receiving spread margin treatment from the customer's broker, and the rule therefore would continue to be consistent with Rules 15c3–3, 15c2–1 and 8c–1 as interpreted by the Commission staff. However, the proposed rule change would minimize [6] the potential that the rule has for the unintended future creation of a "squeeze" on the finances of Clearing Members each time that an exchange introduces a new product that is entitled to customer-level spread margin treatment under exchange rules but not a clearing-level spread margin treatment under OCC rules.

The most immediate effect of approval of the proposal rule change would be with respect to pairs of positions in which one position consists of standard-sized index options and the other position consists of "reduced-value" index options listed by CBOE, AMEX, and the Philadelphia Stock Exchange, and approved to be listed by the NYSE. Each reduced-value option has a value equal to one-tenth of the value of a standard-sized index option.[7] Thus, ten reduced-value index option contracts equal one standard-sized index option contract in value, and spread margin treatment should be given only to positions in which ten reduced-value index options are paired against each standard-sized option contract. However, because the current language in Rule 611 requires that the long position and short position consist of an "equal number of option contracts," Rule 611 would prohibit OCC from giving clearing-level spread margin to such pairs. Thus, if a broker were to give spread margin treatment to a customer carrying such a pair of positions pursuant to exchange rules, the Clearing Member could find itself squeezed between its inability to collect customer-level margin and its obligation to deposit clearing-level margin.[8]

The proposed rule change is consistent with section 17A of the Act because it reduces the possibility that Clearing Members will be subject to inconsistent requirements under exchange rules and OCC's rules, without diminishing OCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on 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 neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[3] See, e.g., CBOE Rules 12.3(b)(1)(C)(1) and 24.11(c)(1) (parallel provision for index options).

[4] The Clearing Member would have had the right to call for additional margin under most margin agreements. However, it would have been contrary to the expectations of both the broker and the customer for the Clearing Member to do so in view of the availability of spread treatment under applicable exchange rules, and accordingly difficult for the Clearing Member to do on a regular basis.

[5] Letter from Lee A. Pickard, Director, Division of Market Regulation, Commission, to Burton R. Rissman, Schiff Hardin & Waite (April 18, 1975).

[6] The proposal would minimize the potential for a financial squeeze on Clearing Members, but would not eliminate it because OCC will continue to use its own margin system to determine whether, and to what extent, particular spreads may be given spread margin treatment consistent with preserving the level of safety OCC requires. It therefore will remain possible, at least theoretically, that an OCC clearing-level margin requirement for a spread will be greater than the requirement imposed on a customer by the customer's broker.

[7] In terms of OCC's rules, a reduced-value index option is an index option for which the exchange on which the option is traded has specified a fraction that is to be multiplied times the value of the underlying index in determining "current index values." See OCC By-Law, Article XVII, section 1(f) (the term "current index value" means the level of a particular index at the close of trading or another time of day specified by the Exchange, "or any multiple or fraction thereof specified by [the] Exchange"). All the exchanges have specified that the respective reduced-value index options are to have current index values equal to one-tenth of the value of their respective underlying indexes, and index multipliers equal in value to the index multipliers of their counterpart respective standard-sized index options. Each "aggregate current value" of a reduced-value index option (i.e., the product of the current index value and the index multiplier) is therefore one-tenth the aggregate current index value of its counterpart standard-sized index option for the same day.

[8] OCC recently changed Rule 611 (File No. SR-OCC-91-14) to accommodate capped index options, a new product recently approved for trading on CBOE and AMEX. Securities Exchange Act Release No. 29876 (October 28, 1991), 56 FR 56435. Without that change to Rule 611, short positions in capped index options, when paired against long positions in American-style and European-style index options, would not have been entitled to clearing-level spread margin treatment even though such pairs could be entitled to customer-level spread margin treatment under applicable exchange rules. File No. SR-OCC-91-14 amended Rule 611 only to the extent necessary to accommodate capped index options. This proposed rule change would amend Rule 611 on a more generalized basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 the file number SR-OCC-92-14 and should be submitted by October 9, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22593 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31176; File No. SR-PTC-92-10]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Participants Trust Company Relating to the Relocation of Its Primary Processing Site from New York to New Jersey

September 11, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 18, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow PTC to transfer its primary data processing site from 40 Rector Street, New York, to One Evertrust Plaza, Jersey City, New Jersey.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) The proposed rule change would allow PTC to transfer its primary data processing site from 40 Rector Street, New York, New York, to One Evertrust Plaza, Jersey City, New Jersey. The New York facility will then become PTC's backup site.

Currently, the New Jersey site serves the dual purpose of providing backup capacity in a separate power grid in case of an environmental disfunction (e.g. a power failure) at PTC's primary facility in New York and it provides additional capacity for testing system software upgrades and the like. The New Jersey facility is operated by PT Services, Inc. ("PTS"), a wholly-owned subsidiary corporation of PTC which was formed in 1990. The performance of all operations at PTC is under the exclusive direction and control of PTC, pursuant to the terms of an intercompany contract between PTC and PTS (See SR-PTC-90-02) and SEC Release No. 34-30296 dated January 27, 1992).

As the Commission was advised, PTS was formed to be the lessee of the New Jersey premises to provide a vehicle for an entity other than PTC to be present in New Jersey. However, in 1991, the New Jersey statutes were amended to permit a foreign bank to maintain a service facility in New Jersey to perform back-office operations. PTC has applied for and has been granted registration in New Jersey as such a service facility. Accordingly, all operations at PTC's New Jersey facility, which have been under the exclusive direction and control of PTC, will now be conducted directly by PTC. Therefore, the intercompany contract is no longer necessary and has been terminated effective July 1, 1992.

The determination to make New Jersey the primary processing site is based on the more desirable environmental aspects of that facility for data processing purposes, including primary and backup electrical systems, air conditioning systems, physical security, and fire protection systems. The New Jersey facility's systems are more modern than those of the New York facility, hence the New Jersey facility is expected to be less vulnerable to environmental failure.

Because the New Jersey facility currently has the capability to perform all processing on a contingency basis, only minimum modifications need to be made for that facility to act as the primary site. Those modifications will be installed and tested in New Jersey before the primary site capabilities of the New York site are disturbed in any way. Only after the New Jersey site is fully tested as the primary processing site will the New York site be reconfigured to the contingency site.

The switch to New Jersey will be transparent to Participants and will not require them to make any systems or operational changes, in large part because of PTC's recent installation of a new Participant communications network. All Participants have access to PTC's system through dedicated communication lines. These lines will be re-routed to New Jersey via a simple transfer. PTC will continue, however, to make hard copy and tape output available to Participants at the New York facility. In all other respects, the New York site will perform the backup functions that the New Jersey site performed.

PTC believes that the use of the more modern environment at its New Jersey facility is a prudent use of existing resources and will minimize the risk of system failure from environmental causes.

(b) Since the proposed rule change is designed to assure the safeguarding of securities and funds which are in the custody or control of PTC or for which it is responsible, it is consistent with section 17A(b)(3)(F) of the Act and the rules and regulations thereunder applicable to PTC.

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[9] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from Participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder because it is concerned solely with the administration of PTC. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act

IV. Solicitation of Comments

Interested parties 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 PTC. All submissions should refer to file number SR-PTC-92-10 and should be submitted by October 9, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22591 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 18945; International Series Release No. 455; 812-8030]

Dean Witter American Value Fund, et al., Application

September 11, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Dean Witter American Value Fund, Dean Witter California Tax-Free Income Fund, Dean Witter Convertible Securities Trust, Dean Witter Developing Growth Securities Trust, Dean Witter Dividend Growth Securities, Inc., Dean Witter Government Securities Plus, Dean Witter High Yield Securities Inc., Dean Witter Intermediate Income Securities, Dean Witter Managed Assets Trust, Dean Witter Natural Resource Development Securities Inc., Dean Witter New York Tax-Free Income Fund, Dean Witter Strategist Fund, Dean Witter Tax-Exempt Securities Trust, Dean Witter U.S. Government Securities Trust, Dean Witter Utilities Fund, Dean Witter World Wide Income Trust, Dean Witter World Wide Investment Trust, Dean Witter Value-Added Market Series, Active Assets Money Trust, Active Assets Tax-Free Trust, Active Assets California Tax-Free Trust, Active Assets Government Securities Trust, Dean Witter/Sears New York Municipal Money Market Trust, Dean Witter Capital Growth Securities, Dean Witter European Growth Fund Inc., Dean Witter Global Short-Term Income Fund Inc., Dean Witter Precious Metals and Minerals Trust, Dean Witter Pacific Growth Fund Inc., Dean Witter Multi-State Municipal Series Trust, Dean Witter Variable Investment Series, Sears Tax-Exempt Reinvestment Fund, Dean Witter Premier Income Trust, Dean Witter Short-Term U.S. Treasury Trust, Dean Witter Diversified Income Trust, Dean Witter Equity Income Trust, Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust, Dean Witter/Sears U.S. Government Money Market Trust (the "DWR Funds"), Intercapital Income Securities Inc., Intercapital Insured Municipal Trust, Intercapital Insured Municipal Bond Trust, Intercapital Quality Municipal Investment Trust, High Income Advantage Trust, High Income Advantage Trust II, High Income Advantage Trust III, Dean Witter Government Income Trust, Allstate Municipal Income Trust, Allstate Municipal Income Trust II, Allstate Municipal Income Trust III, Allstate Municipal Premium Income Trust, Allstate Municipal Income Opportunities Trust, Allstate Municipal Income Opportunities Trust II, Allstate Municipal Income Opportunities Trust III, Allstate Prime Income Trust (the "Closed-End Funds"), TCW/DW Core Equity Trust, TCW/DW North American Government Income Trust, TCW/DW Latin American Growth Fund, TCW/DW Small Cap Growth Fund (collectively with the DWR Funds and the Closed-End Funds, the "Funds"), and Dean Witter Reynolds Inc. ("DWR").

RELEVANT ACT SECTION: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 12d3-1.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting them to acquire equity or convertible securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenue from their activities as a broker, dealer, underwriter, or investment adviser ("foreign securities companies"), provided such investments meet the conditions described in proposed amended rule 12d3-1.

FILING DATE: The application was filed on August 3, 1992.

HEARING OF NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 6, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Staff Attorney, at (202) 272-7779 or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered management investment company under the Act.

2. DWR is a broker-dealer registered under the Securities Exchange Act of 1934 and an investment adviser registered under the Investment Advisers Act of 1940. DWR serves as investment adviser of the DWR Funds. Through its InterCapital Division, DWR provides services to the Funds. DWR is also the principal underwriter for each of the Funds other than the Closed-End Funds and five DWR Funds that are self-distributed. DWR is a wholly owned subsidiary of Dean Witter Financial Services, which in turn is a wholly owned subsidiary of Sears, Roebuck and Co.

3. Applicants also request that any order granted in response to this application apply to any other management investment company for which DWR or any affiliated person of DWR, within the meaning of section 2(a)(3) of the Act may in the future serve as investment adviser or principal underwriter, and any affiliated person of DWR that may serve in the future as investment adviser or principal underwriter to such other open-end investment companies or the Funds.[1]

4. Applicants seek relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to invest in equity or convertible securities of foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

Applicants' Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any securities issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenue in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule.

2. Under subparagraph (b)(4) of rule 12d3-1, any equity security to be acquired must be a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System. However, "margin security" status is generally available only to securities that trade in United States markets.

3. Under proposed amendments to rule 12d3-1, the "margin security" requirement need not be met if the acquiring company purchases equity securities of foreign securities companies that meet standards comparable to those applicable to equity securities of United States securities-related businesses. These standards, as set forth in the proposed amendment, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989).

Applicants' Condition

Applicants agree to the following condition in connection with the relief requested:

Applicants will comply with the provisions of the proposed amendments to Rule 12d3-1, [Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)], and as such amendments may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22682 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

[1] By letter dated August 31, 1992, applicants' counsel represents that all investment companies for which DWR or any affiliated person of DWR currently serves as investment adviser or principal underwriter, and all affiliated persons of DWR that currently serve as investment adviser to principal underwriter to the Funds have been named as applicants in the application.

[File No. 22-22492]

Application and Opportunity for Hearing; Public Service Electric and Gas Co.

September 14, 1992.

Notice is hereby given that Public Service Electric and Gas Company ("Company"), a New Jersey corporation, has filed an application pursuant to section 304(c)(1) of the Trust Indenture Act of 1939 ("Act") for the Securities and Exchange Commission ("Commission") to order an exemption from the provisions of section 316(a)(1) of the Act for certain First and Refunding Mortgage Bonds ("Bonds") under an indenture dated as of August 1, 1924, as amended by the Supplemental Indenture dated as of March 1, 1942 between the Company and Fidelity Union Trust Company (now First Fidelity Bank, National Association, New Jersey) as Trustee ("Indenture"), which will be supplemented by a separate supplemental indenture providing for each series of Bonds to be dated the first day of the month in which each such series of Bonds is issued.

Section 304(c)(1) of the Act provides in part that the Commission shall exempt from one or more provisions of the Act any security issued or proposed to be issued under an indenture under which securities (as defined in that section) are outstanding if and to the extent the Commission finds that compliance with such provisions, through the execution of a supplemental indenture or otherwise would require by reason of the provisions of such indenture or of any other indenture or agreement made prior to enactment of the Act, or the provisions of any applicable law, the consent of holders of securities outstanding under such indenture or agreement.

The Company alleges:

(1) One or more series of Bonds are proposed to be issued under the Indenture pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"). The Bonds will be registered under the 1933 Act and the Indenture, as supplemented, will be qualified under the Act.

(2) The Indenture provides that upon an Event of Default (as defined therein) holders of 25 percent of the outstanding Bonds may require the Trustee to (a) Accelerate the maturity of the Bonds, and (b) take other action for the protection of the holders. The Indenture also permits 10 percent of the holders of the outstanding Bonds to require the Trustee to investigate compliance by the Company with conditions precedent in connection with authentication of Bonds or withdrawal of cash, or in connection with the release of mortgaged property. The holders of Bonds have vested rights in these provisions under the Indenture, and such rights cannot be abrogated or changed without their consent.

(3) Pursuant to Rule 4C-4 under the Act, the Company has waived a hearing and requested that the Commission decide this application without a formal hearing on the basis of such application and other information and documents as the Commission shall designate as part of the record.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application

which is on file in the Offices of the Commission's Public Reference Section, File Number 22-22492, 450 Fifth Street, NW., Washington, District of Columbia 20549.

Notice is further given that any interested persons may, not later than October 9, 1992 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, District of Columbia 20549. At any time after said date, the Commission may issue an order granting the application, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22592 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25629]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 11, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 5, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Appalachian Power Company (70-6171)

Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24022, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 9(a), 10 and 12(d) of the ("Act").

By order dated June 30, 1978 (HCAR No. 20610) ("Order"), Appalachian was authorized to enter into an agreement of sale ("Agreement") with Mason County, West Virginia ("County") concerning the construction, installation, financing and sale of pollution control facilities ("Facilities") at Appalachian's Philip Sporn and Mountaineer Plants. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded.

The Order also authorized Appalachian to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment sales arrangement requiring Appalachian to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold nine series of bonds in connection with the financing of the Facilities.

It is now proposed that, under the terms of Agreement, Appalachian will cause the County to issue and sell, no later than December 31, 1993, its Series J Refunding Bonds in the aggregate principal amount of up to $50 million, the proceeds of which will be used to provide for the early redemption, at a rate no greater than 101½% of the aggregate principal amount of the entire $50 million aggregate principal amount, of outstanding Series B Revenue Bonds, 7½%, June 1, 2009. The Series J Refunding Bonds will be issued under and secured by the Indenture and a ninth supplemental indenture ("Supplemental Indenture"), will bear interest semi-annually at a rate of interest not exceeding 7¼% per annum and will mature at a date not more than thirty years from the date of issuance. Any discount from the initial public offering price of the Series J Refunding Bonds shall not exceed 5% of their principal amount and the initial public offering price shall not be less than 95% of such amount.

The Series J Bonds may be subject to mandatory redemption under the circumstances and terms specified in the Supplemental Indenture. In addition, the Series J Bonds may not be redeemable at the option of the County in whole or in part at any time for a period of up to thirty years.

Appalachian will not cause the Series J Refunding Bonds to be issued and sold by the County or enter into the proposed refunding transactions unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the Series J Refunding Bonds to be issued.

UNITIL Corporation (70-8042)

UNITIL Corporation ("UNITIL"), 216 Epping Road, Exeter, New Hampshire 03833, a registered holding company, has filed a declaration pursuant to Sections 6(a) and 7 of the Act.

UNITIL proposes to double the number of its shares of outstanding common stock, no par value, through a two-for-one stock split ("Stock Split"). UNITIL will effect the Stock Split by declaring and distributing one share of common stock for each common share outstanding on the record date for such distribution.

At August 26, 1992, UNITIL had 8 million authorized shares of common stock of which 2,068,552 shares were issued and outstanding. UNITIL has no shares of treasury stock.

Included in the number of shares outstanding are: 77,722 options and dividend equivalents of a total 150,000 shares initially authorized for UNITIL's Key Employee Stock Option Plan; 16,921 shares of the 135,000 shares initially authorized for UNITIL's two Tax-Deferred Savings and Investment Plans; and 23,173 shares of a total 100,000

shares authorized for UNITIL's Dividend Reinvestment Plan.

Central and South West Corporation, et al. (70-8051)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas, 75202, a registered holding company, and its non-utility subsidiaries, CSW Energy, Inc. ("CSW Energy"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas, 75202, CSW Development-I, Inc. ("CSW Development"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas, 75202, and ARK/CSW Development Partnership ("ARK/CSW'), 23293 South Pointe Drive, suite 100, Laguna Hills, California, 92653, have filed an application-declaration pursuant to Sections 6, 7, 9(a), 10 and 12(b) of the Act and Rules 45, 50(a)(5) and 51 thereunder.

CSW, CSW Energy, CSW Development, and ARK/CSW request authorization to invest in and develop the Lowville Cogeneration Project ("Project"), a 49.9-MW gas-fired cogeneration facility to be constructed near Lowville, New York. The Project will be a qualifying facility under the Public Utility Regulatory Policies Act of 1978 ("PURPA") and the rules and regulations adopted thereunder by the Federal Energy Regulatory Commission ("FERC").

By orders dated September 28, 1990 (HCAR No. 25162) and November 2, 1992 (HCAR No. 25414) ("Orders"), CSW and CSW Energy were authorized to (1) spend up to $75 million to engage in initial studies of, and research and development on, qualifying cogeneration facilities, qualifying small power production facilities and independent power facilities; (2) finance those activities through capital contributions and open account advances and loans; (3) form CSW Development and ARK/CSW; and (4) spend up to $25 million of the $75 million to finance ARK/CSW through capital contributions and loans. Under the Orders, the actual investment in or development of qualifying facilities would require separate SEC approval.

CSW, CSW Energy, CSW Development and ARK/CSW now propose to invest in and develop the Project. The companies will invest in the Project through Lowville Cogeneration Partners, L.P. ("Partnership"), a special-purpose limited partnership organized in Delaware. The initial general partner of the Partnership will be Lowville G.P., Inc. ("Lowville"), a wholly-owned subsidiary of ARK/CSW that will be incorporated in Delaware. Lowville will be capitalized with the sale of 1,000 shares of common stock, no par value, at $1.00 per share to ARK/CSW. The initial limited partners of the Partnership will be CSW Development and ARK Energy, Inc. ("ARK Energy"), a non-associate company and the other partner in ARK/CSW. Lowville will own a 1% interest in the Partnership and the two limited partners will each own a 49.5% interest. In addition, CSW Development and ARK Energy will each contribute up to $8 million ("Equity Contribution") to the Partnership. Lowville will contribute work product and management services of sufficient value to maintain the partners' respective interests.

The Partnership will finance the cost of construction and development of the Project, which is not expected to exceed $80 million, through a loan from a third-party lender ("Lender") of up to $80 million ("Construction Loan"). The Equity Contribution and the Construction Loan, in the aggregate, will not exceed $80 million. To the extent that the Construction Loan approaches $80 million and 100% of the total cost of the Project, the Equity Contribution will approach $0 and 0% of that cost.

It is expected that the interest rate on the Construction Loan will not exceed 12%.[1] The Construction Loan would be for a period not to exceed twenty-four months before it is replaced by the refinancing discussed below. It is estimated that the fees associated with the closing of the Construction Loan will not exceed $1.2 million.

In the alternative, and in the absence of the Construction Loan prior to commencement of construction, the Partnership will finance the cost of construction and development of the Project, until the Construction Loan is obtained, through loans or open account advances from CSW Energy to the Partnership in an aggregate amount not to exceed $20 million ("Advances"). The per-annum interest rate of the Advances would not exceed the prime commercial lending rate plus 3% and would mature within twenty years. The Advances will be repaid prior to commencement of Project operations, either through the Construction Loan or the refinancing discussed below.

In addition, and in accordance with the Orders, CSW Development, ARK Energy, or ARK/CSW, prior to receipt of the Construction Loan, might advance to the Partnership certain developmental expenses. However, after receipt of the Construction Loan, those advances will be reimbursed by the Partnership.

Upon completion of Project construction and the start of commercial operations, the Construction Loan and the Advances, as appropriate, would be converted to and refinanced by either (1) a term loan ("Term Loan") from the Lender or a new third party, or (2) an approximately twenty-year lease ("Base Term Lease"). The Term Loan would mature within twenty years and would bear an interest rate not to exceed 12% per annum.[2] The Base Term Lease would be effected through (1) the transfer of the Project to the Lender or other third-party transferee ("Lessor" in either case) and (2) the lease-back of the Project to the Partnership from the Lessor for a term of approximately twenty years. At the completion of that term, the Partnership would have the option either to extend the lease-back for an additional term of up to ten years or to purchase the Project.

Both the Term Loan and the Base Term Lease would be paid out of Project cash flow. In either instance, the only recourse of the party that refinances the Construction Loan would be the assets of the Project.

In order to acquire the above-described financial transactions, CSW might be required to provide an assurance ("Support Agreement") that CSW Development will provide its Equity Contribution to the Project. It is anticipated that the Support Agreement would be either (1) a guarantee or other commitment entered into directly between CSW and the third party that finances the Project or (2) a letter of credit, a cash deposit or some other similar arrangement. The obligation of CSW to contribute capital to the Partnership pursuant to the Support Agreement will not exceed $8 million.

CSW, CSW Energy, CSW Development and ARK/CSW request, pursuant to Rule 50(a)(5), that all financial transactions entered into to finance the Project be excepted from the competitive bidding requirements of Rule 50.

West Texas Utilities Company (70-8057)

West Texas Utilities Company ("WTU"), 301 Cypress Street, Abilene, Texas 79601-5820, an electric public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an

[1] The 12% figure accounts for any interest rate swap ("Swap") into which the Partnership may enter. Under a Swap, the notional amount thereof and the maturity date thereof would not exceed the amount and the maturity date of the Construction Loan.

[2] The 12% figure accounts for any Swap into which the Partnership may enter. Under a Swap, the notional amount thereof and the maturity date thereof would not exceed the amount and the maturity date of the Term Loan.

application-declaration under Sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 42, 50 and 50(a)(5) thereunder.

WTU proposes to issue and sell up to an aggregate principal amount of $150 million of First Mortgage Bonds ("New Bonds"), in one or more series, from time to time through December 31, 1994. The New Bonds will have maturities of not less than five years nor more than thirty years. The New Bonds will be issued under WTU's indenture dated August 1, 1943, as amended and supplemented, ("Indenture") and secured by a first lien on substantially all of the properties now owned and hereafter acquired by WTU, except for properties specifically excepted from such liens.

WTU proposes to deviate from the Commission's Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (HCAR No. 13105, February 16, 1956, as amended by HCAR No. 16369, May 8, 1969). WTU requests authority to include in the terms of the New Bonds provisions that they will either: (1) Not be redeemable at WTU's option for a period of up to a maximum of fifteen years; or (2) be issued with the restriction that WTU would not be permitted to refund the New bonds with lower cost debt securities for a specified period not exceeding fifteen years. The exact terms of any redemption or refunding restrictions would be determined at or about the time of sale of the New Bonds. WTU further proposes to issue the New bonds with or without a sinking or retirement fund and requests a waiver from the requirement of a limitation on dividends.

WTU requests authority to sell the New bonds either: (1) under competitive bidding pursuant to Rule 50 or, in the case of a delayed or continuous offering and sale pursuant to Rule 415 under the Securities Act of 1933, as amended, the alternative competitive bidding procedures as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623); or (2) in a negotiated transaction with underwriters or agents under an exception from the requirements of competitive bidding under Rule 50(a)(5). Therefore, WTU requests authority to enter into negotiations with potential underwriters with respect to the interest rate, redemption provisions and other terms and conditions applicable to the New Bonds. It may do so.

The proceeds from the sale of the New Bonds will be used principally to redeem all or a portion of WTU's outstanding $75 million, 8⅞% First Mortgage Bonds, Series N, due May 1, 2016 ("Series N Bonds"), at the then current general redemption price (currently, 106.25% of the principal amount of the Series N Bonds), plus accrued and unpaid interest to the redemption date. The proceeds may also be used to purchase, through a tender offer, all or a portion of WTU's outstanding $65 million, 9¼% First Mortgage Bonds, Series O, due December 1, 2019 (Series O Bonds"). The Series N Bonds and the Series O Bonds are collectively referred to as the "Old Bonds." The Series N Bonds were issued in May 1986, under the Indenture and became refundable pursuant to their terms on May 1, 1991. The Series O Bonds were issued under the Indenture in December 1989 and will not be refundable by their terms until December 1, 1994.

Any net proceeds not used for the redemption or repurchase of the Old Bonds will be used to repay outstanding short-term borrowings or for other general corporate purposes. In the event the proceeds from the issuance of the New Bonds are less than the amount required to redeem all of any series of WTU's Old Bonds being redeemed or purchased, WTU will pay a portion of the redemption or tender price from internally generated funds or available short-term borrowings.

WTU will not issue the New Bonds unless the estimated present value savings derived from the net difference between interest payments on any New Bonds to be issued for refunding purposes and the Old Bonds is, on an after-tax basis, greater than the present value of all redemption and issuance costs, assuming an appropriate discount rate. Such dicount rate would be based on the estimated after-tax interest rate on the New Bonds issued for refunding purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22681 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-10-M

[Rel. No. IC-18946; International Series Release No. 456; 812-7896]

United States Trust Company of New York; Notice of Application

September 11, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: United States Trust Company of New York.

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) for an exemption from the provisions of section 26(a)(2)(D).

SUMMARY OF APPLICATION: Applicant seeks a conditional order that would permit it to deposit foreign securities, held by unit investment trusts for which it serves as trustee, with the securities clearance and depository facilities operated by Morgan Guaranty Trust Company of New York ("Morgan Guaranty") in Brussels, Belgium in its capacity as operator of the Euroclear System ("Euroclear"), or with Central de Livraison de Valeurs Mobilieres, S.A. ("CEDEL"). Euroclear and CEDEL are sometimes referred to as the "Transnational Agencies."

FILING DATE: The application was filed on March 30, 1992, and amended on June 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 6, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 114 West 47th Street, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a trust company, incorporated and doing business under the laws of the State of New York, that meets the qualifications under the Act for a trustee or custodian of a unit investment trust. Applicant currently

serves as a trustee of trusts sponsored by, among other, John Nuveen & Co. Incorporated, Nike Securities L.P., Dean Witter Reynolds Inc., Smith Barney, Harris Upham & Co. Incorporated, Prudential-Bache Securities Inc., Bear, Stearns & Co. Inc. and Unison Investment Trusts Ltd., and it may in the future act as trustee of trusts sponsored by these and other sponsors. Under each trust indenture, and as required by the Act, applicant is responsible for the custody of the securities that it holds in trust.

2. Various trust sponsors for which applicant serves as trustee have created, or have expressed an interest in creating, trusts with investment objectives that contemplate investments in foreign securities. Because of the increased importance of using a book-entry system with foreign securities, especially securities issued in the European market, applicant desires to use Euroclear and CEDEL to hold certain foreign securities of trusts for which it serves as trustee.

3. Euroclear and CEDEL are the largest clearance and custody systems of internationally traded securities in the world. They were organized principally to provide a simple, economic and automated means of settling secondary market transactions in internationally traded securities regardless of the geographical location of the parties to the transaction. The branch of Morgan Guaranty in Brussels, Belgium operates Euroclear. This branch is regulated by the New York and federal banking authorities and the Belgian Banking Commission. Belgian law governs Morgan Guaranty's liability as custodian and operator of Euroclear under the contract between Euroclear and each participating entity that has an account with Euroclear. CEDEL was founded as a limited company under the laws of the Grand Duchy of Luxembourg. CEDEL is headquartered in Luxembourg and has representative offices in London, New York, Tokyo and Hong Kong. CEDEL operates under the supervision of the Institute Monetaire Luxembourgeois, the Luxembourg Monetary Authority, which also is the banking control authority.

4. Applicant believes that securities deposited in Euroclear or CEDEL are at least as effectively protected as the same securities would be if directly deposited with a foreign branch of a United States bank, or shipped to the United States for custody, for several reasons, including:

(a) the insurance coverage for Euroclear and CEDEL depositaries and their outstanding loss record;

(b) the expertise and experience of the banks holding securities for Euroclear or CEDEL;

(c) the efficiencies resulting from handling large quantities of the same issue;

(d) the excellent track records of Euroclear and CEDEL;

(e) the close scrutiny of Euroclear and CEDEL services resulting from the market's dependence upon (and hence concern for) these services and the oversight of the depositaries; and

(f) the depositary agreements pursuant to which securities are held by Euroclear and CEDEL depositaries, which impose high standards of care on the depositaries.

5. Applicant maintains that the exposure to certain custodial risks is reduced when securities are held through Euroclear or CEDEL rather than directly by a United States bank branch since securities held in Euroclear or CEDEL do not have to be transported for deposit outside these systems or to effect sale. Furthermore, holding foreign securities outside of Euroclear and CEDEL would give rise to substantially higher costs for holding and transferring securities and for settling transactions.

Applicant's Legal Analysis

1. Section 26(a)(1) of the Act provides that a unit investment trust must be governed by a trust indenture that designates "one or more trustees or custodians, each of which is a bank," and section 26(a)(2)(D) of the Act requires that the trust indenture provide "that the trustee or custodian shall have possession of all securities and other property in which the funds of the trust are invested."

2. Euroclear and CEDEL do not qualify under the Act as custodians for unit investment trust assets. The term "bank" is defined in section 2(a) of the Act as "(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, [and] (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or the United States * * *." The SEC has stated that an overseas branch of a domestic bank is the only facility located outside the United States that qualifies as a custodian under section 26. *See* Exemption for Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 13724 (Jan. 17, 1984). The SEC also has indicated that a foreign incorporated subsidiary does not meet this definition. *See* International Resources Funds, Inc., Investment Company Act Release No. 2874 (May 4, 1975). Accordingly, neither Euroclear nor CEDEL meets the definition of a bank under the Act, and, as a result, neither qualifies as a custodian.

3. While applicant does qualify as a custodian, its use of Euroclear and CEDEL to hold foreign securities would not constitute it having "possession" of these securities within the meaning of section 26(a)(2)(D). Accordingly, applicant requests relief under section 6(c) of the Act from the provisions of section 26(a)(2)(D) to permit it to deposit foreign securities, held by unit investment trusts for which it serves as trustee, with Euroclear and CEDEL.

4. Section 6(c) provides in relevant part that the SEC, by order upon application, may exempt any transactions from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant believes that the requested relief satisfies the section 6(c) standard.

5. Rule 17f-5 under the Act provides an exemption from the custody requirements of section 17(f) concerning assets held outside the United States for registered "management investment companies." Rule 17f-5 permits investment companies to place and maintain foreign securities, as defined in the rule, with certain foreign custodians, provided that a majority of the board of directors (i) determines that maintaining the company's assets in a particular country is consistent with the best interests of the company and its shareholders, (ii) determines that maintaining the company's assets with a particular foreign custodian is consistent with the best interests of the company and its shareholders, and (iii) approves, as consistent with the best interests of the company and its shareholders, a written contract that will govern the manner in which such custodian will maintain the company's assets. The directors also must establish a system to monitor these arrangements, and annually review and approve the continuance of these arrangements. Both Euroclear and CEDEL qualify as foreign custodians under rule 17f-5. There, however, is no rule analogous to rule 17f-5 applicable to the safekeeping of the assets of a unit investment trust when those assets are held outside of the United States.

6. Applicant proposes to provide to a trust custody services that would permit the foreign securities of the trust to be held abroad in the custody of Euroclear or CEDEL. These arrangements will be

in total agreement with those applicable to registered management investment companies as contemplated by rule 17f-5, except that (a) certain duties and responsibilities of the directors of such companies will be performed by applicant as trustee, (b) applicant will provide indemnification to the unit holders, and (c) only Euroclear and CEDEL will qualify as foreign custodians for the trusts.

7. Applicant views the deposit of trust assets with Euroclear and CEDEL to be consistent with the purposes of section 26. Euroclear and CEDEL are the largest clearance and custody systems of internationally traded securities. Their insurance coverage, governing terms and conditions, and the high calibre of their depositories provide a trust and unit holders with a great degree of security.

Applicant's Conditions

Applicant agrees that the exemptive order requested herein will be subject to the following conditions:

a. Applicant will comply with the provisions of rule 17f-5 under the Act as if each trust was a registered investment company and applicant was its board of directors; except that Euroclear and CEDEL shall be the only qualified "eligible foreign custodians" for the trusts.

b. Applicant will indemnify and hold each of the trusts harmless from and against any loss that shall occur as the result of the failure of a Transnational Agency holding the foreign securities of a trust to exercise reasonable care with respect to the safekeeping of such foreign securities to the same extent that applicant would be required to indemnify and hold a trust harmless if applicant were holding such foreign securities in the jurisdiction of the United States whose laws govern the relevant trust indenture; provided, however, that applicant shall not be liable for loss except by reason of the gross negligence, bad faith or willful misconduct of applicant or a Transnational Agency.

c. Applicant will assure that the sponsors of each of the trusts agree that the potential exposure of loss to unit holders resulting from the use of a Transnational Agency will be disclosed, if material, in the prospectus relating to the relevant trust.

d. Applicant will maintain and keep current written records regarding the basis for choice or continued use of a particular Transnational Agency, and such records will be available for inspection at applicant's offices at all reasonable times during its usual business hours by unit holders and the SEC.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-22672 Filed 9-17-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund thirty-three presently existent Small Business Development Centers (SBDCs) on January 1, 1993. Currently there are 57 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, and Wisconsin. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accordance with the Executive Order and SBA's regulations found at 13 CFR part 135.

EFFECTIVE DATE: December 17, 1992.

ADDRESSES: Comments should be addressed to Ms. Monika Edwards Harrison, Associate Administrator for SBDC Program, U.S. Small Business Administration, 409 Third Street, SW., Fifth Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ms. Monika Edwards Harrison, same address as above, (202) 205-6766.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR part 135, effective September 30, 1983.

In accordance with these regulations, specifically 135.4, SBA is publishing this notice to provide public awareness of the pending application of thirty-three presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published four months in advance of the expected date of refunding these SBDCs. Relevant information identifying these SBDCs and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Monika Edwards Harrison, Associate Administrator for SBDC Program, U.S. Small Business Administration, 409 Third Street, SW., Fifth Floor, Washington, DC 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 90 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 90-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The SBDC operates under the general management and oversight of SBA, but with recognition that a partnership exists between the Agency and the

SBDC for the delivery of assistance to the small business community. SBDC services shall be provided pursuant to a negotiated Cooperative Agreement with full participation of both parties.

SBDCs operate on the basis of a state plan to provide assistance within a state or designated geographical area. The initial plan must have the written approval of the Governor. As a condition to any financial award made to an applicant, non-Federal funds must be provided from sources other than the Federal Government. SBDCs operate under the provisions of Public Law 96-302, as amended by Public Law 98-395, a Notice of Award (Cooperative Agreement) issued by SBA, and the provisions of this Program Announcement.

Purpose and Scope

The SBDC Program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement. To accomplish these objectives, SBDCs link resources of the Federal, State, and local governments with the resources of the educational system and the private sector to meet the specialized and complex needs of the small business community. SBDCs also coordinate with other SBA programs of business development and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the state, academic community and private sector to:

(a) Strengthen the small business community:

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources;

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information, and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State. The SBDC shall also ensure that a full range of business development and technical assistance services are made available to small businesses located in rural areas.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives, and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform, but not be limited to, the following activities:

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

The Lead SBDC and all SBDC subcenters shall operate on a forty (40) hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year. The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Dated: July 29, 1992.

Patricia Saiki,

Administrator.

Addresses of Relevant SBDC State Directors

Mr. Dave Smith, State Director, Western Int'l University, 9215 North Black Canyon Highway, Phoenix, AZ 85021, (602) 943-2311

Mr. Patrick Valenzuela, Acting State Director, Department of Commerce, 801 K Street, 17th Floor, Sacramento, CA 95814, (916) 324-5068

Ms. Nancy Flake, Director, Howard University, 6th & Fairmount Street, NW., Washington, D.C. 2059, (202) 806-1550

Mr. Hank Logan, State Director, University of Georgia, Chicopee Complex, Athens, GA 30602, (404) 542-5760

Mr. Ronald Hall, State Director, Boise State University, College of Business, 1910 University Drive, Boise, ID 83725, (208) 385-1640

Mr. Steve Thrash, State Director, Economic Development Council, One North Capitol, Suite 420, Indianapolis, IN 46204, (317) 264-6871

Mr. Charles Davis, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780-4420

Mr. Paul McGinnis, State Director, University of Arkansas, 100 South Main, Suite 401, Little Rock, AR 72201, (510) 324-9043

Mr. Rick Garcia, State Director, Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202, (303) 892-3809

Mr. Jerry Cartwright, State Director, University of West Florida, Building 76, Room 231, Pensacola, FL 32514, (904) 474-3016

Ms. Janet Nye, State Director, University of Hawaii/Hilo, 523 West Lanikaula Street, Hilo, HI 96720, (808) 933-3515

Mr. Jeffrey Mitchell, State Director, Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524-5856

Mr. Tom Hull, State Director, Wichita State University, 1845 Fairmont, Campus Box 148, Wichita, KS 67208, (316) 689-3193

Mr. Randall Olson, State Director, Dept. of Trade and Economic Dev., 150 East Kellogg Boulevard, St. Paul, MN 55101-1421, (612) 297-5770

Mr. Evan McKinney, State Director, Department of Commerce, 1424 Ninth Avenue, Helena, MT 59620, (406) 444-4780

Mr. Sam Males, State Director, University of Nevada/Reno, College of Busines Admin., Room 411, Reno, NV 89557-0100, (702) 784-1717

Ms. Brenda B. Hopper, State Director, Rutgers University, 180 University Street, Newark, NJ 07102, (201) 648-5950

Mr. Scott Daugherty, State Director, University of North Carolina, 4509 Creedmoor Road, Suite 201, Raleigh, NC 27612, (919) 571-4154

Dr. Grady Pennington, State Director, SE Oklahoma State University, 517 West University, Durant, OK 74701, (405) 924-0277

Mr. Greg Higgins, State Director, University of Pennsylvania, The Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898-1219

Mr. John Lenti, State Director, University of South Carolina, College of Business Admin., 1710 College Street, Columbia, SC 29208, (803) 777-4907

Mr. Robert Bernier, State Director, University of Nebraska/Omaha, 60th & Dodge Sts., CBA Room 407, Omaha, NE 68182, (402) 554-2521

Ms. Helen Goodman, State Director, University of New Hampshire, 108 McConnel Hall, Durham, NJ 03824, (603) 862-2200

Mr. Randy Grissom, State Director, Santa Fe Community College, P.O. Box 4187, Santa Fe, NM 87502-4187 (505) 438-1362

Mr. Wally Kearns, State Director, Universtiy of North Dakota, Gamble Hall, University Station, Grand Forks, ND 58202-7308, (701) 777-3700

Mr. Sandy Cutler, State Director, Lane Community College, 99 West 10th Avenue, Suite 216, Eugene, OR 97401 (503) 726-2250

Mr. Douglas Jobling, State Director, Bryant College, 1150 Douglas Pike, Smithfield, RI 02917 (401) 232-6111

Mr. Donald Greenfield, State Director, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677-5272

Dr. Kenneth J. Burns, State Director, Memphis State University, Memphis, TN 38152, (901) 678-2500

Dr. Robert Smith, State Director, Department of Economic Development, 1021 East Cary Street, Richmond, VA 23206, (804) 371-8256

Mr. William Pinkovitz, State Director, University of Wisconsin, 432 North Lake Street, Room 423, Madison, WI 53706, (608) 262-3878

Mr. David Nimkin, State Director, University of Utah, 102 West 500 South, Salt Lake City, UT 84101, (801) 581-7905

Mr. Lyle Anderson, State Director, Washington State University, College of Business and Economics, Pullman, WA 99164-4727, (509) 335-1576

[FR Doc. 92-22575 Filed 9-17-92; 8:45 am]

BILLING CODE 8026-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice 92-15.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

DATES: September 11, 1992.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395-7340. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from John Chandler, Annette Wilson or Susan Pickrel, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4735.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to OMB for initial, approval, or for renewal under the Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on September 11, 1992:

DOT No: 3664.

OMB No: 2133-0505.

Administration: Maritime Administration.

Title: Revised Standby Voluntary Agreement Under Public Law 774, 81st Congress, as amended "Constitution of Tanker Capacity for National Defense Requirements" (Short Title: Voluntary Tanker Agreement)

Need for Information: For planning purposes and for use prior to convening Tanker Requirements Committee.

Proposed Use of Information: To evaluate tanker capability and to make plans for use of this capability to meet national emergency requirements.

Frequency: On occasion.

Burden Estimate: 19 hours.

Respondents: Tanker companies.

Form(s): None.

Average Burden Hours Per Response: 30 minutes.

DOT No: 3665.

OMB No: 2115–0113.

Administration: U.S. Coast Guard.

Title: Self-Propelled Liquefied Gas Vessels.

Need for Information: This information collection is needed by the Coast Guard to ensure that U.S. and foreign flag vessels that carry liquefied gas in bulk are in compliance with U.S. regulations in the design, construction, equipment, personnel safety and operation of their vessels.

Proposed Use of Information: Coast Guard will use this information to: (1) Indicate compliance with the standards of 46 CFR part 154; (2) transmit specific information on special designs not covered by the regulations; and (3) obtain information necessary to schedule a Certificate of Compliance examination.

Frequency: On occasion.

Burden Estimate: 3,914 hours.

Respondents: Owners and operators of liquefied gas carriers

Form(s): None.

Average Burden Hours Per Response: 1 hour and 52½ minutes for reporting; and 17 hours and 4 minutes for recordkeeping.

DOT No: 3666.

OMB No: 2132–0543.

Administration: Federal Transit Administration.

Title: Charter Service Operations.

Need for Information: FTA needs to require applicants to submit an agreement that the applicant and its recipients will provide charter service only if there is no willing and able private operator or if one of the exceptions to 49 CFR 604.9 is applicable.

Proposed Use of Information: The information will be used to determine compliance with regulations.

Frequency: Annually; with each application; trip-by-trip.

Burden Estimate: 1,996 hours.

Respondents: State or local governments, business or other for-profit businesses or organizations.

Form(s): None.

Average Burden Hours Per Response: 1 hour and 12 minutes.

DOT No: 3667.

OMB No: 2115–0554

Administration: U.S. Coast Guard.

Title: Intervals for Drydocking and Tailshaft Examinations on Inspected Vessels.

Need for Information: This information collection is needed by the U.S. Coast Guard to ensure that inspected vessels meet the requirements of the Marine Inspection Program mandated by 46 U.S.C. 3305 and 3306.

Proposed Use of Information: This information will be used by the Coast Guard to ensure that: (1) Drydock examinations are conducted to determine the seaworthiness of a vessel; (2) underwater surveys are made to determine the condition of the vessel's underwater hull; and (3) plans are onboard to show the vessel's scantling; this will determine the extent of deterioration of a vessel's hull by comparing its present condition with the "as built" condition shown on the plan.

Frequency: On occasion.

Burden Estimate: 977 hours.

Respondents: Boat owners/operators.

Form(s): None.

Average Burden Hours Per Response: 4 hours for reporting and 15 minutes for recordkeeping.

DOT No. 3668.

OMB No. 2115–0585.

Administraton: U.S. Coast Guard.

Title: Marine Portable Tanks; Alteration Non-Specification Portable Tanks; Approval.

Need for Information: This information collection is needed by the U.S. Coast Guard to enforce laws and regulations promoting the safety of life and property in marine transportation.

Proposed Use of Information: This information collection will be used by the Coast Guard to approve alterations to marine portable tanks. This approval will ensure that an altered tank retains the level of safety for which it was originally designed.

Frequency: On occasion.

Burden Estimate: 53 hours.

Respondents: Owners and manufacturers of marine portable tanks.

Form(s): None.

Average Burden Hours Per Response: 53 hours.

DOT No. 3669.

OMB No: 2115–0076.

Administration: U.S Coast Guard.

Title: Security Zones, Regulated Navigation Areas and Safety Zones.

Need for Information: This information collection is needed by the U.S. Coast Guard to access the need to: (1) Establish security zones for the purpose of safeguarding ports, harbors, vessels and waterfront facilities from destruction, loss or injury due to subversive activities; (2) regulate navigation areas to control vessel traffic in areas that are determined hazardous; and (3) establish safety zones to prohibit entry of unauthorized persons, vehicles or vessels.

Proposed Use of Information: Coast Guard will use this information to identify waterways or waterfront areas which for security for safety reasons, require specific precautions to ensure the safety of the pubic.

Frequency: On occasion.

Burden Estimate: 928 hours.

Respondents: Waterway users.

Form(s): None.

Average Burden Hours Per Response: 1 hour and 15 minutes.

DOT No: 3670.

OMB No: 2120–0040.

Administration: Federal Aviation Administration.

Title: Aviation Maintenance Technician School, FAR–147.

Need for Information: The collection of information is necessary to ensure that Aviation Maintenance Technician Schools meet the minimum requirements for procedures and curriculum set forth by the FAA in FAR 147.

Proposed Use of Information: The information is used to certify Aviation Maintenance Technician Schools. If the information were not collected, there would be no means of maintaining a standardized level of proficiency.

Frequency: On occasion.

Burden Estimate: 61,515 hours.

Respondents: Owners/operators of Aviation Maintenance Technician Schools.

Form(s): FAA Form 8310–6.

Average Burden Hours Per Response: 40 hours per application for original certificates; 2 hours and 30 minutes for additional ratings; 5 hours and 12 minutes for recordkeeping; and 1 hour per application change.

DOT No: 3671.

OMB No. 2130–0502.

Administration: Federal Railroad Administration.

Title: Filing of Dedicated Cars.

Need for Information: Regulations require that freight cars assigned to dedicated service be so stencilled. To assure compliance FRA must be notified by written description.

Proposed Use of Information: FRA uses the information to determine that the equipment is safe to operate and qualifies for dedicated service.

Frequncy: On occasion.

Burden Estimate: 6 hours.

Respondents: Railroads.

Form(s): None.

Average Burden Hours Per Response: 1 hour.

DOT No: 3672.

OMB No: 2130–0529.

Administration: Federal Railroad Administration.

Title: Disqualification Proceedings.

Need for Information: To assure compliance with the Rail Safety Improvement Act and prevent individuals from violating the terms of a disqualification order.

Propoed Use of Information: To prevent an individual who is serving under a disqualification order from obtaining employment in a safety sensitive position with another railroad.

Frequency: Recordkeeping.

Burden Estimate: 8 hours.

Respondents: Individuals.

Form(s): None.

Average Burden Hours Per Response: 30 minutes.

DOT No: 3673.

OMB No: 2127-0006.

Administraiton: National Highway Traffic Safety Administration.

Title: Fatal Accident Reporting System (FARS).

Need for Information: The data is needed to support NHTSA's Motor Vehicle Safety Standards evaluation.

Proposed Use of Information: The Fatal Accident Reporting System is a census of all fatal motor vehicle accidents in the United States. Data is extracted from existing state records and automated for the agency's use in high-way and motor vehicle safety problem identification, travel analyses and program evaluation.

Frequency: Monthly/on occasion.

Burden Estimate: 86,156 hours.

Respondents: State and Local Governments.

Form(s): HS-214, 214A, 214B, 214C, and HS-151.

Average Burden Hours Per Response: 2 hours and 9 minutes.

DOT No: 3674.

OMB No: 2106-0005.

Administration: Office of the Secretary of Transportation.

Title: Title 14 CFR 380—Public Charters.

Need for Information: Regulatory Compliance.

Proposed Use of Information: Financial protection for traveling public and registration information for U.S. and foreign charter operators.

Frequency: Annual.

Burden Estimate: 600 hours.

Respondents: U.S. and Foreign Charter Operators.

Form(s): None.

Average Burden Hours Per Response: 1 hour and 49½ minutes.

DOT No: 3675.

OMB No: 2115-0504.

Administration: U.S. Coast Guard.

Title: Tank Vessel Examination Letter (CG-8408-1 and 2), Certificate of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers.

Need for Information: This information collection is needed to enable the Coast Guard to fulfill its responsibilities for maritime safety under title 46, U.S. Code.

Proposed Use of Information: This information will be used to determine that repair work done on Coast Guard's certified devices have been properly accomplished. It will also ensure the availability of a vessel's unique information to boarding personnel.

Frequency: On occasion.

Respondents: Owners and operators of large merchant vessels and foreign flag tankers.

Burden Estimate: 22,202 hours.

Form(s): CG-840S-1 and CG-840S-2.

Average Burden Hours Per Response: 16 minutes for reporting and 3 hours and 43 minutes for recordkeeping.

DOT No: 3676.

OMB No: 2115-0559.

Administration: U.S. Coast Guard.

Title: Plan Approval and Records for Subchapter S, Subdivision and Stability Regulations.

Need for Information: This information collection requirement is needed to ensure that plans, technical information or operating manuals for vessels, submitted by builders, owners or operators meet the standards for vessel stability requirements. This requirement enforces the laws and regulations promoting the safety of life and property in marine transportation.

Proposed Use of Information: Coast Guard will use this information to ensure that vessels put into service are in full compliance with U.S. and the Safety of Life at Sea Convention stability standards.

Frequency: On occasion.

Burden Estimate: 19,158 hours.

Respondents: Vessel Builders, Owners, Operators.

Form(s): None.

Average Burden Hours Per Response: 3 hours for reporting and 4 hours and 30 minutes for recordkeeping.

DOT No: 3677.

OMB No: 2115-0043.

Administration: U.S. Coast Guard.

Title: Plan Approval and Records for Load Lines (46 CFR part 42, 44, 45 and 46).

Need for Information: This information collection is needed to ensure that vessels over 150 gross tons or 79 feet long engaged in commerce on international or coastwise voyages are in compliance with the International Convention on Load Lines (ICLL), 1966. Load line certificates will be issued to vessels that meet the requirements of ICLL, 1966.

Proposed Use of Information: Coast Guard will use this information to ensure that: (1) owners or agents have a means to make officially known their intent to load line a vessel; (2) vessels are in compliance with load line regulations before they are assigned a load line certificate; and (3) periodic and annual surveys are performed on vessels once a load line certificate is received.

Frequency: On occasion.

Burden Estimate: 2,133 hours.

Respondents: Owners of merchant vessels over 150 gross tons or 79 feet long.

Form(s): LL 8-A, LL 9-A, LL 10-A, LL 14-A, LL 18-E, LL 40-A, LL 101-A.

Average Burden Hours Per Response: 10 hours and 15 minutes for reporting; 19 hours and 6 minutes for recordkeeping.

DOT No: 3678.

OMB No: 2127-0501.

Administration: National Highway Traffic Safety Administration.

Title: Incentive Grant Criteria for Drunk Driving Programs, 23 CFR part 1313.

Need for Information: To promote effective programs to reduce drunk driving problems.

Proposed Use of Information: This alcohol incentive program is established to promote expedited driver's license suspension for DWI; self-sufficient community DWI programs; enforcement of underage drinking laws; and lower illegal per se laws.

Frequency: Annually.

Burden Estimate: 2,340 hours.

Respondents: State/Local Governments.

Form(s): HS-62.

Average Burden Hours Per Response: 1 hour and 20 minutes.

DOT No: 3679.

OMB No: 2127-0503.

Administration: National Highway Traffic Safety Administration.

Title: Consolidated Labeling Requirements for Motor Vehicle Tires and Rims (FMVSS 571.109, 110, 117, 119, 120 and Parts 569 and 574).

Need for Information: To identify tires and rims for safe operation of a vehicle.

Proposed Use of Information: All persons driving or riding in a motor vehicle need to have proper labeling on the tires and rims provided with the vehicle for safe operation.

Frequency: On occasion.

Burden Estimate: 264,669 hours.

Respondents: Individuals/ Governments.

Form(s): None.

Average Burden Hours Per Response: 1 hour and 55 minutes.

DOT No: 3680.

OMB No: 2130-0530.

Administration: Federal Railroad Administration.

Title: Locomotive Engineers' Activities Diary.

Need for Information: To assess the significance of various fatigue factors in human-error railroad accidents.

Proposed Use of Information: To understand how scheduling practices affect sleep, circadian rhythms, and fatigue levels of locomotive crews and to recommend improvements in crew management procedures.

Frequency: One-time.

Burden Estimate: 1,177 hours.

Respondents: Locomotive Engineers.

Form(s): None.

Average Burden Hours Per Response: 2 hours and 21 minutes.

DOT No: 3681.

OMB No: 2125-0522.

Administration: Federal Highway Administration.

Title: Utility Use and Occupancy Agreements.

Need for Information: For the Federal Highway Administration to fulfill its statutory obligation regarding controls on utility use of right-of-way of a Federal-aid highway.

Proposed Use of Information: Serves to document the arrangement made between the State highway agency and a utility to allow the utility to use public right-of-way under the control of the highway agency.

Frequency: Recordkeeping requirements/no retention period specified.

Burden Estimate: 552,000 hours.

Respondents: Utility companies and State highway agencies.

Form(s): None.

Average Burden Hours Per Response: 8 hours.

DOT No: 3682.

OMB No: 2120-0101.

Administration: Federal Aviation Administration.

Title: Physiological Training, AC form 3150-7.

Need for Information: The collection of information is necessary to determine if the applicants meet the qualifications for training under the FAA/USAF/USN/NASA Training Agreements.

Proposed Use of Information: The information will be used by the Airman Education Programs Branch, AAM-420, to determine if the applicant is qualified to receive physiological training.

Frequency: On occasion.

Burden Estimate: 458 hours.

Respondents: Individuals.

Form(s): AC Form 3150-7.

Average Burden Hours Per Response: 5 minutes.

DOT No: 3683

OMB No: 2120-0508.

Administration: Federal Aviation Administration.

Title: Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes.

Need for Information: The FAA needs the information to permit rapid determination by FAA inspectors, owners, and operators on whether an engine can legally be installed and operated on an aircraft in the United States.

Proposed Use of Information: The information is to be used by FAA inspectors, purchasers, owners and operators to confirm that the engines meet U.S. EPA pollution requirements in lieu of searching through extensive paper records.

Frequency: Labeling requirement.

Burden Estimate: 100 hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours Per Response: 5 minutes.

DOT No: 3684.

OMB No: New.

Administration: Federal Aviation Administration.

Title: FAA Flight Standards District Office Customer Survey.

Need for Information: The FAA has initiated Total Quality Management throughout the agency, requiring that all elements have contact with their customers to assure that customers' needs are being met and that service is improved.

Proposed Use of Information: This information will be used by Flight Standards personnel to solve problems that are brought to their attention and to generally improve service to the public.

Frequency: One-time survey.

Burden Estimate: 1,833 hours.

Respondents: Customers serviced by FAA Flight Standards personnel.

Form(s): Questionnaire.

Average Burden Hours Per Response: 10 minutes.

Issued in Washington, DC on September 11, 1992.

Cynthia C. Rand,

Director of Information, Resource Management.

[FR Doc. 92-22678 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-62-M

Fitness Determination of Express Airlines II, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 92-9-27 Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Express Airlines II, Inc. d/b/a Northwest Airlink is fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 24, 1992.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara P. Dunnigan, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2342.

Dated: September 14, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-22676 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 11, 1992

The Following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48343.

Date filed: September 10, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 8, 1992.

Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for renewal and realignment of its certificate of public convenience and necessity for Route 389 (U.S.-South America) and for renewal of associated frequency allocations.

Docket Number: 41516.

Date filed: September 8, 1992.

Due Date for Answer, Conforming Applications, or Motion to Modify Scope: October 6, 1992.

Description: Amendment No. 1 to the Application of Jamaica Air Freighters Ltd., pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air carrier permit, to operate non scheduled services between Miami and Kingston/Montego Bay pursuant to the US/Jamaica Air Transport Agreement. The purpose of this filing is to update several of the exhibits.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-22677 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Transport Airplane and Engine Subcommittee of the Aviation Rulemaking Advisory Committee: Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Transport Airplane and Engine Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on September 29, 1992, at 8:30 a.m. Arrange for oral presentations by September 22, 1992.

ADDRESSES: The meeting will be held at the Pittsburgh Hilton, Gateway Center, Pittsburgh, PA.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Ball, Aircraft Certification Service (AIR-1), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8235.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Transport Airplane and Engine Subcommittee to be held on September 29, 1992, at the Pittsburgh Hilton, Gateway Center, Pittsburgh, PA. The agenda for this meeting will include:

- Status reports of established working groups (Airworthiness Assurance and Small Transport/Commenter Airplane Airworthiness Assurance).
- Status of harmonization activities

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by September 22, 1992, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on September 10, 1992.

William J. Sullivan,

Executive Director, Transport Airplane and Engine Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-22602 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-13-M

Intent to Rule on Application To Use the Revenue from a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 101 West Broad Street, suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan O. Elliott, Director of Aviation, Charlottesville-Albemarle Airport Authority at the following address: 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albemarle Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Mendez, Manager, Washington Airports District Office, 101 West Broad Street, suite 300, Falls Church, Virginia 22046, (703) 285-2570. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 21, 1992, the FAA determined that the application to use the revenue from a PFC submitted by Charlottesville-Albemarle Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 9, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $2.00.

Proposed charge effective date: September 1, 1992.

Proposed charge expiration date: November 1, 1993.

Total estimated PFC revenue: $255,559.00.

Brief description of proposed project: Relocate Parallel Taxiway "A" (1450'×50'), including the realignment of State Route 606 and the acquisition of approximately 1.0 acre of land.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800-31 and foreign air carriers.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT"** and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albemarle Airport Authority.

Issued in Jamaica, New York, on September 1, 1992.

Peter A. Nelson,

Assistant Manager, Airports Division, Eastern Region.

[FR Doc. 92-22606 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Grand Forks Mark Andrews International Airport, Grand Forks, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Grand Forks Mark Andrews International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Field Office, 200 University Drive, Bismarck, ND 58504.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Selig, Executive Director of the Grand Forks Regional Airport Authority at the following address: Grand Forks Regional Airport Authority, 2787 Airport Drive, Grand Forks, ND 58203.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Grand Forks Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D. Benson, Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450, Telephone (612) 725-4221.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Grand Forks Mark Andrews International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 28, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by Grand Forks Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 26, 1992.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.
Proposed charge effective date: December 1, 1992.
Proposed charge expiration date: November 30, 1996.
Total estimated PFC revenue: $1,082,880.
Brief description of proposed project(s):

Projects to Impose and Use PFC

1. Terminal Building Expansion.
2. Runway 8/26 and Parallel Taxiway Reconstruction.
3. Runway 17R/35L Porous Friction Course Rehabilitation.
4. Snow Removal Equipment Acquisition—Runway Sweeper.
5. T-Hangar Taxiway Construction.
6. GA Apron Construction.

Projects Only to Impose a PFC

7. Reconstruct and Widen Taxiway A.
8. Snow Removal Equipment Acquisition—Snowplow.
9. GA Apron Expansion.
10. Cargo Apron Expansion.
11. High Speed Exit Taxiway Construction—Runway 8/26 & 17L/35R.

Class or clases of air carriers which the public agency has requested not be required to collect PFCs: Operators providing unscheduled passenger/charter services; operating aircraft with a passenger capacity of 30 seats or less; and having enplanements of less than 1% of the airport's annual enplanements.

Any person may inspect the application in person at the FAA office listed above under "ADDRESSES".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Grand Forks Regional Airport Authority.

Issued in Des Plaines, Illinois, on September 11, 1992.

W. Robert Billingsley,

Manager, Airports Division Great Lakes Region.

[FR Doc. 92-22608 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose and Use as Well as To Impose Only the Revenue From a Passenger Facility Charge (PFC) at Inyokern Airport, Inyokern, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use as well as impose only the revenue from a PFC at Inyokern Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 18, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, Standards Section, AWP-621, P.O. Box 92007, WWPC, Los Angeles, CA 90009.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Nancy Bass, General Manager of the Inyokern Airport at the following address: Indian Wells Valley Airport District, P.O. Box 634, Inyokern, CA 93527.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Indian Wells Valley Airport District under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Milligan, Supervisor, Standards Section, AWP-621, Federal Aviation Administration, P.O. Box 92007, WWPC, Los Angeles, CA 9009, (310) 297-1029.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use as well as to impose only the revenue from a PFC at Inyokern Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 4, 1992, the FAA determined that the application to impose and use and impose only the revenue from a PFC submitted by Indian Wells Valley Airport District was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 4, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.
Proposed charge effective date: December, 1992.
Proposed charge expiration date: December, 1997.
Total estimated PFC revenue: $285,000.00.
Brief description of proposed project(s): Clear Zone Land Acquisition; Pave Airport Access Road; Overlay Runway 15/33; Construct Helicopter Pad; Overlay Runway 10/28; Construct Access Taxiway; Construct Run-up Pad; Terminal Alternation; Overlay Taxiway.
Class or classes or air carriers which the

public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Western-Pacific Region, Airports Division, room 3E23, Hawthorne, California 90261.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Indian Wells Valley Airport District.

Issued in Hawthorne, California, on September 4, 1992.

Herman C. Bliss,

Manager, Airports Division, Western Pacific Region.

[FR Doc. 92-22603 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-13-M

San Luis Obispo County-McChesney Field, CA; Notice of Intent To Rule

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose and use the revenue from a Passenger Facility Charge (PFC) at San Luis Obispo County-McChesney Field, San Luis Obispo, California.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Luis Obispo County-McChesney Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) and 14 CFR part 158.

On September 3, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of San Luis Obispo was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 4, 1992.

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA. 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Paul A. Gimer, Airport Manager of the San Luis Obispo County-McChesney Field at the following address: County of San Luis Obispo, County Government Center, room 460, San Luis Obispo, California 93408. Comments from air carriers and foreign air carriers may be in the same form as provided to the San Luis Obispo County-McChesney Field under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010-1303, telephone: (415) 876-2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: January 1, 1993.

Proposed charge expiration date: December 31, 1994.

Total estimated PFC revenue: $502,487.00.

Brief description of proposed project: Land Acquisition; Master Plan Update; Ramp & Apron Improvements; Segmented Circle & Rotating Beacon Replacement; Terminal Expansion-Phase I; Perimeter Fencing. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi Operators.

Availability of Application: Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of San Luis Obispo, County Government Center, San Luis Obispo, California.

Issued in Hawthorne, California, on September 3, 1992.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 92-22607 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Blue Earth County, MN

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 Blue Earth County, Minnesota.

FOR FURTHER INFORMATION CONTACT: James P. McCarthy, Design Engineer, Federal Highway Administration, suite 490 Metro Square Building, 7th Place and Robert Street, St. Paul, Minnesota 55101, telephone: (612)290-3241.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation and the Blue Earth County Highway Department, will prepare an environmental impact statement (EIS) on a proposal to build C.S.A.H. 90 (Mankato South Route) in Blue Earth County, Minnesota. The proposed project would involve construction of a new two-lane rural highway between T.H. 169/60 and T.H. 83, south of Mankato, Minnesota. The project length is approximately ten miles.

A new roadway is needed south of Mankato, Minnesota, to improve system continuity and mobility, and support planned development. Included in this proposal are new river crossings over the LeSueur River and Blue Earth River.

Alternatives under consideration include (1) taking no action; (2) constructing a two-lane rural roadway within one of three alternative corridors. Staging of construction will be addressed for the preferred alternative.

Public information meetings were held in 1988, 1989 and 1990. Scoping documentation was published and distributed in 1990. The Draft EIS will be available for public and agency review prior to a public hearing, which will be held to receive testimony on the proposed project. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues are identified, interested parties are invited to submit comments and suggestions. Comments or questions concerning this project should be submitted to the FHWA at the provided address.

(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 applies to this program)

Issued on: September 11, 1992.

Alan J. Friesen,

Program Operations Engineer, St. Paul, Minnesota.

[FR Doc. 92-22616 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Rochester, MN

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 Rochester, Minnesota.

FOR FURTHER INFORMATION CONTACT: James McCarthy, Design Engineer, Federal Highway Administration, suite 490, Metro Square Building, St. Paul, Minnesota 55101-2333, telephone: (612) 290-3241; or Kaye Bieniek, Mn/DOT Project Manager, Minnesota Department of Transportation, District 6, P.O. Box 6177, Rochester, Minnesota 55903, telephone: (507) 285-7124.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department, will prepare an environmental impact statement (EIS) on a proposal to improve T. H. 14/52 between Olmsted County State Aid Highway 14 (75th Street) and T. H. 63 (Broadway Avenue) for a distance of approximately ten miles.

Improvements to this corridor are considered necessary to improve safety and provide for projected traffic demand. The existing pavement is in need of replacement and the highway has a number of geometric and traffic operation deficiencies that require correction. Some of the deficiencies include very close spacing between entrance and exit ramps, mixture of one-way and two-way frontage roads, narrow roadway cross-section, and substandard mainline and ramp geometry.

The proposed project would involve reconstruction of the existing four-lane highway to provide two through lanes in each direction and room in the median for future transportation use. The proposed project would also involve the reconstruction of the interchange between T. H. 14 West and T. H. 52, the interchange of 2nd Street S. W. and T. H. 14/52, the reconstruction of several other exit and entrance ramps on T. H. 14/52, and the reconstruction of some of the existing frontage road system.

Alternatives under consideration include: (1) Taking no action (No-Build); (2) increased management of the system and use of alternative travel modes; (3) construction of a four-lane limited access highway on a new location; and (4) reconstruction of the existing highway as proposed (Build). Incorporated into the various build alternatives will be design variations for the frontage road system and interchanges on the existing highway.

The Minnesota Department of Transportation is using a formal scoping process to help narrow the alternatives and issues that will be studied in the EIS. A public hearing will also be held on the draft EIS. The draft EIS will be available for public agency review and comment prior to the public hearing. Public notice will be given of the time and place of any public hearings on the project.

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 should be directed to the FHWA at the address provided above, or to the Mn/DOT contact person at the address provided above.

Issued on: September 9, 1992.

Alan J. Friesen,

Program Operations Engineer, St. Paul, Minnesota.

[FR Doc. 92-22615 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Status of Circular Letters to Subsidized Operators

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) has reviewed all Circular Letters (CLs) that have been issued to subsidized operators. As a result of this review, MARAD has made certain determinations in connection with those CLs. The purpose of this Notice is to inform interested parties about these determinations.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Maritime Administration, Washington, DC 20590, telephone (202) 366-2400.

SUPPLEMENTARY INFORMATION: A CL is an identical letter sent to all subsidized operators providing guidance and instructions on matters related to the administration of the subsidy program. During the course of its review of all previously issued and outstanding CLs, MARAD found that many CLs were out of date and were no longer applicable to the Agency's programs. In addition, MARAD found that other CLs had been replaced by MARAD regulations or had been incorporated in the Operating-Differential Subsidy Contract. As a result of the review, MARAD concluded that it would be appropriate to terminate those CLs which are either no longer applicable to current programs or not necessary to implement those programs. On August 31, 1992, MARAD made the following determinations and took the following actions with respect to CLs that had been issued to subsidized operators:

(1) Noted those CLs which had expired by their own terms or were superseded or cancelled by subsequent CLs.

(2) Terminated those CLs which were no longer applicable to current MARAD programs or which were no longer needed to implement those programs.

(3) Noted those CLs which are to be retained, which are being reviewed to determine if any revisions are necessary.

(4) Confirmed that all CLs to subsidized operators engaged in the United States-Union of Soviet Socialist Republics Grain Trade have been determined to have expired by their own terms on December 31, 1981.

Individuals wishing to review the various lists of CLs to subsidized operators which were involved in the Agency's determinations and actions of August 31, 1992, may do so in the Office of the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC.

Dated: September 15, 1992.

By order of the Maritime Administration.

James E. Saari,

Secretary.

[FR Doc. 92-22643 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. 92-44; Notice 1]

Receipt of Petition for Determination That Nonconforming 1990 Mercedes-Benz 190E Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1990 Mercedes-Benz 190E passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1990 Mercedes-Benz 190E that was not originally manufactured to comply with all applicable Federal motor vehicle

safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is October 19, 1992.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that:

> (I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Liphardt & Associates of Ronkonkoma, New York (Registered Importer No. R-90-004) has petitioned NHTSA to determine whether 1990 Mercedes-Benz 190E (Model ID 201.024) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle which Liphardt believes is substantially similar is the 1990 Mercedes-Benz 190E (Model ID 201.028) that was manufactured for importation into and sale in the United States and that was certified by its manufacturer, Daimler Benz A.G., as complying with all applicable safety standards.

Liphardt stated that the non-U.S.-certified version of the 1990 model 190E has a smaller engine than its U.S.-certified counterpart, but that the two vehicles have an identical frame and structure. It also submitted information with its petition intended to demonstrate that the non-U.S.-certified 1990 model 190E, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 118 *Power-Operated Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Mounting*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S.-certified 1990 model 190E complies with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the non-U.S.-certified 1990 model 190E is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:*

(a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp;

(b) Installation of a seat belt warning lamp that displays the seat belt symbol;

(c) Recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:*

(a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers;

(b) Installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers;

(c) Installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims: Installation of a tire information placard.*

Standard No. 114 *Theft Protection:* Installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the drive.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning buzzer; (b) installation of a knee bolster with mounting hardware. The petitioner claims that the non-U.S.-certified 1990 model 190E is equipped with airbags that comply with the standard.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 19, 1992.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 14, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-22579 Filed 9-17-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Forms Standardization Project; Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of town meeting.

SUMMARY: Announcement of a Town Meeting by the Tax Forms Standardization Project Office, scheduled for October 9, 1992. The meeting will be held in the Auditorium of the IRS Building, at 1111 Constitution Avenue, NW., Washington, DC and will begin at 9 a.m. It should last no more than three hours. The purpose of the meeting is to inform and update the public of Tax Forms Standardization Project activities and to solicit input from the public of which direction they feel we should concentrate our efforts to standardize/simplify tax returns to further reduce taxpayer burden.

Note: Last minute changes to the date or location of the meeting are possible and could prevent advance notice.

DATES: The meeting will be open to the public. Notification of intent to attend the meeting is requested in order to have a sufficient number of handouts printed. Please contact Faye Bruce at 202-786-7573 (not toll free), to confirm attendance or for additional information. If you wish to communicate by FAX, the number is 202-786-8489, to Faye Bruce's attention.

Dated: September 11, 1992.

Beverly A. Stowell,

Director, Returns Processing and Accounting Division R:R.

[FR Doc. 92-22683 Filed 9-17-92; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 159 (Rev. 4)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to waive accumulated funding deficiencies under section 418B of the Internal Revenue Code in accordance with subsection (f) thereof and to perform the corresponding duties of the Secretary of the Treasury under section 4243(f) of the Employee Retirement Income Security Act of 1974 is delegated by the Commissioner of Internal Revenue to the Director, Employee Plans Technical and Actuarial Division. The authority may be redelegated to Branch Chiefs under the Director's supervision and control for waivers that are not substantial (that is, waivers that do not exceed one million dollars on a noncumulative basis), with authority to redelegate to reviewers not below Grade GS-13 for waivers not exceeding $100,000. The text of the delegation order appears below.

EFFECTIVE DATE: September 3, 1992.

FOR FURTHER INFORMATION CONTACT: John H. Turner, E:EP:P:1, room 6702, 1111 Constitution Avenue NW., Washington, DC 20224, telephone (202) 566-3662 (not a toll-free call).

Order No. 159 (Rev. 4)

Effective date: 9-3-92.

Requests for Variance from Minimum Funding Standards (IRC 412(d)) or for Waiver of Accumulated Funding Deficiency (IRC 418B(f))

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Order 150-10, there is hereby delegated to the Director, Employee Plans Technical and Actuarial Division, the authority to:

a. Waive the minimum funding standards under IRC 412 in accordance with subsection (d) thereof,

b. Waive any accumulated funding deficiency under IRC 418B in accordance with subsection (f) thereof, and

c. Perform the corresponding duties of the Secretary of the Treasury under sections 303 and 4243(f) of the Employee Retirement Income Security Act of 1974 (ERISA) concerning, respectively, the minimum funding standards under ERISA section 302 and any accumulated funding deficiency under ERISA 4243(a).

2. The authority contained in section 1 of this Order may be redelegated to Branch Chiefs, Employee Plans Technical and Actuarial Division, for waivers that are not substantial as defined in section 3, with authority to further redelegate to reviewers not below grade GS-13 for waivers not exceeding $100,000.

3. For purposes of this Order, a substantial waiver is a waiver with respect to a plan's minimum funding requirements for a plan year, or a waiver of any accumulated funding deficiency under IRC 418B(f), which, based on information reported to the Internal Revenue Service, exceeds one million dollars on a noncumulative basis (that is, exclusive of any amount of one million dollars or less with respect to which a waiver was requested for a prior plan year or years).

4. Delegation Order No. 159 (Rev. 3), effective September 17, 1990, is superseded.

Dated: September 3, 1992.

David G. Blattner,

Chief Operations Officer.

[FR Doc. 92-22684 Filed 9-17-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 18, 1992.

Dated: September 10, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Appointment of Veterans Service Organization as Claimant's Representative, VA Form 21-22.
2. The use of this form will allow VA to recognize representatives of service organizations in assisting beneficiaries in the prosecution of VA claims.
3. Individuals or households.
4. 54,166 hours.
5. 10 minutes.
6. On occasion.
7. 325,000 respondents.

[FR Doc. 92-22583 Filed 9-17-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 18, 1992.

Dated: September 10, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, VA Form 28-1905.
2. The form is used to define the enrollment conditions and to certify pursuit and attendance for any chapter 31 rehabilitation or chapter 35 special restorative or specialized vocational training program.
3. Individuals or households; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations.
4. 2,917 hours.
5. 5 minutes.
6. On occasion.
7. 35,000 respondents.

[FR Doc. 92-22584 Filed 9-17-92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 182
Friday, September 18, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 2, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-22760 Filed 9-16-92; 11:21 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 9, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314. 6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-22761 Filed 9-16-92; 11:21 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 16, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-22762 Filed 9-16-92; 11:21 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 23, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-22763 Filed 9-16-92; 11:21 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 30, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-22764 Filed 9-16-92; 11:21 am]

BILLING CODE 6351-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Purusant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b (e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, September 15, 1992, the Corporation's Board of Directors determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency) and Acting Chairman Andrew C. Hove, Jr., that Corporation business required the withdrawal from the agenda for consideration at the meeting on less than seven days' notice to the public, of a memorandum and resolution regarding proposed amendments to Part 330 of the Corporation's rules and regulations, entitled "Deposit Insurance Coverage."

By the same majority vote, the Board further determined that no earlier notice of the change in the subject matter of the meeting was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Dated: September 15, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 92-22719 Filed 9-15-92; 5:01 pm]

BILLING CODE 6714-0-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11:15 a.m. on Tuesday, September 15, 1992, the Corporation's Board of Directors determined, on motion of Director C. C. Hope, Jr., (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency) and Acting Chairman Andrew C. Hove, Jr. that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Application of Liberty Bank and Trust Company, New Orleans, Louisiana, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in Corpus Christi Federal Credit Union, New Orleans, Louisiana, and for consent to establish the two offices of Corpus Christi Federal Credit Union as branches of the resultant bank.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable;

that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 15, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Exeucitve Secretary.

[FR Doc. 92-22720 Filed 9-15-92; 5:01 pm]

BILLING CODE 6714-0-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, September 23, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of computer software within the Federal Reserve System.
2. Proposed acquisition of computer equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 15, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-22742 Filed 9-16-92; 11:20 am]

BILLING CODE 6210-01-M

NATIONAL SCIENCE BOARD

DATE AND TIME:

October 8, 1992
2:00 p.m. Open Session
October 9, 1992
8:30 a.m. Closed Session
October 9, 1992
9:00 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street NW, Rm. 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, October 8, 1992

Open Session (2:00 p.m.—3:30 p.m.)

National Science Board Commission

Friday, October 9, 1992

Closed Session (8:30 a.m.—9:00 a.m.)

1. Minutes—August 1992 Meeting.
2. Grants and Contracts.

Friday, October 9, 1992

Open Session (9:00 a.m.—10:30 a.m.)

3. Chairman's Report.
4. Minutes—August 1992 Meeting.
5. Proposed 1993 Award Review Exemptions.
6. Director's Report.
7. Preview of NSF Film.
8. Other Business.

Marta Cehelsky,

Executive Officer.

[FR Doc. 92-22765 Filed 9-16-92; 11:22 am]

BILLING CODE 7555-01-M

UNITED STATES INSTITUTE OF PEACE

DATE/TIME: Thursday, September 24, 1992; 9:00 a.m. to 5:30 p.m.

LOCATION: 1550 M Street, NW. (Conference Room, First Floor) Washington, DC.

STATUS: (Open Session)—portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub Law. 98-525.

AGENDA: Approval of minutes of the Forty-Fourth Meeting of the Board of Directors; Chairmans Report; Presidents Report; Program Reports.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, Telephone: 202/457-1700.

Dated: September 14, 1992.

Bernice J. Carney,

Director, Office of the Administration, United States Institute of Peace.

[FR Doc. 92-22737 Filed 9-16-92; 11:19 am]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 57, No. 182
Friday, September 18, 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 COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 920538-2138]

Pelagic Fisheries of the Western Pacific Region

Correction

In proposed rule document 92-18128 beginning on page 33926 in the issue of Friday, July 31, 1992, make the following corrections:

1. On page 33926, in the second column, in **FOR FURTHER INFORMATION CONTACT:**, in the last line, "808-541-1954" should read "808-541-1974".

§ 685.2 [Corrected]

2. On page 33928, in the third column, in § 685.2, in the definition for "*Longline fishing prohibited area*", in the third line, "specific" should read "specified".

§ 685.24 [Corrected]

3. On page 33929, in the second column, in § 685.24(c), in the table entry for "W", in the third column under "Longitude", "161°55′ W." should read "161°00′ W.".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 619

RIN 3052-AB13

Loan Policies and Operations; Definitions; Lending Authorities and Purchase and Sale of Interests in Loans

Correction

In rule document 92-20153 beginning on page 38237 in the issue of Monday, August 24, 1992, make the following corrections:

1. On page 38238, in the first column, in the second full paragraph, in the eighth line "purchase" should read "purchases".

2. On page 38239, in the first column, in the fourth line, "loan" should read "loans".

3. On the same page, in the same column, in the first full paragraph, in the fourth line, remove the comma after "originate".

4. On the same page, in the second column, in the fourth paragraph, in the first line, "non" should read "now".

5. On the same page, in the third column, in the first paragraph, in the fifth line, "it" should read "its".

6. On page 38241, in the 2d column, in the 1st full paragraph, in the 11th line, after "sells" insert "a".

7. On page 38244, in the first column, in the second line, "rights" should read "right".

8. On page 38246, in the second column, insert a period at the end of the **AUTHORITY** citation paragraph.

§ 614.4000 [Corrected]

9. On page 38246, in the same column, in § 614.4000(e)(1), in the first line, "subjects" should read "subject".

§ 614.4010 [Corrected]

10. On page 38247, in the first column, in § 614.4010(g)(3), in the fourth line, "not" should read "no".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 73

[MM Docket No. 87-267, FCC 91-303]

Radio Broadcast Service, AM Technical Assignment Criteria

Correction

In rule document 91-28451 beginning on page 64842 in the issue of Thursday, December 12, 1991, make the following corrections:

§ 2.106 [Corrected]

1. On page 64855, in the third column, in amendatory instruction 2., in the second line, "535-1605" should read "535-1705".

§ 73.37 [Corrected]

2. On page 64859, in the second column, in § 73.37(f)(2), in Note 3, in the sixth line, "an" should read "as".

§ 73.53 [Corrected]

3. On the same, in the same column, in § 73.53(b)(1), in the Note, in the sixth line, "bank" should read "band". And in the same section, in the third column, in the fourth line "is" should read "its".

§ 73.99 [Corrected]

4. On page 64860, in the 1st column, in § 73.99(a), in the 11th line, after "hours" insert "power".

§ 73.150 [Corrected]

5. On page 64862, in the first column, in § 73.150(b)(1)(i), in the first paragraph, in the fourth line, after "P_{kw}", delete "f" and insert "=1.

(ii)***

(2) All pattterns shall be computed for integral multiples of".

6. On the same page, in the same column, in § 73.150(b)(3), in the second line, after "in" insert "the".

§ 73.182 [Corrected]

7. On page 64865, in § 73.182(q), in the table, in the third column under "SC 100" insert "AC 500" and in the fourth column, in the sixth line, "persc." should read "presc".

§ 73.183 [Corrected]

8. On page 64866, in the second column, in § 73.183(c), in the second line "kWz" should read "kHz", in the ninth line "V/m" should read "mV/m"and in the tenth line "of" should be removed. Also, in the formula appearing at the end of the paragraph, the "-" should read "=".

9. On the same page, in the same column, in § 73.183(e), in the 11th line, "15 mSm/m" should read "15 mS/m".

§ 73.184 [Corrected]

10. On page 64867, in the 1st column, in § 73.184(c), in the 26th line, "on" should read "of".

11. On the same page, in the second column, in § 73.184(c), the first formula should read as follows:

$$x \approx \frac{\pi}{p} \cdot \left(\frac{R}{\lambda}\right)_1 \cdot \cos b \qquad \text{(Eq. 1)}$$

$(R/\lambda)_1$ = Number of wavelengths in 1 kilometer,

§ 73.189 [Corrected]

12. On page 64868, in the third column, in the amendatory instruction, in the first line, "(b)(2)(ii)" should read "(b)(2)(iii)".

BILLING CODE 1505-01-D

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1313

[Ex Parte No. 387(Sub-No. 964)]

Railroad Transportation Contracts

Correction

In rule document 92-21375 beginning on page 40620 in the issue of September 4, 1992, make the following corrections:

§ 1313.3 [Corrected]

1. On page 40621, in the third column, under § 1313.3(a), in the third line "being" should read "begin".

2. On the same page, in the same column, under § 1313(b), in the fourth line "on" should read "an".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-116-AD; Amendment 39-8324; AD92-16-15]

Airworthiness Directives; Scott Aviation Oxygen Mask Plug-In Connectors

Correction

In rule document 92-19486 beginning on page 36898 in the issue of Monday, August 17, 1992, make the following correction:

§ 39.13 [Corrected]

On page 36899, in § 39.13, in the first column, in the third line of the **NOTE:**, insert "not" following "but are".

BILLING CODE 1505-01-D

federal register

Friday
September 18, 1992

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108

Unescorted Access Privilege; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 26763; Notice No. 92-3C]

RIN 2120-AE14

Unescorted Access Privilege

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA proposes to establish regulations requiring airport operators and air carriers to conduct an employment investigation and disqualify individuals convicted of certain enumerated crimes from having, or being able to authorize others to have, unescorted access privileges to a security identification display area (SIDA) of a U.S. airport. This notice is proposed in lieu of the FAA's original Notice of Proposed Rulemaking (NPRM), as a means to implement Section 105 of the Aviation Security Improvement Act of 1990, and resulted from consideration of the comments received on that NPRM. The major changes from the NPRM are: individuals currently holding unescorted access authority are exempted; and an FBI criminal history records check would be required only when the employment investigation triggers a need for one. The proposed regulations are intended to enhance the effectiveness of the U.S. civil aviation security system by ensuring that individuals applying for unescorted access privilege do not constitute an unreasonable risk to the security of the aviation system.

DATES: Comments must be received on or before December 17, 1992. However, late filed comments will be considered to the extent practicable.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26763, 800 Independence Avenue SW., Washington, DC 20591. All comments must be marked: "Docket No. 26763." Comments may be examined in Room 915G on weekdays except on Federal holidays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Andrew V. Cebula, Office of Civil Aviation Security Policy and Planning, Policy and Standards Division, (ACP-110), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8293.

SUPPLEMENTARY INFORMATION:

Comments Invited

Because the proposals in this SNPRM differ in many respects from the NPRM (Notice No. 92-3), the FAA encourages interested persons to file comments in response to this Notice even if they have already commented on the NPRM. The SNPRM is intended to supersede the NPRM. In instances where the proposed rule has been changed based on comments to the NPRM, comments filed in response to the SNPRM will be the primary focus of attention in developing the final rule. However, comments filed in response to the NPRM will be considered to the extent they provide information relevant to the development of the final rule.

Interested persons are invited to comment on the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or international trade impacts that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket at the address specified above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26763." When the comment is received, the postcard will be dated, time stamped and mailed to the commenter.

Availability of SNPRM

Any person may obtain a copy of this SNPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice or docket number 92-3C.

Persons interested in being placed on a mailing list for future proposed rules should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

While the FAA has not scheduled public meetings on this notice, if significant issues arise during the comment period, the FAA will schedule one or more meetings in a future notice.

History

Section 105(a) of the Aviation Security Improvement Act of 1990, Public Law 101-604 (the Aviation Security Improvement Act or the Act) amends section 316 of the Federal Aviation Act of 1958 (FA Act) by adding a new subsection "(g)," captioned "Air Carrier and Airport Security Personnel." This subsection directs the FAA Administrator to promulgate regulations that subject individuals with unescorted access to U.S. or foreign air carrier aircraft, or to secured areas of U.S. airports served by air carriers, to employment investigations, including a criminal history records check as the Administrator determines necessary to ensure air transportation security.

On February 13, 1992, the FAA published a notice of proposed rulemaking (Notice No. 92-3, 57 FR 5352) to require a criminal history records check using the Federal Bureau of Investigation's (FBI) fingerprint-based national criminal history record filing system for all individuals with unescorted access to the SIDA at U.S. airports. In that proposal, the FAA used the broad authority delegated to the FAA Administrator in the Act to require an employment investigation, including a criminal history records check. The proposal was consistent with the previous efforts of the FAA to obtain the legislative authority to require a criminal history records check, as well as recommendations made by the President's Commission on Aviation Security and Terrorism in May 1990. It also incorporated many of the recommendations made by the aviation industry through the Aviation Security Advisory Committee (ASAC) in March 1991.

Responding to requests from airport operators and air carriers, the FAA extended the comment period for that proposal from March 16 until May 15, 1992 (57 FR 8834), and announced that one or more public meetings would be scheduled. The notice outlining the details of the public meetings was

published on April 9, 1992 (57 FR 12396). Public meetings were held in Los Angeles, California, on April 28; Ft. Worth, Texas, on April 30; and Washington, DC on May 12, 1992. The FAA received over 270 written comments to the docket and 66 commenters made oral presentations at the public meetings.

The overwhelming majority of commenters opposed FAA's proposal to require a criminal history records check for all individuals having unescorted access to the SIDA, and the proposal to require escorts for anyone inside the SIDA who did not have such a records check. Specifically, commenters argued that individuals with existing unescorted access privileges should be excluded from the criminal history records check requirement, and that the proposed escorting requirements were neither practical nor cost-effective. Some commenters questioned whether any benefit would result from requiring a criminal history check. Because of these concerns, commenters strongly recommended that the FAA exercise more flexibility in implementing the employment investigation requirements required by the Act. We have determined that the Act does provide flexibility in requiring a criminal history records check. The Senate Transportation Appropriation Committee's report on the Department of Transportation Fiscal Year 1993 Appropriations legislation also addressed this issue by adding the following language to its proposal: "While continuing to believe that the authority to require criminal background checks is important, the Committee does believe that FAA could exercise greater discretion in the use of that authority."

Based on the comments, the FAA has re-evaluated Notice No. 92-3 and is proposing a revised approach. The FAA again proposes that airport operators and air carriers conduct an employment investigation of individuals applying for unescorted access privilege. The revised proposal incorporates an investigation which would consist of an enhanced employment history verification and, only where appropriate, a criminal history records check. Under this approach, a criminal history records check would only be required when an air carrier or airport operator wants to hire an individual for a position requiring unescorted access if one or more of the criteria proposed for the employment investigation in the SNPRM is met. The proposed fingerprint-based criminal history records check process is similar to that proposed in the NPRM, Notice No. 92-3 and takes into account comments made by the FBI.

The FAA proposes to amend 14 CFR parts 107 and 108 (Parts 107 and 108 of the Federal Aviation Regulations (FAR)). The proposed rule would codify into regulatory requirement the pre-existing airport and air carrier security program requirements for an investigation into the background of individuals with unescorted access to the SIDA of U.S. airports. The SIDA is defined as "any area identified in the airport security program as requiring each person to continuously display on their outermost garment, an airport-approved identification medium unless under airport-approved escort" [14 CFR 107.25(a)].

Discussion of Proposed Rule

General

14 CFR part 107 (Part 107 of the FAR) contains security requirements for airport operators. Part 107 addresses access control, law enforcement support, and submission of airport security programs for FAA approval. Part 108 prescribes security rules for U.S. air carriers.

The purpose of the FAA's security requirements is to protect persons and property in air transportation against acts of criminal violence, air piracy and terrorism. These acts are neither simple nor uniform, and are certainly not limited to sophisticated acts of international terrorists with political motives or the acts of deranged individuals. The FAA is also concerned about individuals deliberately committing or assisting in the commission of criminal acts against aviation for financial gain. A trust is placed on individuals authorized to have unescorted access and it is presumed that they will not present a security risk to civil aviation. Because many of the crimes listed in the Act relate to acts of criminal violence, there is a logical link between the future actions the FAA is attempting to prevent and the past convictions for the disqualifying crimes. Also, the Act affirmatively prohibits individuals convicted of disqualifying crimes during the previous 10 years from having unescorted access privileges.

The FAA is therefore proposing a regulatory requirement that would screen the background of individuals applying for unescorted access to identify those who might knowingly be involved in an act against civil aviation or participate in criminal activity that affects the airport operating environment. While not specifically prohibiting the employment of disqualified individuals, the Act does prohibit individuals who have been convicted of certain enumerated crimes in the past 10 years from having unescorted access to secured areas of a U.S. airport or to U.S. and foreign air carrier aircraft. The Act directs the Administrator to issue regulations requiring employment investigations for individuals with unescorted access.

Employment investigations are one of the three core requirements of that part of the civil aviation domestic security program designed to control access at airports and ensure the security of aircraft used in scheduled or public chartered transportation. Consequently, in 1985, the requirement for an employment history verification was implemented to include, at a minimum, references and prior employment histories to the extent necessary to verify representations made by the individual for the preceding 5 years. The access controls required by 14 CFR 107.13 and 107.14, along with the identification display, training, and challenge requirements of § 107.25, are the other core elements.

Since the existing 5-year employment history verification was first required by FAA in 1985 through amendments to airport and air carrier security programs, the aviation industry has implemented procedures to meet that requirement. However, in many cases these procedures have been open to interpretation because the FAA has not issued specific guidelines on what constitutes an acceptable employment history verification. While this often entails checking references and prior employment histories to the extent necessary to verify representations made by the individual, the FAA has left it to the employer's discretion to determine the method for reviewing the background of prospective employees.

The FAA recognizes the need for a regulatory requirement for employment history verifications of individuals applying for unescorted access privileges to provide a minimum standard and specify triggers for a criminal history records check. Accordingly, the FAA proposes to amend parts 107 and 108 to supersede the current security program language for individuals with SIDA access privileges. However, for individuals applying for positions that do not require unescorted access privileges to the SIDA (and thus are not covered by the Act or this rulemaking), e.g., security screening personnel and individuals with access to areas of the air operations area outside of the SIDA, the existing airport and air carrier security program language requiring the 5-year

employment history verification would continue to apply.

This SNPRM proposes to: (1) Establish minimum requirements for information that would be included on the employment application; (2) specify the information that must be verified; (3) establish the criteria that would "trigger" the requirement for a criminal history records check; and (4) prohibit unescorted access privileges for individuals convicted of the enumerated disqualifying crimes. The proposal would also specify the process for performing the records check.

The first three requirements would be used to determine whether an individual may have unescorted access to the SIDA. In accordance with section 105 of the Act, this proposal would also apply to individuals directly responsible for authorizing unescorted access, including individuals performing the required investigations and those issuing the credentials for unescorted access privilege.

In Notice No. 92-3, the FAA proposed to apply the criminal history records check requirement comprehensively to all individuals with unescorted SIDA access. However, as stated above, commenters to the NPRM argued that requiring the check comprehensively was not necessary in order to identify individuals who might pose a threat to aviation security. Instead, commenters recommended enhancing the existing 5-year employment history verification requirement.

The FAA considered increasing the employment history verification portion of the investigation process from 5 years to 10, but determined that to do so would increase the costs and time spent on the verification without appreciably enhancing aviation security. Consultation with entities that perform background investigations indicated that a 5-year employment history verification is usually sufficient to expose a questionable background and that an additional 5 years would not be cost effective. Furthermore, the great majority of commenters at the public meetings on the NPRM were satisfied with the current 5-year requirement, and did not suggest that a 10-year check was necessary.

If the employment history verification were to cover 10 years, employers could find it difficult to verify the less recent part of an individual's employment history. This is because former employers may no longer be in business, or, if they are still in business, supervisors familiar with the individual may have left the company, or records destroyed as part of normal business practice. Unnecessary criminal checks could be triggered simply because less recent information would be harder to verify.

The FAA has structured the SNPRM to cover the 10-year period stated in the Act in a number of ways. The application form for employment would require the applicant to list convictions for any disqualifying crime in the last 10 years. The form would also put the applicant on notice that he or she may be subject to an FBI criminal history records check, which should discourage applicants from attempting to conceal a disqualifying conviction from the prospective employer. Finally, if a criminal history records check is triggered during the employment investigation, the criminal record would be obtained from the FBI and the individual would be disqualified if his or her record discloses a conviction for any of the disqualifying crimes in the previous 10-years.

The FAA seeks comment on whether the information obtained through the 5-year employment history verification is sufficient or whether it is advisable to expand the employment history verification portion of the proposal to 10 years. Commenters should provide cost information, and explain what benefits they would expect from the extended verification period. Of course, employers could expand the scope of the employment history verification to a longer period if they so choose.

The FAA proposes that the airport operator have the overall responsibility for ensuring that employment investigations are performed for all individuals applying to have, or to authorize others to have, unescorted SIDA access. This does not mean that the airport operator must perform the investigations in all cases. Flexibility has been provided to avoid duplicative cost and administrative burden.

In lieu of performing such investigations, § 107.31(f) of the proposed rule would permit the airport operator to accept a certification from an air carrier that it has performed the required employment history verification and criminal history records check, where appropriate, for air carrier employees. Similar to the process currently used for employment history verifications, the airport operator would be required to have a certification on file indicating that the air carrier has performed the investigation. The FAA would consider the airport operator's acceptance of this certification as compliance with its regulatory obligation. The air carrier could be subject to FAA enforcement action if it falsely certifies that it has performed the employment investigation.

There are two situations where an air carrier would certify to an airport operator that it has performed the relevant employment investigations. In the first case, the carrier must perform the investigation for employees (such as flight crewmembers) to whom it issues air carrier identification that have been approved by the airport operator as acceptable for SIDA access. The air carrier would certify to each airport operator that accepts the identification that the employment investigation had been performed as a part of its program for issuing such identification. One certification would cover the entire program and would not have to include individual names.

In the second case, for individual air carrier employees issued identification by an airport operator, the air carrier would certify to the airport operator that the employment investigation had been performed for named individuals. Those individuals could then receive airport-issued identification authorizing SIDA access at that airport. However, the proposed rule would permit the air carrier and the airport operator to determine which of them would perform the employment investigations for air carrier employees needing airport identification. The entity that performs the employment investigation would be responsible for ensuring that it is done in accordance with the proposed rule.

The proposal would not alter the process allowing an airport operator to accept certification from non-air carrier airport tenants that the employment history verification component of the employment investigation had been performed. However, in instances where a criminal history records check would be required, the airport operator would have to perform the check of the FBI's criminal history record index. The authority to request the FBI check is limited by the Act to airport operators and air carriers.

Individuals With Current Access Authority

Many of the commenters to Notice No. 92-3 argued that individuals with existing unescorted access authority could be exempted from the employment investigation without compromising the security of the U.S. civil aviation system. As required by the FAA, individuals authorized to have unescorted access privilege since November 26, 1985 have been subjected to the 5-year employment history verification. Since hiring these individuals, employers have had the opportunity to observe their conduct. The benefits, if any, of subjecting current employees to the

proposed employment investigation would not justify the disruption and cost that such a requirement would place on the air carriers and airport operators. Further, because of the turnover rates for employees, all but the most long term individuals will be subjected to the proposed employment investigation within a short period of time.

Thus, numerous commenters believed the FAA should instead follow the ASAC recommendation to exempt all individuals with current unescorted access authority from the proposed employment investigation. The FAA is proposing to adopt this recommendation by exempting from the employment investigation all individuals with current unescorted access authority on the effective date of the final rule.

Although the FAA is excluding these individuals from the proposed employment investigation requirement, additional rulemaking could be initiated if the FAA determines that there is a security need to review further the background of individuals exempted under the proposal.

Escorting

A number of commenters to Notice No. 92–3 objected to the requirement to escort an individual while the criminal history records check, which could take from 30 to 90 days, is being performed. The FAA is proposing to use the employment history verification as the primary means of determining an individual's eligibility for unescorted access. Most individuals would not need to be escorted because the applicants would not be employed in a position requiring unescorted access until the employment history verification is completed. In statements made at the public meetings to Notice No. 92–3, commenters indicated that the current 5-year employment history verification is completed in 5–10 days.

An individual would have to be escorted only when a criminal history records check is required or "triggered" by the employment history verification. The FAA's proposed "triggers" for the criminal history records check are based on information supplied by the aviation industry on the criteria used by some air carriers to screen job applicants. The use of these triggers will significantly reduce the number of criminal history records checks required, in comparison to that proposed in Notice No. 92–3. Considering the additional requirements associated with performing a criminal history records check, it is likely that airport operators and air carriers will decide to subject only a limited number of individuals to a criminal history records check. This will drastically reduce the number of individuals requiring escorting. While the actual number of criminal checks performed may be few, the deterrent aspect of potentially being subjected to the check is an important component of the proposal. In that regard, the FAA proposes to require that all applicants for covered positions be notified in advance of the possibility that they may be subject to a criminal history records check.

Section-by-Section Analysis

Section 107.1 Applicability and Definitions

The FAA proposes to add a definition of the term "escort" to this section of the regulation. Under the proposal, escort would have to be conducted by an individual who is authorized by the airport operator to have access to areas controlled for security purposes. This person is required to take action, in accordance with local airport procedures, if the individual under escort engages in activities other than those for which the escorted access is granted.

Section 107.31 Unescorted Access Privilege

107.31(a)—Applicability

The FAA is proposing that after the effective date of the rule, any individual applying for the authority to have, or to authorize others to have, unescorted access to the SIDA be subject to the employment investigation process. The FAA invites comments on the length of time between the date a final rule is published in the **Federal Register** and the date it would become effective. During that time period, the industry would prepare the administrative processes necessary to comply with the requirements of the rule. The FAA is planning that 90 days after the final rule is published it would become effective.

For airports that are not required to define a SIDA, the investigation requirement would apply to areas identified in the airport security program that are controlled for security purposes. Prior to the effective date of this proposal, the existing 5-year employment history verification would remain in effect and all individuals authorized for unescorted access prior to the effective date of the final rule would not be subjected to the rule being proposed.

In Notice No. 92–3, the FAA proposed using the term "SIDA," an area which the airport operator is required to define in its security program. The SIDA includes the secured area of an airport as defined under § 107.14 and the portions of an airport where U.S. and foreign air carrier aircraft operate as specified by the Act. The essential requirement under § 107.25 for unescorted access to the SIDA is the continuous display of airport approved identification and specified training.

Notice No. 92–3 also requested comments on the use of the SIDA as the appropriate area to be covered by the employment investigation process. The majority of commenters addressing this issue expressed concern about the areas and activities that are included in the SIDA by airport operators, rather than the appropriateness of using SIDA access authority. The FAA has subsequently issued policy guidance to the FAA field offices and to airport operators clarifying the application of SIDAs at airports. While not issued as a result of Notice No. 92–3, these actions have further defined the areas and types of operations that should be included within the SIDA and specifically address the concerns of commenters in this proceeding regarding the application of SIDA to general aviation areas. During this rulemaking, FAA will continue to evaluate industry's concerns about the areas and activities to be included in the SIDA by airport operators.

Currently, the 5-year employment history verification is required for the issuance of an identification credential or badge to determine an individual's suitability for unescorted access authority. The employment investigation requirements of this proposal would supersede the 5-year employment history verification in the security program for individuals subject to the final rule. The issuance or denial of an identification credential required for SIDA access would serve as the vehicle for the implementation of the requirement from a practical and enforcement standpoint.

Section 107.31(b)—Types of Employment Investigation Required

Under this section and the Act, if the results of the employment investigation disclose that an individual was convicted of a disqualifying crime in the previous 10 years from the date the verification is initiated, the individual may not be granted unescorted access authority. The Act does now allow the FAA to consider the rehabilitation of an individual, but places a blanket prohibition on unescorted access for individuals with a statutorily disqualifying conviction.

The FAA is proposing that arson be added to the mandatory disqualifying convictions listed in the Act. The Act

does not permit the FAA to exclude any of the crimes listed. The disqualifying crimes identified in the Act include specific violations of section 902 of the FA Act, 49 U.S.C. App. 1472 (not state law equivalents, as suggested by some of the commenters) to include: Forgery of certificates, false marking of aircraft, and other aircraft registration violations; interference with air navigation; improper shipment of a hazardous material; aircraft piracy; interference with flight crewmembers or flight attendants; commission of certain crimes aboard aircraft in flight; carrying weapons or explosives aboard aircraft; conveying false information and threats; aircraft piracy outside the special aircraft jurisdiction of the United States; lighting violations in connection with transportation of controlled substances; unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; and destruction of an aircraft or aircraft facility.

Other crimes enumerated in the Act and in this proposal are: Murder; assault with intent to murder; espionage; sedition; kidnapping; treason; rape; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; and conspiracy to commit any of these criminal acts.

In Notice No. 92-3, the FAA sought comments on whether additional crimes should be listed. The comments on expanding the list of disqualifying crimes ranged from suggestions that all felony convictions be considered disqualifying to not adding any crimes to the list. However, arson was a specific crime that many of the commenters believed should be added to the list of disqualifying convictions, due to the deliberate nature of the offense and the safety and the practical considerations of fueling aircraft. The FAA proposes to add arson to the list and again invites comments on the possible expansion of the list of disqualifying crimes in the Act that may be relevant in authorizing unescorted access privilege. Additionally, the FAA again seeks comments on whether a person found not guilty by reason of insanity for any of the disqualifying crimes should be disqualified from unescorted SIDA access.

Section 107.31(c)—Employment Investigation Requirements

The proposal would establish the standards for the employment investigation. The standards would specify information required on the application, require proof of the individual's identity, and verification of representations made by the individual. The investigation includes a 5-year employment history verification that would confirm the statements made by an individual regarding their previous employment. Where appropriate, a criminal history records check would be required.

The airport operator would be required to have the individual complete an application form that includes: (1) The individual's full name, as well as any aliases or nicknames; (2) the dates, names, phone numbers and addresses of the individual's previous employers for the last 5 years, with explanations for any gaps in employment of more than 12 months; (3) the notice that the individual will be subject to an employment history verification and possibly a criminal history records check; and (4) the question asking if the individual has been convicted of any of the disqualifying crimes during the previous 10 years. The purpose of requiring this information is to help the airport operator identify any applicants who may have disqualifying convictions. For example, an unexplainable gap in employment may have occurred due to incarceration for a conviction of a disqualifying crime.

The FAA anticipates that the additional application information can be gathered at little additional cost to the employer or applicant. For example, an existing application form could be supplemented with the notice (3 above) and the list of disqualifying crimes (4 above) along with a question on the use of aliases and any additional information needed on the 5-year employment history that does not already appear on the employer's existing employment application.

The airport operator would verify the information required on the employment application to the extent necessary to validate representations made regarding the previous 5-year period. This process would be similar to that used for the existing 5-year employment verification and could be conducted by telephone calls, in writing or in a personal visit. In cases where a previous employer has gone out of business, a reasonable attempt to verify the period of prior employment should be made. As defined in § 107.31(n), documentation to record the method and the results obtained would be required. The FAA would also specify that records must be maintained of information provided, persons providing the information and the dates the contact was made. The FAA solicits comments on additional means of verifying an individual's employment that should be acceptable in the verification process. This could include accepting documentation in lieu of an employer making the verification by telephone calls, in writing, or in a personal visit.

The FAA proposal establishes a baseline requirement for the employment history verification. The airport operator may want to expand the scope of the employment history verification to cover areas not required by the proposal.

Under the proposal, if one or more of the following "triggers" established for the employment history verification is activated, the employment investigation would have to include a fingerprint-based check of the criminal records maintained by the Federal Bureau of Investigation (FBI) should the employer choose to proceed with the hiring process for that applicant.

First, an individual who is not able to adequately account for any period of unemployment of 12 months or more over the past 5 years in a manner that substantiates that he or she was not incarcerated for a disqualifying crime would be subject to a check. Unemployment for a 12-month period or more would not automatically trigger a criminal history records check. Rather, the criminal check would be required when the period of unemployment cannot be verified through the checking of appropriate documentation or references. For example, a gap could be satisfactorily explained by receipts for unemployment compensation, travel records or other information that would sufficiently provide evidence of an individual's whereabouts. In instances where an individual was self-employed, tax records, billing records, work orders, or other means could be used to support the claims made on the application.

Second, a criminal history records check would be triggered if there is an inability to substantiate statements made, or if there are significant inconsistencies between information required by the proposal that is provided by the applicant and that which is obtained during the employment verification. This has been intentionally defined using broad terms to allow the judgment of the airport operator and employers to determine what is acceptable. However, if an individual's employment cannot be verified, this would be considered as an inability to substantiate statements made.

Third, if information becomes available to the airport operator during the course of the investigation indicating a possible conviction for one of the

disqualifying crimes, a criminal records check would be required.

The 10-year criminal history records check is authorized by the Act. Individuals whose record shows a conviction during the previous 10 years for a crime listed in the proposed regulations would not be permitted to have, or authorize others to have, unescorted access to the SIDA. The 10-year period covered by the criminal history records check would be measured from the date the employment investigation process was initiated, i.e., the date the employment history verification began. As contemplated in section 105 of the Act, the FAA's proposal would limit the criminal history records check to the FBI's national criminal history record filing system.

As indicated in Notice No. 92-3, the FAA does not propose to require that the criminal history records received from the FBI be screened to delete information other than convictions for the enumerated crimes. Several of the commenters to the Notice No. 92-3 indicated that they already receive criminal history records from state or local sources for their prospective employees. Thus, the FAA's proposed rule would not limit the ability of airport operators and air carriers to review an individual's complete FBI criminal history record. However, any decision to deny unescorted access may be attributed to this rule only if it is based on the individual's conviction within the previous 10 years of an enumerated crime. Any other adverse information contained in the criminal record would not result in disqualification under the proposed rule.

Section 107.31(d)—Escorted Access

The proposal would require individuals who have not been authorized to have unescorted access authority to be under escort while in the SIDA. The FAA proposes to define "escort" in § 107.1(b)(3).

While escort requirements arise for a variety of reasons, the proposed rule is not expected to have a significant impact on the number of persons currently needing to be escorted. As mentioned earlier, the proposed screening of persons would result in very few individuals needing to be escorted pending completion of their criminal history records check. Escorting would be discretionary because the airport operator has the option of completing the check prior to hiring an employee to perform a duty requiring unescorted access privilege.

Section 107.31(e)—Exceptions to the Investigation Requirements

Government Employees

The FAA proposes that no additional employment investigation be required for Federal, state, and local government employees who have been subject to an employment investigation. Typically, the government employer subjects applicants to an employment investigation that is at least equivalent to that proposed in this notice. For example, Federal applicants are required on Standard Form 171 to disclose convictions, and the Office of Personnel Management, where appropriate, conducts a criminal history records check.

However, the FAA is sensitive to airport operator concerns over any exclusions to the employment investigation requirements. The FAA proposes to include state and local governments in this exception and invites comments on whether their hiring practices are comparable to that of the Federal Government.

Foreign Air Carrier Employees

The FAA is proposing to treat foreign air carrier employees similarly to that proposed in Notice No. 92-3. Many of the commenters to Notice No. 92-3 felt the threat to security exists primarily at foreign airports. Other commenters raised the complexity associated with trying to unilaterally apply U.S. laws in other countries. This could result in retribution by foreign countries who could require similar investigations for U.S. air carrier personnel. The Act, and hence this proposal implementing the Act, apply only at U.S. airports. Under this proposed rule, foreign nationals and U.S. citizens working in the United States for a foreign air carrier would be subject to an employment investigation prior to receiving airport-issued identification for SIDA unescorted access. While the airport operator would be responsible for the investigation, the foreign air carrier could perform the employment history verification, as it currently does at most airports.

The FAA proposes to implement an alternate security arrangement for foreign air carrier flight crewmembers (i.e., captain, second-in-command, flight engineer, or company check pilot) who are not based in the United States and are not otherwise issued airport identification. Alternate security arrangements are permitted by section 105 of the Act. The proposed alternate system for foreign flight crewmembers requires operational limitations to ensure an equivalent level of security. In addition, there is a very low probability of detecting disqualifying convictions for a foreign national based outside the United States through an investigation of FBI records, because those records normally include only arrests and convictions entered in the United States.

Under an alternate system, foreign air carrier flight crewmembers would be excluded from the employment investigation requirements of the proposed rule, provided that their access is restricted under an approved airport security program. An acceptable alternate system under an approved airport security program could be to permit a foreign air carrier flight crewmember to have unescorted access limited to the footprint of their aircraft (i.e., the aircraft and the immediate surrounding ramp area). To access any other aircraft or areas of the airport, the foreign air carrier flight crewmember would require an escort.

Transfer of Privilege

Under this proposal, an individual who has unescorted access privilege, may transfer that privilege to another airport. This can be accomplished by the airport operator obtaining certification from the previous airport operator that the employment history verification has been completed. The individual must have been continuously employed in a position requiring unescorted access since being authorized for unescorted SIDA access. This addresses flight crewmembers or other employees of airport tenants with unescorted access privilege who change their duty station and may transfer their unescorted access privilege.

Individuals Subject To Investigation By Customs

The FAA proposes to accept the background check performed by the U.S. Customs Service (Customs) for access to the Customs security area of a U.S. airport as a substitute for the proposed employment investigation. Since 1985, Customs has required a background investigation of individuals with access to the Customs security areas of U.S. airports [19 CFR 122.181-188]. This investigation includes an FBI criminal history records check and further background investigation by Customs to determine whether the individual should be issued a seal allowing access to the Customs security area. Customs denies access authority to any individual convicted of a felony or convicted of a misdemeanor involving theft, smuggling or any theft-related crime, or evidence of a pending or past investigation which establishes criminal or dishonest

conduct, or a verified record of such conduct. In addition, when the Customs District Director believes an individual would endanger the revenue or security of the Customs security area, the individual will be denied access authority.

Accepting the background investigation by Customs for the purposes of this proposal would avoid a redundant check, while providing an equivalent level of security for individuals with unescorted access. Failure to obtain access authority to the Customs area would not preclude an individual from obtaining unescorted access to the SIDA under this proposed rule, but would require the individual to be subjected to an employment investigation.

Section 107.31(f)—Investigations by Air Carriers and Airport Tenants

The FAA is proposing that an airport operator may accept written certification from an air carrier that the employment investigation was performed for its employees. Receipt of certification would satisfy the airport operator's obligation under the proposed rule. The airport operator may accept a general certification that the employment history verification and, where appropriate, the criminal history records check were performed as part of the process of an air carrier issuing identification credentials to its employees. When a specific air carrier employee or its contractor employee is subject to an employment investigation by the carrier for receipt of an airport-issued identification credential, the airport operator must receive certification for each employee prior to issuing an identification credential.

The proposal also includes a provision permitting an airport operator to accept written certification from airport tenants that the 5-year employment history verification has been performed. In many cases, these airport tenants currently perform the 5-year employment history verification for their employees. The FAA proposes that tenants would be permitted to perform the 5-year employment history verification. However, the criminal history records check would be the responsibility of the airport operator for all airport tenants other than U.S. air carriers. (Tenants other than U.S. air carriers may include airline food service companies, fixed base operators, and foreign air carriers whose employees receive airport identification.)

Section 107.31(g)—Appointing Contact

The proposal would require the airport operator to appoint a person responsible for reviewing the results of the employment investigation and determining an individual's eligibility for unescorted access privilege. The designated person would also serve as the liaison in situations where the individual disputes the results of the criminal history records check that revealed information that would disqualify the person from unescorted access. The FAA seeks comments on whether the rule should specifically assign this responsibility to the Airport Security Coordinator (ASC) required under § 107.29. If this responsibility were assigned to the ASC, the ASC could delegate the duties while continuing to serve as the FAA's point of contact with the airport for purposes of monitoring compliance with this section.

Section 107.31(h)—Designating an Entity and Individual Notification

The FAA proposes to allow the airport operator to designate an outside entity to process the criminal history records check required by the rule. In Notice No. 92–3, three methods for processing the criminal history records check requests were discussed. The options for processing include: (1) Fully centralized processing, (2) partially centralized processing, and (3) decentralized processing.

An entity providing full central processing would receive requests from airports and air carriers for background checks. The entity would verify the quality of the fingerprints and batch those requests, and route the fingerprint cards to the FBI. After the FBI completed the search of its index system, the results would be returned to the entity providing the central processing, which, in turn, would forward the results to the airport operator or air carrier. Under a fully-centralized system, an entity providing the service may also follow-up on arrests for disqualifying convictions for which there is no disposition, and possibly screen the results. This is generally the type of system used by the nuclear industry for determining unescorted access to nuclear powerplants.

Under a partially-centralized system, one or more entities could provide partially-centralized processing and would verify the quality of the fingerprints and batch the requests for FBI criminal history record checks. The FBI would send the results of the record check to the airport operator or air carrier. The banking industry utilizes a similar method for processing records checks for individuals in that industry.

In a decentralized system, each airport operator and air carrier would mail requests directly to the FBI and the FBI would send the results of the criminal history record check to the airport operator or air carrier.

As noted in Notice No. 92–3B, after the enactment of the Act, but prior to issuance of the NPRM, several organizations indicated a willingness to channel record requests to the FBI. The FBI, in discussions with the FAA, has indicated its preference that the number of entities be limited in order to facilitate FBI processing procedures. The FAA would again like to know if any organizations have an interest in channeling the records to the FBI. Prior to issuing a final rule, the FAA will resolve the issue of acceptable procedures for requesting and receiving the criminal history records check information, in consultation with the FBI. Although the method for requesting the records checks and receiving them from the FBI has not been established, the basic process outlined in the proposal would not be affected by the outcome of that issue.

This proposed section would require that individuals covered by the proposed rule be notified of the need for a criminal history records check prior to commencing the check.

Section 107.31(i)—Fingerprint Processing

Similar to Notice No. 92–3, this proposal includes procedures for collecting fingerprints and requires that one set of legible fingerprints be taken on a card acceptable to the FBI. The airport operator or its designee could choose to have the airport law enforcement officers take the fingerprints or have another entity perform the function. The FAA also proposed to require that the identity of the individual be verified at the time the fingerprints are taken. The individual would be required to present two forms of identification, one of which must bear the photograph of the individual. A current driver's license, military identification, or passport are examples of acceptable identification. The FAA also proposes that the fingerprint cards be handled and shipped in a manner that would protect the privacy of the individual.

Section 107.31(j)—Making the Access Determination

The FBI has indicated that 60 percent of records in its system show an arrest for which there has been no disposition (e.g., the case is pending). The FAA is proposing that the airport operator or its designee, investigate arrests for any of the enumerated offenses when no

disposition has been recorded in the FBI's records. This investigation would be conducted with the affected individual and the jurisdiction where the arrest took place in order to determine whether a disposition has been recorded in that jurisdiction but not forwarded to the FBI.

In determining whether to grant unescorted access to an individual with an arrest for one of the disqualifying crimes but no disposition, the airport operator should weigh all relevant information available on the individual, including the results of the employment investigation. However, the proposal requires that unescorted access be denied only for convictions of the disqualifying crimes.

Section 107.31(k)—Availability and Correction of FBI Records and Notification of Disqualification

Similar to the process proposed in Notice No. 92–3, this proposal requires the airport operator or its designee to notify an individual at the time the fingerprints are taken that he or she would be provided, upon written request, a copy of his or her results from the FBI criminal history records check, prior to rendering the access decision. All individuals subject to an unescorted access determination have the option of receiving a copy of the results from the criminal history records check.

In instances where an individual's criminal history records check reveals information that would disqualify him or her from unescorted access, the FAA is proposing that the airport operator or its designee be required to advise the affected individual of disqualifying information. The airport operator or its designee would also be required to provide the individual with a copy of the criminal history records check results.

The individual would have the right to challenge the accuracy of the record. Because the FBI maintains the records and has established procedures to address possible inaccuracies, it would be appropriate to forward a copy of any requests for correction to the FBI. However, the actual request would be made by the individual directly to the agency (i.e., state or local jurisdiction) which contributed the questioned information contained in the criminal history record to the FBI.

The proposed rule would require the individual to notify the airport operator or its designee within 30 days of receipt of the record of his or her intent to correct any information believed to be inaccurate. If the airport operator or its designee is not notified by the individual within the 30-day period, the airport operator may make the final access decision. The airport operator is under no obligation to hire the individual and provide an escort before the correction (if any) is made, nor is there an obligation to hire the applicant after the record is corrected. However, if the airport operator wanted to hire an individual after being informed that the disqualifying information has been corrected, the airport operator would have to obtain a copy of the revised record from the FBI.

If an individual is disqualified for unescorted access privilege based on the findings of the criminal history records check, the FAA is proposing that the individual be notified that such a determination has been made.

Section 107.31(l)—Individual Accountability

The FAA solicited comments on the need, utility, and expense associated with a recurrent employment investigation requirement. While the FAA received mixed comments on this proposal, the majority argued a recurrent employment investigation was not necessary. The FAA now proposes to require that each affected individual report to the issuer of the identification credential convictions for any disqualifying crimes that may occur after the completion of the employment investigation and surrender the identification media. Many commenters pointed out that even if an employee fails to report a conviction for one or more of the disqualifying crimes, such a conviction would become known to the employer due to lapses in employment or through other means.

The proposal would also subject any individual failing to report a disqualifying conviction or to surrender his/her SIDA identification credential under this section to possible FAA enforcement action, including civil penalty liability.

Section 107.31(m)—Limits on Dissemination of Results

Consistent with the Act, the criminal history records check could only be used to determine whether to grant unescorted access privilege to the SIDA, not whether or not to hire an individual for non-SIDA access positions. As required by the Act, the proposed rule also includes limits on the dissemination of the criminal history information. The FAA proposes to limit distribution of such information to: (1) The individual to whom the record pertains or someone authorized by that person; (2) the airport operator or entity designated by the airport operator; and (3) the individuals designated by the Administrator (e.g., FAA special agents).

Section 107.31(n)—Recordkeeping

Two types of recordkeeping requirements are being proposed: (1) A record indicating that the 5-year employment history verification was performed, and (2) for those subject to a criminal history records check, a copy of the results of the record check received from the FBI.

The airport operator would be required to maintain a written record for all individuals permitted unescorted access. The FAA proposes that this record would be retained for 180 days after termination of that individual's authority. The purpose of this record is to illustrate that an individual was subject to an employment history verification, either by the airport operator, air carrier, or airport tenant. The record must include a record of calls made, plus a record of correspondence or any other documents received. (However, the documents themselves need not be retained.) In the case of air carrier employees, the record can be a certification from the carrier that the employment investigation was performed.

For individuals subject to a criminal history records check, the FAA is proposing that the record received from the FBI be maintained in a manner that prevents the unauthorized dissemination of the content of the results. While Notice No. 92–3 proposed to require the airport operator to destroy the criminal history records check after the determination has been made, many of the commenters expressed concerns over destruction of a record that was used to make the unescorted access determination and its future availability.

Section 108.33 Unescorted Access Privilege (Air Carrier Employees)

The FAA is proposing that air carriers be authorized to perform the background investigations for their employees and contractors as required of airport operators under proposed 107.31. The air carrier may provide a general certification to an airport operator under proposed § 107.31(f) that the employment investigations were performed as part of issuing identification credentials to its employees. When an individual air carrier employee or its contractor employee is investigated by the carrier for receipt of airport-issued identification media, the air carrier must provide the airport operator with certification for each employee. For identification issued to an air carrier or its contractor employee by the airport operator, the investigation may be

performed by either the air carrier or airport operator.

The proposed requirements for an air carrier performing the employment investigations are identical to those required of an airport operator.

Initial Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this proposal. This summary and the evaluation quantify, to the extent practicable, estimated costs of the rule to the private sector, consumers, and Federal, State, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse affect on competition.

The FAA has determined that this proposal is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the proposal, has not been prepared. Instead, the agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this proposal, without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Public Law 96-354) and an international trade impact assessment. If the reader desires more detailed economic information than this summary contains, then he or she should consult the regulatory evaluation contained in the docket.

Costs of the Proposed Amendment

Airport operators, air carriers, and other airport tenants with employees who require unescorted SIDA access would incur some costs under the proposed rule. These costs consist of two components: (1) The cost of enhancing the employment history verification process; and (2) the cost of conducting a criminal history records check on applicants whose employment verification reveals information that would trigger such a check. Employers may avoid the latter cost by simply choosing to terminate the employment process for the individual.

The proposed rule establishes standards and a regulatory requirement for an employment history verification. Currently, the broad requirement for an employment reference verification exists in airport and air carrier security programs. The FAA estimates that non-air carrier airport tenants would incur most of the cost because their current employment history verification processes differ from the industry standard used by the air carriers and that proposed in the notice. The FAA estimates that this proposal would add to the employment process about 15 to 30 minutes of staff time per applicant for non-air carrier airport tenants. One hour of a personnel specialist's time (including benefits) is approximated at $21.62. Hence, the additional per applicant cost to airport tenants other than air carriers, such as caterers and fixed based operators with personnel requiring unescorted SIDA access, would range from $5.41 to $10.81. The FAA estimates that these employees make up approximately one-third of all individuals with SIDA access.

The costs associated with changes in application forms as a result of the proposal are considered negligible and have not been factored into the cost estimates. The cost estimates for the proposal also exclude the costs related to the time spent by former employers of an individual applying for unescorted access privilege who are requested to verify an individual's previous employment. The proposed rule would not affect the latter cost, because previous employers are already consulted under the current program requirements. The FAA solicits comments on whether these two cost items should be included in the analysis. Commenters should provide any supporting data.

Other costs that would be imposed by the proposal are associated with carrying out an FBI criminal records check for some candidates. The FAA estimates that about 1 out of every 100 applicants will meet the criteria established in the proposal that would trigger the requirement for a criminal history records check. The cost of a criminal history records check includes the FBI record search, the airport or air carrier administrative costs, and the cost of escorting the individual pending completion of the FBI records check. The latter cost may be avoided if the employer waits for the completion of the FBI criminal history records check before hiring an individual for a position requiring unescorted access. The FAA estimates the total cost for processing a criminal record check at $51 and the escorting costs to be $953 per individual escorted.

The FAA estimates that in 1991, the 443 part 107 airports employed 475,000 individuals having unescorted SIDA access. This evaluation assumes a 4 percent growth rate in employees receiving unescorted access (reflecting the forecasted growth in passengers) and an annual turnover rate of those with unescorted access to the SIDA of 35 percent. In the first year of implementation of the proposal, 1993, the FAA estimates the number of individuals with SIDA access will be 514,000. Based on these estimates, the FAA calculates the number of individuals receiving new authority for SIDA unescorted access in 1993 as 180,000. In 10 years, the annual turnover rate for individuals with SIDA unescorted access is expected to be 256,000. Over the decade, the average annual number of individuals receiving new authority for SIDA access that will be subjected to the employment investigation proposed in the SNPRM will therefore be 216,000.

The FAA estimated a range of costs for the proposal. The lower estimate assumes that a 5-year employment history verification for airport tenants other than air carriers would require an additional 15 minutes to complete and require no additional time for airport operators and air carriers. The lower estimate also assumes that airports, air carriers, and other airport tenants would choose to terminate the employment process for at least 75 percent of those applicants whose employment history verification triggers the requirement for a criminal history records check (only 1 percent of total applicants are expected to meet the requirement for such a check). Under the lower estimate, 20 percent of the remaining 25 percent whose employment verification indicated a need for a criminal history records check would be escorted during the period while the FBI criminal history records check was being performed (companies would not hire for an unescorted access position the other 80 percent until completion of the FBI records check).

The higher cost estimate assumes that the 5-year employment history verification for airport tenants other than air carriers would require an additional 30 minutes to complete and no additional time for airport operators

and air carriers. The higher estimate also assumes that airports, air carriers, and other airport tenants would choose to terminate the employment process for at least 50 percent of those applicants whose employment history verification triggers the requirement for a criminal history records check (only 1 percent of total applicants are expected to meet the requirement for such a check). Under the higher estimate, 50 percent of the remaining 50 percent whose employment verification indicated a need for a criminal history records check would be escorted during the period while the FBI criminal history records check was being performed (companies would not hire for an unescorted access position the other 50 percent until the FBI records check is completed).

Based on these estimates, first year costs for the industry would range from $0.4 to $1.1 million. These costs would be incurred by airports, air carriers and other airport tenants. In 1993, the FAA estimates that 180,000 employees will apply for unescorted SIDA access privilege. The cost of the proposal is associated with the added time to complete 60,000 employment history verifications by non-air carrier airport tenants, and the cost for performing between 100 and 500 criminal history records checks by airport operators and air carriers. Between 1993 and 2002, $5.1 to $13.6 million. The present value of these costs ranges from $3.1 to $8.5 million.

Benefits of the Proposed Amendment

The proposed rule augments other recent FAA security regulations by establishing regulatory requirements for employment investigation of individuals applying for unescorted access to airport SIDAs. Each enhancement of the U.S. civil aviation security system reduces the possibility of a criminal or terrorist acts against civil aviation.

The FAA estimates that about one out of every 5,000 applications would be excluded from unescorted access as a result of a conviction for one of the enumerated disqualifying crimes. This estimate suggests that 40 to 50 applicants for SIDA access privilege would be turned away each year over the next ten years. Preventing such persons from having access to airport SIDAs would be an important benefit under the proposed rule and provide an enhancement of airport security.

United States registered air carrier operators have experienced 235 terrorist or other criminal events over the past 30 years, resulting in a loss of 403 lives. The potential value of avoiding a loss from a terrorist act is measured by the value of avoided fatalities and aircraft replacement costs. The FAA currently uses a value of $1.5 million to represent statistically a human fatality avoided. This procedure and value is used in accordance with guidelines issued by The Office of the Secretary of Transportation, June, 1990. The benefits of preventing one terrorist accident over the next decade range from $92 million for the loss of a Boeing 727 aircraft to $198 million for the loss of a DC-10 aircraft.

Comparison of Cost and Benefits

At the 443 airports in the U.S. aviation security network, nearly a half million persons have unescorted access to airport SIDAs. The proposal would require airports, air carriers, and other airport tenants to perform a consistent and standardized employment history verification for all applicants, and a criminal history records check for applicants who meet certain criteria. The total cost for ten years of requiring a consistent and standardized employment history verification process and a criminal history records check on certain applicants ranges from $3.1 to $8.5 million (discounted over the next decade). The benefits ascribed to these regulations are based on preventing the destruction by a terrorist or a criminal act of one air carrier aircraft. At a minimum economic value of $1.5 million per fatality avoided, the cost of this proposal is easily covered by a small fraction of the value derived from preventing the destruction of a small air carrier aircraft (B-727).

International Trade Impact Assessment

The proposed rule would exempt foreign air carrier flight crewmembers from the employment investigation requirements provided they are covered by an alternate system. However, foreign nationals or U.S. citizens working for foreign air carriers that are issued U.S. airport identification would be subject to the proposed rule. Thus, the proposal could impose a slight trade disadvantage on domestic air carriers because they would have to incur the cost of the proposed rule for flight crewmembers, while foreign air carrier flight crewmembers would not be subject to the requirements if they are not issued identification credentials by an airport operator. The FAA contends that this extra cost is negligible. The additional cost would be less than two-one hundredth of a cent per enplanement. Hence, domestic firms would not incur a discernible competitive trade advantage or disadvantage in the sale of United States aviation products or services.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities (small businesses, nonprofit organizations, and small cities) are not overly burdened by Federal regulations. The RFA requires regulatory agencies to review rules which may have "a significant economic impact on a substantial number of small entities." A substantial number of small entities, as defined in FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, is a number not less than 11 or more than one-third of the small entities subject to the proposed or existing rule. To determine if the proposed rule would impose a significant cost impact on these small entities, the annualized cost imposed on them must not exceed the annualized cost threshold established in FAA Order 2100.14A for each of these entity types.

In order to estimate the impact of the proposed rule on small entities, the FAA has determined that the average cost of an employee verification for non-air carrier airport tenants to be $11.20. This estimate also incorporates the cost of a criminal history records check and a four percent growth rate in SIDA employment.

The small entities potentially affected by the proposed rule are small airports, air carriers, fixed-base operators, and catering companies. However, most of the requirements of the rule are already standard procedure for these entities; and the cost of a criminal history records check is minimal because so few employers are expected to utilize the criminal check.

Aircraft Repair Facilities: FAA Order 2100.14A defines small aircraft repair facilities as those with 200 employees or less. The FAA has estimated the cost threshold for small operators to be $4,025 in 1991 dollars. To exceed this threshold, a facility would have to hire 360 employees ($4,025/11.20) per year. This means that the facility would have to employ on a regular basis 1,028 people (assuming a 35 percent turnover rate: 360/.35). If a firm employed that many people, it would not be a small entity since it is over the size threshold of 200 employees.

Caterers: Small caterers are not defined in FAA Order 2100.14A. Thus, this evaluation will use the size and cost thresholds for small aircraft repair facilities to represent small catering businesses. These criteria are 200 employees or less for the size threshold and $4,025 for the cost threshold. Because they have the small threshold

criteria, small catering firms would also have to employ on a regular basis 1,028 people, which is over the size threshold of 200 employees.

In conclusion, the proposed rule would not impose a significant impact on a substantial number of small entities.

Federalism Implications

The proposed rule would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Most airports covered by the NPRM are public entities (state and local governments). However, relatively few of the covered individuals are actually employed by the airport operator, and it is anticipated that most of the costs for the required investigations would be borne by the airport tenants and air carriers. Thus, the overall impact is not substantial within the meaning of Executive Order 12612. Therefore, in accordance with that Executive Order, it is determined that this proposal would not have sufficient Federal implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. 35 under *OMB NO:* 2120-0564; *Title:* Unescorted Access Privilege; *Need for Information:* To record employment investigations as required by Public Law 101-604; *Proposed Use of Information:* To determine eligibility for unescorted access; *Frequency:* Recordkeeping; *Burden Estimate:* 36,720 hours annually; *Respondents:* Airport operators and air carriers; *Form(s):* None; *Average Burden Hours per Respondent:* 64—The annual hours per recordkeeper depends on the number of employees in each operation. The estimate is 10 minutes per employee; *For Further Information Contact:* The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4735.

Comments on these information collection requirements should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *Attention:* Desk Officer for FAA. Comments submitted to OMB should also be submitted to the FAA docket.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities under the criteria of the Initial Regulatory Flexibility Act. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of this proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Parts 107 and 108

Air Carriers, Air transportation, Airlines, Airplane operator security, Aviation safety, Security measures, Transportation, Weapons.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 107 and 108 of the Federal Aviation Regulations (14 CFR parts 107 and 108) as follows:

PART 107—AIRPORT SECURITY

1. The authority citation for part 107 is revised to read as follows:

Authority: 49 U.S.C. App. 1354, 1356, 1357, 1358 and 1421; 49 U.S.C. 106(g).

2. In part 107, § 107.1 paragraphs (b)(3) through (b)(5) are redesignated as paragraphs (b)(4) through (b)(6), and new paragraph (b)(3) is added to read as follows:

§ 107.1 Applicability and definitions.

* * * * *

(b) * * *

(3) *Escort* means to accompany or supervise an individual who does not have access authority to areas restricted for security purposes as identified in the airport security program in a manner sufficient to take action should the individual engage in activities other than those for which the escorted access is granted.

* * * * *

3. Part 107 is amended by adding a new § 107.31 to read as follows:

§ 107.31 Unescorted access privilege.

(a) This section applies to all individuals seeking authorization for, or seeking authority to authorize others to have, unescorted access privilege to the following areas:

(1) The security identification display area (SIDA) that is identified in the airport security program as required by § 107.25; or

(2) At airports that are not required to identify a SIDA under § 107.25, that portion of the airport where access is controlled for security purposes in accordance with the airport security program.

(b) Except as provided in paragraph (e) of this section, each airport operator shall ensure that no individual is granted authorization for, or is granted authority to authorize others to have, unescorted access to the areas identified in paragraph (a) of this section unless:

(1) The individual has satisfactorily undergone a verification of employment history for the 5 years preceding the date the verification is initiated as provided in paragraph (c) of this section; and

(2) The results of the employment investigation do not disclose that the individual has been convicted in the 10 years ending on the date of such investigation of arson or any of the following crimes enumerated in section 316(g)(3)(A)(ii) of the Federal Aviation Act of 1958, 49 U.S.C. App. 1357(g)(3)(A)(ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping;
(xviii) Treason;
(xix) Rape;
(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;
(xxi) Extortion;
(xxii) Armed robbery;
(xxiii) Distribution of, or intent to distribute, a controlled substance; or
(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(c) The employment history verification shall include the following steps:

(1) The individual must complete an application form that includes:

(i) The individual's full name, including any aliases or nicknames;

(ii) The dates, names, phone numbers and addresses of previous employers, with explanations for any gaps in employment of more than 12 months, during the previous 5-year period;

(iii) Notification that the individual will be subject to an employment history verification and possibly a criminal history records check; and

(iv) Any convictions during the previous 10-year period of the crimes listed in paragraph (b)(2) of this section.

(2) The identity of the individual must be verified through the presentation of two forms of identification, one of which must bear the individual's photograph.

(3) The information on the employment application required under paragraph (c)(1)(ii) of this section must be verified in writing, by telephone, or in person.

(4) If one or more of the following conditions exists, the employment investigation shall not be considered complete unless it includes a check of the individual's fingerprint based criminal history record maintained by the Federal Bureau of Investigation (FBI):

(i) The individual cannot satisfactorily account for a period of unemployment of 12 months or more;

(ii) The individual is unable to support statements made or there are significant inconsistencies between information provided on the application in response to questions required by paragraph (c)(1)(ii) of this section and that which is obtained through the verification process; or

(iii) Information becomes available to the airport operator during the employment history verification indicating a possible conviction for one of the disqualifying crimes.

(d) An airport operator may permit an individual to be under escort as defined in § 107.1 in accordance with the airport security program to the areas identified in paragraph (a) of this section.

(e) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access to the areas identified in paragraph (a) of this section:

(1) Employees of the Federal government or a State or local government (including law enforcement officers) who, as a condition of employment, have been subject to an employment investigation;

(2) Flight crewmembers of foreign air carriers covered by an alternate security arrangement in the approved airport operator security program;

(3) An individual who has been continuously employed in a position requiring unescorted access by another airport operator, airport tenant or air carrier; or

(4) An individual who has been authorized for access authority to the U.S. Customs Service security area of a U.S. airport.

(f) An airport operator will be deemed to be in compliance with its obligations under paragraphs (b)(1) and (b)(2) of this section, as applicable, when it accepts certification from:

(1) An air carrier subject to § 108.33 of this chapter that the air carrier has complied with paragraphs 108.33(a)(1) and (a)(2) for its employees and contractors; and

(2) An airport tenant other than a U.S. air carrier that the tenant has complied with paragraph (b)(1) of this section for its employees.

(g) The airport operator shall designate an individual to:

(1) Review the results of the employment investigation; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(h) The airport operator may designate an entity to process the records check required by paragraph (c)(4) of this section. Prior to commencing the records check, the airport operator or its designee shall notify the affected individuals.

(i) The airport operator or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the individual under direct observation by the airport operator or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification media, one of which must bear his or her photograph; and

(4) The fingerprint cards shall be forwarded to the Identification Division of the FBI in a manner that protects the confidentiality of the individual's record.

(j) In conducting the criminal history records check required by this section, the airport operator or its designee shall investigate arrest information for the crimes listed in paragraph (b)(2) of this section for which no disposition has been recorded to make a determination of the outcome of the arrest.

(k) The airport operator or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authorization and provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made, subject to the following conditions:

(i) Within 30 days after being advised that the criminal history record received from the FBI discloses disqualifying information, the individual must notify the airport operator or its designee, in writing, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 days, the airport operator may make a final access decision.

(ii) Upon notification by the individual that the record has been corrected, the airport operator or its designee must obtain a copy of the revised record from the FBI prior to making a final access decision.

(3) Notify an individual that a final decision has been made to deny authorization for unescorted access.

(l) Any individual authorized to have unescorted access privilege to the areas identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section shall report the conviction and surrender the SIDA identification medium within 24 hours to the issuer.

(m) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history records check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The airport operator or its authorized representative; or

(3) Others designated by the Administrator.

(n) The airport shall maintain a written record for the individual until 180 days after the termination of the individual's authority for unescorted access. For individuals subject to:

(1) The employment history verification required by paragraph (b) of this section, the record shall include information provided, persons providing the information, the dates the contact was made, and any other information as required by the Assistant Administrator for Civil Aviation Security, and

(2) An investigation required under paragraph (c)(4) of this section, the record shall include the results of the FBI criminal history records check information in a manner protecting the confidentiality of the individual acceptable to the Assistant Administrator for Civil Aviation Security.

PART 108—[AMENDED]

4. The authority citation for part 108 is revised to read as follows:

Authority: 49 U.S.C. 1354, 1356, 1357, 1421, 1424, and 1511; 49 U.S.C. 106(g).

5. Part 108 is amended by adding a new § 108.33 to read as follows:

§ 108.33 Unescorted access privilege.

(a) For each employee or contractor employee covered under a certification made to an airport operator pursuant to § 107.31(f) of this chapter, the certificate holder shall ensure that:

(1) The individual has satisfactorily undergone a verification of employment history for the 5 years preceding the date the verification is initiated as provided in paragraph (b) of this section; and

(2) The results of the employment investigation do not disclose that the individual has been convicted in the 10 years ending on the date of such investigation of arson or any of the following crimes enumerated in section 316(g)(3)(A)(ii) of the Federal Aviation Act of 1958, 49 U.S.C. App. 1357(g)(3)(A)(ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnaping;

(xviii) Treason;

(xix) Rape;

(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance; or

(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(b) The employment history verification shall include the following steps:

(1) The individual must complete an application form that includes:

(i) The individual's full name, including any aliases or nicknames;

(ii) The dates, names, phone numbers and addresses of previous employers, with explanations for any gaps in employment of more than 12 months, during the previous 5-year period;

(iii) Notification that the individual will be subject to an employment history verification and possibly a criminal history records check; and

(iv) Any convictions during the previous 10-year period of the crimes listed in paragraph (a)(2) of this section.

(2) The identity of the individual must be verified through the presentation of two forms of identification, one of which must bear the individual's photograph.

(3) The information on the employment application required under paragraph (b)(1)(ii) of this section must be verified in writing, by telephone, or in person.

(4) If one or more of the following conditions exists, the employment investigation shall not be considered complete unless it includes a check of the individual's fingerprint based criminal history record maintained by the Federal Bureau of Investigation (FBI):

(i) The individual cannot satisfactorily account for a period of unemployment of 12 months or more;

(ii) The individual is unable to support statements made or there are significant inconsistencies between information provided on the application in response to questions required by paragraph (b)(1)(ii) of this section and that which is obtained through the verification process; or

(iii) Information becomes available to the certificate holder during the employment history verification indicating a possible conviction for one of the disqualifying crimes.

(c) The certificate holder shall designate an individual to:

(1) Review the results of the employment investigation; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(d) The certificate holder may designate an entity to process the records check required by paragraph (b)(4) of this section. Prior to commencing the records check, the certificate holder or its designee shall notify the affected individuals.

(e) The certificate holder or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the individual under direct observation by the certificate holder or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two forms of identification media, one of which must bear his or her photograph: and

(4) The fingerprint cards shall be forwarded to the Identification Division of the FBI in a manner that protects the confidentiality of the individual's record

(f) In conducting the criminal history records check required by this section, the certificate holder or its designee shall investigate arrest information for the crimes listed in paragraph (a)(2) of this section for which no disposition has been recorded to make a determination of the outcome of the arrest.

(g) The certificate holder or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authorization and provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made, subject to the following conditions:

(i) Within 30 days after being advised that the criminal history record received from the FBI discloses disqualifying information, the individual must notify the certificate holder or its designee, in writing, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 days, the certificate holder may make a final access decision.

(ii) Upon notification by the individual that the record has been corrected, the certificate holder or its designee must obtain a copy of the revised record from the FBI prior to making a final access decision.

(3) Notify an individual that a final decision has been made to deny authority for unescorted access.

(h) Any individual authorized to have unescorted access privilege as identified in paragraph (a) of this section, who is subsequently convicted of any of the crimes listed in paragraph (a)(2) of this section, shall report the conviction and surrender the SIDA identification medium within 24 hours to the issuer.

(i) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history records check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The certificate holder or its authorized representative; or

(3) Others designated by the Administrator.

(j) The certificate holder shall maintain a written record that the investigation was conducted for the individual until 180 days after the termination of the individual's authority for unescorted access. For individuals subject to:

(1) The employment history verification required by paragraph (a)(1) of this section, the record shall include information provided, persons providing the information, the dates the contact was made, and any other information as required by the Assistant Administrator for Civil Aviation Security, and

(2) An investigation required under paragraph (c)(4) of this section, the record shall include the results of the FBI criminal history records check information in a manner protecting the confidentiality of the individual acceptable to the Assistant Administrator for Civil Aviation Security.

Issued in Washington, DC on September 14, 1992.

Bruce R. Butterworth,

Director, Office of Civil Aviation Security Policy and Planning, ACP-1.

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federal register

Friday
September 18, 1992

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Chapter IX, Subchapters A and B and Part 944

Monterey Bay National Marine Sanctuary Regulations; Final Rule

DEPARTMENT OF COMMERCE

15 CFR Chapter IX, Subchapter A and B and Part 944

[Docket No. 900122-2020]

RIN 0648-AC63

Monterey Bay National Marine Sanctuary Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; National Marine Sanctuary Designation; final rule; and summary of final management plan.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), by the Designation Document contained in this document, and as required by section 205(a)(3) of Public Law 100-627, designates an approximately 4,024 square nautical mile area of coastal and océan waters, and the submerged lands thereunder, in and surrounding Monterey Bay off the coast of central California as the Monterey Bay National Marine Sanctuary. This document publishes the Designation Document for the Sanctuary and summarizes the final management plan for it. The final management plan details the goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance, activities for the Sanctuary.

Further, NOAA issues final regulations to implement the designation by regulating activities affecting the Sanctuary consistent with the provisions of the Designation Document. The intended effect of these regulations is to protect the conservation, recreational, ecological, historical, research, educational and esthetic resources and qualities of the Monterey Bay National Marine Sanctuary.

EFFECTIVE DATES: Pursuant to section 304(b) of the Marine Protection, Research, and Sanctuaries Act, Congress and the Governor of the State of California have forty-five days of continuous session of Congress beginning on the day on which this document is published to review the designation and regulations before they take effect. After forty-five days, the designation (and any of its terms not disapproved by Congress through enactment of a joint resolution) and regulations automatically become final and take effect. Further, if the Governor of the State of California certifies within the forty-five-day period to the Secretary of Commerce that the designation or any of its terms is unacceptable, the designation or the unacceptable terms cannot take effect in the area of the Sanctuary lying within the seaward boundary of the State. If the Secretary considers that any disapproval will affect the designation in a manner that the goals and objectives of the Sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. A document announcing the effective date will be published in the **Federal Register.**

ADDRESSES: Copies of the Final Environmental Impact Statement/Management Plan (FEIS/MP) prepared for the designation are available upon request to the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 202/606-4126.

SUPPLEMENTARY INFORMATION:

I. Background

Title III of the Marine Protection, Research, and Sanctuaries Act, as amended (the "Act" or "MPRSA"), 16 U.S.C. 1431 *et seq.*, authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries if, as required by section 303 of the Act (16 U.S.C. 1433), the Secretary finds, in consultation with Congress, a variety of specified officials, and other interested persons, that the designation will fulfill the purposes and policies of the Act (set forth in section 301(b) (16 U.S.C. 1431(b)) and:

(1) The area proposed for designation is of special national significance due to its resource or human-use values;

(2) Existing state and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research and public education;

(3) Designation of the area as a national marine sanctuary will facilitate the coordinated and comprehensive conservation and management of the area; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Before the Secretary may designate an area as a national marine sanctuary, section 303 (16 U.S.C. 1433) requires him or her to make the above described findings and section 304 (16 U.S.C. 1434), setting forth the procedures for designation, requires him or her to publish in the **Federal Register** regulations implementing the designation and to advise the public of the availability of the FEIS/MP.

The authority of the Secretary to designate national marine sanctuaries and administer the other provisions of the Act has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10-15, section 3.01(z), January 11, 1988. The authority to administer the other provisions of the Act has been redelegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83-38, Directive 05-50, September 21, 1983, as amended.

The State of California nominated the Monterey Bay area in 1977, along with nine other offshore marine areas, for consideration for designation as national marine sanctuaries. In response to these nominations, NOAA selected the Channel Islands, the Point Reyes-Farallon Islands, and the Monterey Bay areas for further consideration. In December 1978, NOAA released an issue paper on these three sites, presenting several boundary and regulatory options for each site. Public hearings were held and, based on the responses, NOAA, on August 10, 1979, declared all three sites as active candidates for designation as national marine sanctuaries.

On September 21, 1980, the Channel Islands National Marine Sanctuary was designated and on January 16, 1981, the Point Reyes-Farallon Islands National Marine Sanctuary (later renamed the Gulf of the Farallones National Marine Sanctuary) was designated. On December 14, 1983 (see 48 FR 56253), NOAA removed the Monterey Bay area from the list of active candidates.

On November 7, 1988, Public Law 100-627, which amends and authorizes appropriations for title III of the Act, was signed into law. Section 205(a)(3) of Public Law 100-627 directs that the Secretary of Commerce designate the Monterey Bay National Marine Sanctuary.

On January 6, 1989, NOAA announced (54 FR 448) that the Monterey Bay area had again become an active candidate for designation as a national marine sanctuary. On January 25 and 26, 1989, NOAA sponsored two public scoping meetings in Monterey and Santa Cruz to solicit public comment on the scope and significance of issues involved in designating the Sanctuary. The public response was extremely favorable to proceeding with the evaluation.

On August 3, 1990 NOAA published a proposed Designation Document and proposed implementing regulations and announced the availability of the Draft Environmental Impact Statement/Management Plan (DEIS/MP) (55 FR 31786). Public hearings to receive comments on the proposed designation, proposed regulations, and DEIS/MP were held on September 12, 1990 in Monterey; on September 13, 1990 in Santa Cruz; and on September 14, 1990 in Half Moon Bay, California. All comments received by NOAA in response to the **Federal Register** notice and at the public hearings were considered and, where appropriate, were incorporated. A summary of the significant comments on the proposed regulations and the regulatory elements of the DEIS/MF and NOAA's responses to them follow. The comments are both presented and responded to in greater detail in appendix F of the FEIS/MP.

(1) *Comment:* NOAA should extend its preferred Boundary Alternative 2 both north and south and choose Boundary Alternative 5. Boundary Alternative 5 would protect critical nesting and migratory paths between Monterey and San Mateo County coasts, create a continuous protected management regime between the Gulf of the Farallones National Marine Sanctuary and the proposed Monterey Bay National Marine Sanctuary, provide a greater buffer to sensitive areas such as Año Nuevo and the Fitzgerald Marine Reserve, and protect a greater area of the southern California sea otter range and habitat.

Response: NOAA agrees. The FEIS/MP-preferred Boundary Alternative 5 incorporates a north and south extension of the DEIS/MP-preferred Boundary Alternative 2. Boundary Alternative 5 received the vast majority of support from the public during the public comment period. Boundary Alternative 5 has been chosen as preferred because it integrates important coastal, nearshore and deep-ocean canyon resource zones under one management regime. These zones include the Monterey submarine canyon—the focal point of the Sanctuary; Monterey Bay itself; the Big Sur and San Mateo coastal area, including Año Nuevo and the Fitzgerald Marine Reserve; the adjacent continental shelf, slope and rise; certain highly productive shoreline and intertidal areas, such as Pescadero Marsh and Elkhorn Slough; and the deep ocean environments of the Ascension, Monterey Bay, Big Sur and Partington Canyon complexes.

The boundary expansion excludes a small area of approximately 71 square nautical miles off the north coast of San Mateo County and the City and County of San Francisco. The excluded area encompasses the anticipated discharge plume of the combined sewer overflow component of the City and County of San Francisco's sewage treatment program, the shipping channel providing access to and from San Francisco Bay, and the Golden Gate dredged material disposal site associated with this channel. NOAA has determined that the nature and level of these activities are not appropriate for inclusion within a national marine sanctuary. By excluding this small area from the Sanctuary, NOAA will be able to focus Sanctuary management on the long-term protection of other areas that contain nationally significant resources and qualities and are less heavily impacted by human activity. By excluding the anticipated discharge plume of the combined sewer overflow from the Sanctuary, a buffer zone has been created protecting Sanctuary resources and qualities from the discharge.

The boundary expansion not only encompasses additional resources but also will provide enhanced protection from potential human threats to the north and south. For example, to the north, off of the San Mateo coast, potential new dredged material disposal and oil and gas development activities are under consideration within the Sanctuary boundary. To the south, the pristine area of the Big Sur coast and sea otter habitat would be encompassed and protected by the Sanctuary regime.

(2) *Comment:* Oil and gas development within the Sanctuary should either be prohibited or regulated. Concerns range from impacts of potential toxic wastes released from oil-drilling platforms, reduced tourism due to diminished scenic views, lack of adequate emergency oil response capabilities, to catastrophic blow outs.

Response: NOAA agrees. The regulations prohibit exploring for, developing or producing oil or gas throughout the entire Sanctuary. Such economic development and construction of man-made structures would severely disrupt the natural and aesthetic qualities of the area and be inconsistent with the purposes of the Sanctuary. Although certain man-made structures may be permissible in the future for limited purposes such as research or natural resource protection, the threats from oil and gas activities to Sanctuary resources and qualities warrant prohibition. Threats include not only catastrophic events such as oil spills associated with blow-outs, rupture of pipelines or loading of tankers but also long-term chronic events such as discharge of drilling fluids, cuttings and air emissions. Offshore oil and gas activities have never been conducted in the Monterey Bay area. The area would suffer aesthetic disturbance ranging from the presence of offshore rig structures to building of shore facilities and the necessary transportation of personnel and equipment to and from the offshore rigs.

(3) *Comment:* NOAA should either regulate or prohibit vessel traffic within the Sanctuary area. Specifically:

(1) Traffic should be prohibited unless vessels are bound for a destination within the Sanctuary;

(2) Size of vessels to be regulated or prohibited from the Sanctuary area should be clarified;

(3) Vessels should either be routed offshore and avoid the Sanctuary area completely, or traffic lanes should be developed along the Sanctuary edges; and

(4) Vessels traveling along the Sanctuary boundary should be limited to specific port access routes and shipping lanes established by the United States Coast Guard (USCG) and NOAA.

Response: The Designation Document lists vessel operations as being subject to Sanctuary regulation. However, upon designation only the operation of personal water craft is being regulated as part of the Sanctuary regime (see comment responses 18 and 19). There are no Sanctuary regulations planned at this time for the traffic regulation of other vessels. NOAA is currently working with the USCG, the primary source of vessel traffic regulation, to determine the need for additional measures to ensure protection of Sanctuary resources and qualities from vessel traffic. These consultations aim to determine which resources are most at risk, which vessel traffic practices are most threatening and which regulations or restrictions would be most appropriate to alleviate potential threats, including those, if any, from foreign vessels. Because the disposal of dredged material outside the Sanctuary (see Comment/Response (9) below) will necessitate the transport of these materials through the Sanctuary, NOAA will also work closely with the U.S. Army Corps of Engineers (COE) and U.S. Environmental Protection Agency (EPA) on such transport activities.

These ongoing consultations build upon recent Federal and State legislation (since publication of the DEIS/MP in August 1990) that further protects Sanctuary resources and

qualities from vessel traffic. Specifically, the National Oil Pollution Act of 1990 establishes double hull requirements for tank vessels. Most tank vessels over 5,000 gross tons will be required to have double hulls by 2010, while vessels under 5,000 gross tons will be required to have a double hull or a double containment system by 2015. All newly constructed tankers must contain a double hull (or double containment system if under 5,000 gross tons), while existing vessels are phased out over a period of years. In addition, SB 2040, California's Oil Spill Prevention and Response Act, requires numerous prevention as well as mitigation measures aimed at protecting marine resources from oil spills particularly from tankers.

Vessel traffic separation zones off of San Francisco, implemented by the USCG, also help protect Sanctuary resources and qualities.

If it appears that regulation of vessel traffic as part of the Sanctuary regime may be necessary, NOAA will make such determination in consultation with the USCG, COE, EPA, other affected Federal and State agencies and the International Maritime Organization (IMO) through the USCG. If it is determined that such regulation is necessary, NOAA will develop the necessary regulations, also in coordination with those agencies. Coordination among agencies is intended to focus ongoing efforts to provide adequate protection to the Sanctuary and to emphasize the sensitivity of Sanctuary resources and qualities.

(4) *Comment:* If spills cannot be prevented entirely, a contingency plan should exist for emergency response and cleanup. To facilitate response action, NOAA should work with, and build upon, the efforts of other organizations and agencies already developing plans for the area.

Response: NOAA agrees and will work with, and build upon, the efforts of others. The FEIS/MP identifies existing oil spill contingency plans and efforts in the Monterey Bay area. The Monterey Bay National Marine Sanctuary requires its own contingency plan to ensure that resources are protected during events that threaten the environment. A prototype sanctuary contingency plan is almost complete, and will be tested at the Channel Islands National Marine Sanctuary. Once implementation experience has been gained, the plan will be adapted to other sanctuary sites, including Monterey Bay.

(5) *Comment:* Agreements should be established between various local, regional, State, and Federal agencies to ensure adequate cleanup response.

Response: Under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, the USCG serves as the Federal on-scene coordinator to organize all containment, removal and disposal efforts, and resources during a spill event. If a spill occurs, NOAA will take an active role, to the extent allowable, to participate, coordinate, and actively protect natural resources. During the planning phase, NOAA will work with the existing response mechanism, and will cooperate with local government, industry, organizations and interested individuals to implement a comprehensive contingency plan. A top priority for the Sanctuary Manager will be to meet with those involved with contingency planning to coordinate Sanctuary roles and responsibilities during an emergency response situation.

(6) *Comment:* Depositing or discharging from any location within the boundary of the Sanctuary or from beyond the boundary of the Sanctuary should be prohibited. The regulation of discharges to improve water quality is a significant concern.

Response: The regulations prohibit depositing or discharging most material and other matter from any location within the boundary of the Sanctuary, and from beyond the boundary of the Sanctuary if such matter subsequently enters the Sanctuary and injures resources or qualities.

NOAA has entered into a Memorandum of Agreement (MOA) with the State of California, EPA and the Association of Monterey Bay Area Governments regarding the Sanctuary regulations relating to water quality within State waters within the Sanctuary. With regard to permits, the MOA encompasses (i) National Pollutant Discharge Elimination System (NPDES) permits issued by the State of California under section 13377 of the California Water Code and (ii) Waste Discharge Requirements issued by the State of California under section 13263 of the California Water Code. The MOA specifies how the Sanctuary certification process for existing permits and review process for new or revised (including renewal) permits will be administered within State waters within the Sanctuary in coordination with the State permit program. The MOA also addresses integration and coordination of research and monitoring efforts and the development of a comprehensive water quality protection program for the Sanctuary.

(7) *Comment:* NOAA should clarify in the FEIS/MP what harbors will be excluded and why.

Response: The FEIS/MP includes a specific section on harbors. Pillar Point, Santa Cruz, Moss Landing (except waters, and submerged lands thereunder, of Elkhorn Slough east of the U.S. Highway One bridge to the boundary of the Elkhorn Slough National Estuarine Research Reserve), and Monterey harbors shoreward from their respective International Collision at Sea regulation (Colreg.) demarcation lines are not part of the Sanctuary. NOAA excluded these harbor areas from the Sanctuary because they do not possess resources and qualities warranting Sanctuary protection.

(8) *Comment:* Dredging is essential to maintaining viable working harbors. However, because of potential degradation to the environment, dredging should be prohibited within the Sanctuary. NOAA should clearly state how regulations will affect current dredging activities in the Sanctuary.

Response: Most harbor areas do not lie within the Sanctuary (see Comment/Response (7) above) and therefore are not affected by the Sanctuary dredging prohibitions. In addition, existing activities relating to the maintenance of the harbors have been exempted from Sanctuary regulation. NOAA will work closely with COE and EPA to ensure that Sanctuary resources and qualities are protected, while allowing essential dredging activities to be conducted.

(9) *Comment:* Ocean dumping is a threat to the marine environment and should be entirely prohibited within the Sanctuary area. NOAA should also specify whether Federally authorized dredged material disposal sites SF-12 and SF-14 will remain available for future dredging projects that would otherwise qualify for State and Federal permits.

Response: The Sanctuary regulations prohibit the designation and use of any new ocean dredged material disposal sites within the Sanctuary. The ocean disposal of dredged material is subject to stringent regulation under title I of the MPRSA. NOAA will work closely with COE and EPA to ensure Sanctuary resources and qualities are protected from future dredged material disposal activities.

With regard to the COE dredged material disposal activities: (a) Those activities located within the Sanctuary boundary will continue to be regulated under section 103 of the MPRSA and section 404 of the Clean Water Act. These activities have previously undergone intense public scrutiny and

environmental oversight by EPA. Any proposed new activities at existing sites, *i.e.*, activities not pursuant to and in compliance with an existing permit or approval, will be subject to the review process of § 944.11.

(b) Those activities located at existing sites outside the Sanctuary boundary and at the authorized disposal site that will result from the disposal site study underway on the effective date of Sanctuary designation will be regulated primarily under section 103 of the MPRSA and section 404 of the Clean Water Act and will not be regulated under the Sanctuary regulatory regime. Because of the intensive environmental evaluation of disposal sites and disposal activities by COE and EPA, NOAA does not anticipate that any site designated for disposal of dredged material will impact Sanctuary resources. Therefore, the Sanctuary regulatory prohibition on discharges does not apply to dredged material deposited outside the Sanctuary at existing disposal sites off of the Golden Gate (see appendix IV to the regulations) and will not apply to dredged material deposited outside the Sanctuary at the authorized disposal site that will result from the disposal site study underway on the effective date of Sanctuary designation, provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval. The future disposal site will be located within one of the Long-Term Management Strategy Ocean Study Areas described in appendix IV. When that site is authorized, appendix IV will be updated to incorporate its precise location. COE will coordinate closely with NOAA concerning the management of dredged material disposal activities at the new site.

(10) *Comment:* The regulatory regime for aquaculture and kelp harvesting activities within the Sanctuary remains unclear. Currently, aquaculture development is the responsibility of the California Department of Fish and Game (CDF&G), and because of this, aquaculture operations requiring seabed alterations should be excluded from Sanctuary regulations, and allowed to continue.

Response: Neither kelp harvesting nor aquaculture is being regulated as part of the Sanctuary regime upon designation. Both activities are included in the Designation Document as activities subject to future regulation should be need arise. NOAA will coordinate with the CDF&G, which is responsible for managing kelp harvesting and aquaculture operations.

(11) *Comment:* The Sanctuary should include all waters in the Elkhorn Slough National Estuarine Research Reserve (ESNERR), and this relationship should be formalized. It is important to create a link between the Monterey Bay Sanctuary and the Reserve, even if this means exempting Moss Landing Harbor. An agreement should be developed between NOAA and the Moss Landing Harbor District to ensure the success of the two programs as well as coordinating the management plans and objectives of both sites.

Response: NOAA agrees it is important to coordinate closely with the ESNERR to ensure the success of both sites. The Sanctuary includes all waters, and submerged lands thereunder, in the Slough up to the ESNERR boundary. NOAA agrees that links should be fostered since missions and goals are similar. NOAA supports the exchange of information, research, education and staff expertise between the two programs. Meeting the objectives for both sites, as well as implementing the management plans, can be coordinated through the Sanctuary Advisory Committee and the ESNERR Advisory Committee. NOAA encourages Sanctuary and ESNERR staff to participate actively in this process.

However, regardless of their similarities, the two programs must remain separate because the National Estuarine Reserve Research System Program regulations prohibit the inclusion of reserves within sanctuaries (15 CFR 921.4(c)).

After consultation with the Moss Landing Harbor District, NOAA has determined the most appropriate method of linking the two sites is to exclude from the Sanctuary Moss Landing Harbor east of the Colregs. line and west of the Highway One bridge, and to include the waters of Elkhorn Slough east of the Highway One bridge to the boundary of the ESNERR with overlapping jurisdiction with the Moss Landing Harbor District over the Moss Landing Harbor.

(12) *Comment:* There is a need for landward protection and controls on nearshore development. Adequate protection of the ocean environment must include management of the adjacent coastal and upland zones. NOAA should extend its jurisdiction to include beaches, dunes, uplands, and wetland habitats adjacent to the proposed Sanctuary.

Response: NOAA agrees that protection and management of the land portion of the coastal zone is necessary for adequate protection of the ocean environment. NOAA will coordinate with existing coastal management authorities, such as COE, EPA, the California Coastal Commission, State Water Resources and Regional Water Quality Control Boards and State Lands Commission, regarding potential land- and water-based threats and impacts to the Sanctuary. The physical boundary of this sanctuary encompasses ocean and coastal waters up to the mean high-water line. NOAA intends to protect the Sanctuary from the impacts of coastal development via its regulation of discharges or deposits from beyond the boundary of the Sanctuary that subsequently enter the Sanctuary and injure a Sanctuary resource or quality.

(13) *Comment:* NOAA should clarify whether it will limit the amount of silt in the sand used for beach nourishment. Even though the sand may be placed above the high tide mark, erosion may move silt into the Bay.

Response: NOAA will work with COE, EPA and other appropriate authorities to determine the impacts of beach nourishment programs. If it should appear that a particular project would injure Sanctuary resources or qualities, NOAA may impose terms and conditions pursuant to 15 CFR 944.10 and 944.11.

(14) *Comment:* Protection of historical and cultural resources within the Sanctuary is a significant concern. NOAA should prohibit moving, injuring, or possessing historical resources within the Sanctuary. However, Sanctuary regulations should not apply to activities permitted by the State within State waters under the Shipwreck and Historic Maritime Resources Program.

Response: NOAA agrees that it is necessary to protect and manage historical and cultural resources within the Sanctuary boundary. The regulations include a prohibition on moving, removing, possessing or injuring, or attempting to move, remove or injure these resources.

The Abandoned Shipwreck Act of 1987 gives States the title to certain abandoned shipwrecks in State waters. Under the MPRSA, the Sanctuaries and Reserves Division, NOAA, has managerial responsibilities for abandoned shipwrecks within National Marine Sanctuaries, including those located in State waters, for the purpose of protecting them. NOAA will coordinate with State agencies to ensure that historical and cultural resources, as well as living marine resources, within the Sanctuary are protected.

(15) *Comment:* The prohibition on the taking of marine mammals and seabirds within the Sanctuary is redundant with the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA) and the Migratory Bird Treaty Act (MBTA).

Response: While marine mammals, migratory seabirds and endangered species are protected under these acts, NOAA believes that the higher penalties afforded under the MPRSA will provide a stronger deterrent.

The MBTA sets maximum criminal fines at either $500 or $2,000 per violation, depending on the violation. The MMPA sets maximum civil penalties at $10,000 and maximum criminal fines at $20,000. The ESA sets maximum civil penalties at $500, $12,000 or $25,000 per violation, depending on the violation; maximum criminal fines are set at $50,000. (All three statutes also provide for imprisonment for criminal violations.)

The MPRSA (under section 307) allows NOAA to assess civil penalties as high as $50,000 for each violation. In addition, monies collected under the MPRSA are available to enhance the National Marine Sanctuary Program.

(16) *Comment:* Many commenters stated fishing should not be prohibited within the Sanctuary. Instead, fisheries resource regulation should remain under the jurisdiction of the State of California, the National Marine Fisheries Service (NMFS) and the Pacific Fisheries Management Council (PFMC). Other commenters requested NOAA to regulate harmful fishing activities such as gill-netting and shark finning. NOAA's position should be clarified in the FEIS/MP.

Response: Fishing is not being regulated as part of the Sanctuary regime and is not included in the Designation Document as an activity subject to future regulation. Fisheries management will remain under the existing jurisdiction of the State of California, NMFS and PFMC. Sanctuary prohibitions that may indirectly affect fishing activities have been written to explicitly exempt aquaculture, kelp harvesting and traditional fishing activities.

Existing fishery management agencies are primarily concerned with the regulation and management of fish stocks for a healthy fishery. In contrast, the sanctuary program has a different and broader mandate under the MPRSA to protect all sanctuary resources on an ecosystem wide basis. Thus, while fishery agencies may be concerned about certain fishing efforts and techniques in relation to fish stock abundance and distribution the Sanctuary program is also concerned about the potential incidental impacts of specific fishery technique on all sanctuary resources including benthic habitats or marine mammals as well as the role the target species plays in the health of the ecosystem. In the case of the Monterey Bay area fish resources are already extensively managed by existing authorities.

Should problems arise in the future NOAA would consult with the State, PFMC and NMFS as well as the industry to determine an appropriate course of action.

(17) *Comment:* Many commenters requested NOAA to prohibit motorized aircraft from flying over the Sanctuary. Other commenters stated Federal Aviation Regulations (FARs) already adequately protect Sanctuary resources from aircraft impacts, making additional regulations unnecessary. In addition, new regulations may hinder cooperative emergency response plans, routine helicopter operations, and rescue attempts.

Response: The regulations prohibit flying motorized aircraft at less than 1,000 feet above the Sanctuary within four zones. Generally, these zones are from Point Santa Cruz north, Carmel Bay south (overlapping the California Sea Otter Game Refuge), and around Moss Landing and Elkhorn Slough (see appendix II for specific zones).

NOAA recognizes that overflights are regulated under the FARs. Unlike the FARs, however, Sanctuary overflight regulations are intended to protect the living marine resources of the Sanctuary from disturbance by low-flying aircraft and in this case require flying at higher altitudes than normally required by the FARs. The prohibition does not apply to overflights that:

(1) Are necessary to respond to an emergency threatening life, property or the environment;

(2) Are necessary for valid law enforcement purposes; or

(3) Conducted by the Department of Defense and specifically exempted by NOAA after consultation with that Department.

(18) *Comment:* A more precise definition of "thrill craft" is needed.

Response: NOAA has changed the term "thrill craft" in the proposed regulations to "motorized personal water craft" (MPWC) in the final regulations and revised the definition to include vessels up to fifteen feet. This category of vessel was selected because of the threat posed to Sanctuary resources by their operation.

(19) *Comment:* Thrill craft should be prohibited throughout the Sanctuary. The danger these craft pose to the biological resources of the area, such as marine mammals and kelp beds, as well as other users of the area such as divers and surfers necessitates a prohibition or regulation of personal water craft. In addition, MPWC should be prohibited in "areas of biological significance," including those with high human-use levels such as beaches; diving, swimming and surfing areas; state parks; and reserves. Besides the potential danger to recreationists, MPWC disrupt low-intensity area uses. In addition, many commenters found the operation of MPWC to be incompatible with the existence of the Sanctuary for reasons unquantifiable.

Response: NOAA recognizes the threat posed by MPWC operation to the conservational, recreational, ecological and esthetic resources and qualities of the Sanctuary. As a result, the regulations have been revised to prohibit the operation of MPWC within the Sanctuary, except within four zones and access routes (15 CFR 944.5(a)(8)). Generally, these areas are located off the harbors of Pillar Point, Santa Cruz, Moss Landing, and Monterey. They were chosen to avoid injury to kelp beds, sea otters and other marine mammals, seabirds and other marine life and to minimize conflicts with other recreational users and because these areas are accessible from launch areas and encompass areas traditionally used by MPWC. Restriction of MPWC operation to these areas of the Sanctuary will also reduce esthetic disturbance.

A prohibition of MPWC operation in the Sanctuary except in the four areas is designed to increase resource protection while still allowing opportunities for this form of recreation in the Sanctuary. There has been at least one reported collision in the Monterey Bay area between a jet ski and sea otters. Collisions with and other disturbance of marine mammals elsewhere from MPWC have also occurred. The small size, maneuverability and high speed of these craft is what causes these craft to pose a threat to resources. Resources such as sea otters and seabirds are either unable to avoid these craft or are frequently alarmed enough to significantly modify their behavior such as cessation of feeding or abandonment of young. Also other, more benign, uses of the Sanctuary such as sailing, kayaking, surfing and diving are interfered with during the operation of MPWC. Further, as indicated above, restriction of operation of MPWC to the specified zones and access routes will reduce esthetic disturbance. The zones and access routes where the MPWC can still operate allow the MPWC operators to continue this form of recreation albeit in areas away from those other forms of recreation and beyond those areas inhabited by marine mammals and seabirds and other sensitive marine life. By establishing defined MPWC

operating areas, this approach provides for more effective enforcement to protect sensitive marine life and for less confusion to MPWC operators and other recreationists than would the establishment of minimum approach distances governing approaches by MPWC to sensitive marine life or other recreational uses. NOAA intends to install buoys to mark the boundaries of the MPWC operating areas.

(20) *Comment:* NOAA should choose DEIS/MP management plan alternative 2, which proposes that full-time staffing be implemented immediately after designation. The Sanctuary is important, and the commitment of a full-time and immediate staff is necessary to initiate Sanctuary programs.

Response: NOAA's preferred management plan is a variation of alternative 2. This plan would establish the Sanctuary headquarters soon after designation and immediately provide full-time staffing of approximately five personnel to ensure that the Sanctuary program is implemented quickly and efficiently. NOAA's preferred management plan will build upon public support from the designation process and will increase opportunities for interpretation and research programs soon after designation. Additional staff and satellite facilities will be phased in after designation.

(21) *Comment:* NOAA should clearly identify how the Sanctuary Advisory Committee (SAC) will be set up, who will be on it, and how it will function.

Response: One of the Sanctuary Manager's first priorities will be to create the SAC according to the process and guidelines of the Federal Advisory Committee Act (FACA). See appendix A of the FEIS/MP. It is NOAA's goal to have wide representation on the SAC, and the Manager will consider the comments of all interested parties. NOAA will draft a charter, make membership recommendations, which will include appropriate governmental and non-governmental representatives, to the Secretary of Commerce, and coordinate with the General Services Administration's review of the SAC formation and accomplishments. The SAC will function strictly in an advisory capacity. Once the Sanctuary Manger is selected, terms of office, committee composition and function will be defined in accordance with FACA.

(22) *Comment:* NOAA should clarify the relationship between Department of Defense (DOD) national defense exemptions from prohibited activities and oil and gas activities.

Response: The Minerals Management Service (MMS) in the Department of the Interior (DOI) is responsible for hydrocarbon development lease sales in Federal waters, not DOD. While the Sanctuary regulations allow DOD to conduct certain prohibited activities, they do not allow DOD to conduct any oil, gas or mineral activity in the Sanctuary.

II. Designation Document

Section 304(a)(4) of the Act requires that the terms of designation set forth the geographic area included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. This section also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus the terms of designation serve as a constitution for the Sanctuary.

The Designation Document for the Monterey Bay National Marine Sanctuary follows:

Designation Document for the Monterey Bay National Marine Sanctuary

Under the authority of title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (the "Act"), 16 U.S.C. 1431 *et seq.*, Monterey Bay and its surrounding waters offshore central California, and the submerged lands under Monterey Bay and its surrounding waters, as described in Article II, are hereby designated as the Monterey Bay National Marine Sanctuary for the purposes of protecting and managing the conservation, ecological, recreational, research, educational, historical and esthetic resources and qualities of the area.

Article I. Effect of Designation

The Act authorizes the issuance of such final regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational and esthetic resources and qualities of the Monterey Bay National Marine Sanctuary. Section 1 of Article IV of this Designation Document lists activities of the types that either are to be regulated on the effective date of designation or may have to be regulated at some later date in order to protect Sanctuary resources and qualities. Listing does not necessarily mean that a type of activity will be regulated; however, if a type of activity is not listed it may not be regulated, except on an emergency basis, unless section 1 of Article IV is amended to include the type of activity by the same procedures by which the original designation was made.

Article II. Description of the Area

The Monterey Bay National Marine Sanctuary (the "Sanctuary") boundary encompass a total of approximately 4,024 square nautical miles (approximately 13,800 square kilometers) of coastal and ocean waters, and the submerged lands thereunder, in and surrounding Monterey Bay, off the central coast of California. The northern terminus of the boundary is located along the southern boundary of the Gulf of Farallones National Marine Sanctuary and runs westward to approximately 123°07'W. The boundary then extends south in an arc which generally follows the 500 fathom isobath. At approximately 37°03'N, the boundary arcs south to 122°25'W, 36°10'N, due west of Partington Point. The boundary again follows the 500 fathom isobath south to 121°41'W, 35°33'N, due west of Cambria. The boundary then extends shoreward towards the mean high-water line. The landward boundary is defined by the mean high-water line between the Gulf of Farallones National Marine Sanctuary and Cambria, exclusive of a small area off the north coast of San Mateo County and the City and County of San Francisco between Point Bonita and Point San Pedro. Pillar Point, Santa Cruz, Moss Landing, and Monterey harbors are all excluded from the Sanctuary boundary shoreward from their respective International Collision at Sea regulation (Colreg.) demarcation lines except for Moss Landing Harbor, where all of the Elkhorn Slough east of the Highway One bridge is included within the Sanctuary boundary. Appendix I to this Designation Document sets forth the precise Sanctuary boundary.

Article III. Characteristics of the Area That Give It Particular Value

The Monterey Bay area is characterized by a combination of oceanic conditions and undersea topography that provides for a highly productive ecosystem and a wide variety of marine habitat. The area is characterized by a narrow continental shelf fringed by a variety of coastal types. The Monterey Submarine Canyon is unique in its size, configuration, and proximity to shore. This canyon system provides habitat for pelagic communities and, along with other distinct bathymetric features, may modify currents and act to enrich local waters

through strong seasonal upwelling. Monterey Bay itself is a rare geological feature, as it is one of the few large embayments along the Pacific coast.

The Monterey Bay area has a highly diverse floral and faunal component. Algal diversity is extremely high and the concentrations of pinnipeds, whales, otters, and some seabird species is outstanding. The fish stocks, particularly in Monterey Bay, are abundant and the variety of crustaceans and other invertebrates is high.

In addition there are many direct and indirect human uses of the area. The most important economic activity directly dependent on the resources is commercial fishing, which has played an important role in the history of Monterey Bay and continues to be of great economic value.

The diverse resources of the Monterey Bay area are enjoyed by the residents of this area as well as the numerous visitors. The population of Monterey and Santa Cruz counties is rapidly expanding and is based in large part on the attractiveness of the area's natural beauty. The high water quality and the resulting variety of biota and their proximity to shore is one of the prime reasons for the international renown of the area as a prime tourist location. The quality and abundance of the natural resources has attracted man from the earliest prehistoric times to the present and as a result the area contains significant historical, *e.g.*, archaeological and paleontological, resources, such as Costanoan Indian midden deposits, aboriginal remains and sunken ships and aircraft.

The biological and physical characteristics of the Monterey Bay area combine to provide outstanding opportunities for scientific research on many aspects of marine ecosystems. The diverse habitats are readily accessible to researchers. Thirteen major research and education facilities are found within the Monterey Bay area. These institutions are exceptional resources with a long history of research and large databases possessing a considerable amount of baseline information on the Bay and its resources. Extensive marine and coastal education and interpretive efforts complement Monterey Bay's many research activities. For example, the Monterey Bay Aquarium has attracted millions of visitors who have experienced the interpretive exhibits of the marine environment. Point Lobos Ecological Reserve, Elkhorn Slough National Estuarine Research Reserve, Long Marine Laboratory and Año Nuevo State Reserve all have excellent docent programs serving the public, and marine related programs for school groups and teachers.

The Final Environmental Impact Statement/Management Plan provides more detail on the characteristics of the Monterey Bay area that give it particular value.

Article IV. Scope of Regulations

Section 1. Activities subject to regulation

The following activities are subject to regulation, including prohibition, to the extent necessary and reasonable to ensure the protection and management of the conservation, ecological, recreational, research, educational, historical and esthetic resources and qualities of the area:

a. Exploring for, developing or producing oil, gas or minerals (*e.g.*, clay, stone, sand, metalliferous ores, gravel, non-metalliferous ores or any other solid material or other matter of commercial value) within the Sanctuary;

b. Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter, except dredged material deposited at disposal sites authorized prior to the effective date of Sanctuary designation, provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval existing on the effective date of Sanctuary designation;

c. Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter, except dredged material deposited at the authorized disposal sites described in appendix II of this Designation Document, provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval;

d. Taking, removing, moving, catching, collecting, harvesting, feeding, injuring, destroying or causing the loss of, or attempting to take, remove, move, catch, collect, harvest, feed, injure, destroy or cause the loss of, a marine mammal, sea turtle, seabird, historical resource or other Sanctuary resource;

e. Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary;

f. Possessing within the Sanctuary a Sanctuary resource or any other resource, regardless of where taken, removed, moved, caught, collected or harvested, that, if it had been found with the Sanctuary, would be a Sanctuary resource;

g. Flying a motorized aircraft above the Sanctuary;

h. Operating a vessel (*i.e.*, water craft of any description) in the Sanctuary;

i. Aquaculture or kelp harvesting within the Sanctuary; and

j. Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

Section 2. Emergencies

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury, any and all activities, including those not listed in section 1 of this Article, are subject to immediate temporary regulation, including prohibition.

Article V. Effect on Leases, Permits, Licenses and Rights

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. 1434(c)(1), no valid lease, permit, license, approval or other authorization issued by any Federal, State or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce or designee as a result of this designation or as a result of any Sanctuary regulation if such authorization or right was in existence on the effective date of this designation. The Secretary of Commerce or designee, however, may regulate the exercise (including, but not limited to, the imposition of terms and conditions) of such authorization or right consistent with the purposes for which the Sanctuary is designated.

In no event may the Secretary or designee issue a permit authorizing, or otherwise approve: (1) The exploration for, development of or production of oil, gas or minerals within the Sanctuary; (2) the discharge of primary-treated sewage (except for regulation, pursuant to section 304(c)(1) of the Act, of the exercise of valid authorizations in existence on the effective date of Sanctuary designation and issued by other authorities of competent jurisdiction); or (3) the disposal of dredged material within the Sanctuary other than at sites authorized by the U.S. Environmental Protection Agency (in consultation with the U.S. Army Corps of Engineers) prior to the effective date of designation. Any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.

Article VI. Alteration of this Designation

The terms of designation, as defined under section 304(a) of the Act, may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, State and local agencies, review by the appropriate Congressional committees and Governor of the State of California, and approval by the Secretary of Commerce or designee.

Appendix I. Monterey Bay National Marine Sanctuary Boundary Coordinates

(Appendix based on North American Datum of 1983.)

APPROXIMATELY 4,024 SQUARE NAUTICAL MILES

Point	Latitude	Longitude
1	37 52 56.09055	122 37 39.12564
2	37 39 59.06176	122 45 3.79307
3	37 36 58.39164	122 46 9.73871
4	37 34 17.30224	122 48 14.38141
5	37 31 47.55649	122 51 35.56769
6	37 30 34.11030	122 54 22.12170
7	37 29 39.05866	123 00 27.70792
8	37 30 29.47603	123 05 46.22767
9	37 31 17.66045	123 07 47.63363
10	37 27 10.93594	123 08 24.32210
11	37 20 35.37491	123 06 54.12763
12	37 13 50.21605	123 06 15.59600
13	37 07 48.76810	123 01 43.10984
14	37 03 46.60999	122 54 45.39513
15	37 02 06.30955	122 46 35.02125
16	36 55 17.56782	122 48 21.41121
17	36 48 22.74244	122 48 56.29007
18	36 41 30.91516	122 48 19.40739
19	36 34 45.76070	122 46 26.96722
20	36 28 24.18076	122 43 32.43527
21	36 22 20.70312	122 39 26.42026
22	36 16 43.93589	122 34 26.77255
23	36 11 44.53838	122 28 37.16141
24	36 07 26.88988	122 21 54.97541
25	36 04 07.08898	122 14 39.75924
26	36 01 28.22233	122 07 00.19068
27	35 59 45.46381	121 58 56.36169
28	35 58 59.12170	121 50 26.47931
29	35 58 53.63866	121 45 22.82363
30	35 55 45.60623	121 42 40.28540
31	35 50 15.64256	121 43 00.20193
32	35 43 14.26690	121 42 43.79121
33	35 35 41.88635	121 41 25.07414
34	35 33 11.75999	121 37 49.74192
35	35 33 17.45669	121 05 52.69881
36	37 35 39.73189	122 31 14.96033
37	37 36 49.21739	122 37 00.22577
38	37 46 00.99963	122 39 00.40466
39	37 49 05.69080	122 31 46.30542

Appendix II. Dredged Material Disposal Sites Adjacent to the Monterey Bay National Marine Sanctuary

(Appendix based on North American Datum of 1983.)

As of the effective date of Sanctuary designation, the U.S. Army Corps of Engineers operates the following dredged material disposal sites adjacent to the Sanctuary off of the Golden Gate:

Point	Latitude	Longitude
1	37 45.875	122 34.140
2	37 44.978	122 37.369
3	37 44.491	122 37.159
4	37 45.406	122 33.889
5	37 45.875	122 34.140

In addition, the U.S. Environmental Protection Agency, as of the effective date of Sanctuary designation, is (in consultation with the U.S. Army Corps of Engineers) in the process of establishing a dredged material disposal site outside the northern boundary of the Monterey Bay National Marine Sanctuary. When that disposal site is authorized, this appendix will be updated to incorporate its precise location. The site will be located outside the Monterey Bay National Marine Sanctuary and any other existing national marine sanctuary and within one of the following Long-Term Management Strategy ocean study areas:

Study Area 3

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary of that area:

Point	Latitude	Longitude
1	37 25.850	123 21.926
2	37 25.793	123 21.928
3	37 25.733	123 21.919
4	37 25.688	123 21.910
5	37 25.630	123 21.896
6	37 25.566	123 21.875
7	37 25.513	123 21.859
8	37 25.451	123 21.820
9	37 25.394	123 21.779
10	37 25.334	123 21.698
11	37 25.268	123 21.595
12	37 25.180	123 21.456
13	37 25.139	123 21.359
14	37 25.057	123 21.249
15	37 24.992	123 21.167
16	37 24.878	123 21.093
17	37 24.765	123 21.034
18	37 24.700	123 20.975
19	37 24.602	123 20.872
20	37 24.521	123 20.783
21	37 24.449	123 20.682
22	37 24.391	123 20.598
23	37 24.342	123 20.503
24	37 24.298	123 20.421
25	37 24.245	123 20.340
26	37 24.193	123 20.238
27	37 24.147	123 20.134
28	37 24.103	123 20.031
29	37 24.062	123 19.934
30	37 24.017	123 19.839
31	37 23.952	123 19.662
32	37 23.906	123 19.517
33	37 23.855	123 19.396
34	37 23.799	123 19.276
35	37 23.728	123 19.125
36	37 23.644	123 18.968
37	37 23.562	123 18.836
38	37 23.482	123 18.707
39	37 23.367	123 18.556
40	37 23.254	123 18.437
41	37 23.123	123 18.319
42	37 22.977	123 18.231
43	37 22.820	123 18.142
44	37 22.685	123 18.113
45	37 22.555	123 18.083
46	37 22.392	123 18.068
47	37 22.229	123 18.054
48	37 22.051	123 18.039
49	37 21.868	123 18.023
50	37 21.697	123 18.023
51	37 21.547	123 18.010
52	37 21.401	123 17.995
53	37 21.173	123 17.980
54	37 20.978	123 17.965
55	37 20.767	123 17.950
56	37 20.588	123 17.936
57	37 20.458	123 17.921
58	37 20.285	123 17.894
59	37 20.179	123 17.876
60	37 20.084	123 17.876
61	37 19.986	123 17.882
62	37 19.877	123 17.894
63	37 19.792	123 17.921
64	37 19.694	123 17.950
65	37 19.592	123 17.999
66	37 19.489	123 18.056
67	37 19.352	123 18.134
68	37 19.223	123 18.231
69	37 19.126	123 18.305
70	37 19.028	123 18.378
71	37 18.914	123 18.482
72	37 18.833	123 18.556
73	37 18.719	123 18.656
74	37 18.615	123 18.764
75	37 18.492	123 18.880
76	37 18.378	123 18.998
77	37 18.265	123 19.101
78	37 18.151	123 19.190
79	37 18.070	123 19.264
80	37 18.004	123 19.328
81	37 17.951	123 19.399
82	37 17.884	123 19.454
83	37 17.805	123 19.525
84	37 17.735	123 19.567
85	37 17.641	123 19.600
86	37 17.565	123 19.617
87	37 17.489	123 19.622
88	37 17.401	123 19.617
89	37 17.352	123 19.606
90	37 17.305	123 19.582
91	37 17.272	123 19.558
92	37 17.248	123 19.514
93	37 25.802	123 0.617
94	37 25.850	123 21.926

The portion of the area described by the above points that lies within the Monterey Bay National Marine Sanctuary as described in Appendix I is excluded.

Study Area 4

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary of that area:

Point	Latitude	Longitude
1	37 17.496	123 7.528
2	37 17.499	123 14.071
3	37 17.363	123 14.265
4	37 17.279	123 14.412
5	37 17.176	123 14.537
6	37 17.047	123 14.651
7	37 16.949	123 14.754
8	37 16.814	123 14.879
9	37 16.664	123 15.026

Point	Latitude	Longitude
10	37 16.568	123 15.118
11	37 16.451	123 15.219
12	37 16.348	123 15.308
13	37 16.206	123 15.383
14	37 16.090	123 15.446
15	37 15.999	123 15.484
16	37 15.818	123 15.547
17	37 15.637	123 15.585
18	37 15.482	123 15.585
19	37 15.314	123 15.598
20	37 15.184	123 15.610
21	37 15.055	123 15.635
22	37 14.912	123 15.673
23	37 14.783	123 15.698
24	37 14.667	123 15.712
25	37 14.551	123 15.724
26	37 14.421	123 15.749
27	37 14.292	123 15.799
28	37 14.188	123 15.850
29	37 14.072	123 15.887
30	37 13.956	123 15.938
31	37 13.801	123 16.001
32	37 13.672	123 16.064
33	37 13.568	123 16.102
34	37 13.451	123 16.178
35	37 13.322	123 16.229
36	37 13.193	123 16.266
37	37 13.063	123 16.279
38	37 12.973	123 16.304
39	37 12.830	123 16.330
40	37 12.650	123 16.355
41	37 12.456	123 16.367
42	37 12.275	123 16.367
43	37 12.122	123 16.349
44	37 11.987	123 16.312
45	37 11.853	123 16.269
46	37 11.754	123 16.216
47	37 11.631	123 16.142
48	37 11.537	123 16.067
49	37 11.473	123 15.994
50	37 11.420	123 15.930
51	37 11.380	123 15.872
52	37 11.344	123 15.825
53	37 11.279	123 15.698
54	37 11.227	123 15.547
55	37 11.188	123 15.421
56	37 11.150	123 15.269
57	37 11.116	123 15.124
58	37 11.098	123 14.980
59	37 11.085	123 14.828
60	37 11.072	123 14.626
61	37 11.059	123 14.437
62	37 11.052	123 14.359
63	37 11.033	123 14.259
64	37 11.004	123 14.158
65	37 10.978	123 14.078
66	37 10.942	123 13.978
67	37 10.890	123 13.877
68	37 10.847	123 13.802
69	37 10.804	123 13.727
70	37 10.712	123 13.614
71	37 10.648	123 13.531
72	37 10.564	123 13.439
73	37 10.508	123 13.370
74	37 10.502	123 7.508
75	37 17.496	123 7.528

Study Area 5

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary of that area:

Point	Latitude	Longitude
1	37 43.444	123 23.515
2	37 43.436	123 30.053
3	37 34.568	123 30.053
4	37 34.574	123 20.234
5	37 34.661	123 19.507
6	37 34.725	123 19.376
7	37 34.725	123 19.376
8	37 35.031	123 19.452
9	37 35.935	123 19.081
10	37 36.769	123 18.542
11	37 37.698	123 17.788
12	37 37.765	123 17.743
13	37 37.789	123 17.827
14	37 37.838	123 17.911
15	37 37.887	123 17.996
16	37 37.937	123 18.105
17	37 37.998	123 18.202
18	37 38.085	123 18.359
19	37 38.183	123 18.529
20	37 38.270	123 18.674
21	37 38.356	123 18.832
22	37 38.455	123 18.977
23	37 38.554	123 19.134
24	37 38.640	123 19.255
25	37 38.726	123 19.364
26	37 38.825	123 19.497
27	37 38.911	123 19.606
28	37 38.985	123 19.703
29	37 39.071	123 19.811
30	37 39.195	123 19.961
31	37 39.318	123 20.138
32	37 39.404	123 20.272
33	37 39.478	123 20.356
34	37 39.565	123 20.465
35	37 39.664	123 20.574
36	37 39.762	123 20.695
37	37 39.840	123 20.791
38	37 39.992	123 20.889
39	37 39.997	123 20.986
40	37 40.095	123 21.095
41	37 40.181	123 21.192
42	37 40.268	123 21.288
43	37 40.330	123 21.373
44	37 40.416	123 21.470
45	37 40.516	123 21.563
46	37 40.616	123 21.667
47	37 40.736	123 21.785
48	37 40.860	123 21.906
49	37 40.983	123 22.027
50	37 41.107	123 22.148
51	37 41.230	123 22.269
52	37 41.378	123 22.390
53	37 41.515	123 22.499
54	37 41.669	123 22.607
55	37 41.803	123 22.704
56	37 41.920	123 22.768
57	37 42.036	123 22.825
58	37 42.174	123 22.889
59	37 42.295	123 22.957
60	37 42.421	123 23.012
61	37 42.583	123 23.105
62	37 42.704	123 23.165
63	37 42.826	123 23.225
64	37 43.005	123 23.310
65	37 43.088	123 23.358
66	37 43.205	123 23.410
67	37 43.327	123 23.467
68	37 43.376	123 23.482
69	37 43.444	123 23.515

End of Designation Document

III. Summary of Final Management Plan

The FEIS/MP for the Monterey Bay National Marine Sanctuary sets forth the Sanctuary's location and provides details on the most important resources and uses of the Sanctuary. The FEIS/MP describes the resource protection, research, education and interpretive programs, and details the specific activities to be taken in each program. The FEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities. The goals and objectives for the Sanctuary are:

Resource Protection

The highest priority management goal is to protect the marine environment, resources and qualities of the Sanctuary. The specific objectives of protection efforts are to:

(1) Coordinate policies and procedures among agencies sharing responsibility for protection and management of resources;

(2) Encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (*e.g.*, monitoring and emergency-response programs);

(3) Develop an effective and coordinated program for the enforcement of Sanctuary regulations;

(4) Enforce Sanctuary regulations in addition to other regulations already in place;

(5) Promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives, through an educational/interpretive program stressing resource sensitivity and wise use;

(6) Ensure that the water quality of Monterey Bay is maintained at a level consonant with Sanctuary designation;

(7) Establish mechanisms for coordination among all the agencies participating in Sanctuary management;

(8) Ensure that the appropriate management agencies incorporates research results and scientific data into effective resource protection strategies; and

(9) Reduce threats to Sanctuary resources and qualities.

Research Program

Effective management of the Sanctuary requires the initiation of a Sanctuary research program. The purpose of Sanctuary research activities is to improve understanding of the Monterey Bay area environment, resources and qualities, and to resolve specific management problems, some of which may involve resources common to both the Bay and nearby State parks, refuges, and reserves. Research results will be used in interpretive programs for visitors and others interested in the Sanctuary, as well as for protection and management of resources and qualities.

Specific objectives for the research program are to:

(1) Establish a framework and procedures for administering research to ensure that research projects are

responsive to management concerns and that results contribute to improve management of the Sanctuary;

(2) Incorporate research results into the interpretive/education program in a format useful for the general public;

(3) Focus and coordinate data collection efforts on the physical, chemical, geological and biological oceanography of the Sanctuary;

(4) Encourage studies that integrate research from the variety of coastal habitats with nearshore and open ocean processes;

(5) Initiate a monitoring program to assess environmental changes as they occur due to natural and human processes;

(6) Identify the range of effects on the environment that would result from predicted changes in human activity or natural phenomena; and

(7) Encourage information exchange among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management.

Education Program

The goal for education programs is to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources and qualities.

The management objectives designed to meet this goal are to:

(1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources and qualities wisely to ensure their long-term viability;

(2) Broaden support for the Sanctuary management by offering programs suited to visitors with a range of diverse interests;

(3) Provide for public involvement by encouraging feedback on the effectiveness of education programs, collaboration with Sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and

(4) Collaborate with other organizations to provide educational services complementary to the Sanctuary program.

Visitor Use

The Sanctuary goal for visitor management is to facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives are to:

(1) Provide relevant information about Sanctuary regulations, use policies and standards;

(2) Collaborate with public and private organizations in promoting compatible uses of the Sanctuary;

(3) Encourage the public who use the Sanctuary to respect sensitive Sanctuary resources and qualities and

(4) Monitor and assess the levels of use to identify and control potential degradation of resources and qualities and minimize potential user conflicts.

The Sanctuary will be managed from a headquarters located in the Monterey Bay region.

IV. Summary of Regulations

The regulations set forth the boundary of the Sanctuary; prohibit a relatively narrow range of activities; establish procedures for applying for national marine sanctuary permits to conduct prohibited activities; establish certification procedures for existing leases, licenses, permits, approvals, other authorizations or rights authorizing the conduct of a prohibited activity; establish notification and review procedures for applications for leases, licenses, permits, approvals or other authorizations to conduct a prohibited activity; set forth the maximum per-day penalties for violating Sanctuary regulations; and establish procedures for administrative appeals.

Specifically, the regulations add a new part 944 to title 15, Code of Federal Regulations.

Section 944.1 sets forth as the purpose of the regulations to implement the designation of the Monterey Bay National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical and esthetic resources and qualities of the area.

Section 944.2 and appendix I following § 944.12 set forth the boundary of the Sanctuary.

Section 944.3 defines various terms used in the regulations. Other terms appearing in the regulations are defined at 15 CFR 922.2 and/or in the MPRSA.

Section 944.4 allows all activities except those prohibited by § 944.5 to be undertaken subject to the requirements of any emergency regulation promulgated pursuant to § 944.6, subject to all prohibitions, restrictions and conditions validly imposed by any other authority of competent jurisdiction, and subject to the liability established by section 312 of the Act.

Section 944.5 prohibits a variety of activities and thus makes it unlawful for any person to conduct them or cause them to be conducted. However, any of the prohibited activities except for: (1) The exploration for, development of or production of oil, gas or minerals in the Sanctuary, (2) the discharge of primary-treated sewage within the Sanctuary (except for certification, pursuant to § 944.10, of valid authorizations in existence on the effective date of Sanctuary designation and issued by other authorities of competent jurisdiction), or (3) the disposal of dredged material within the Sanctuary other than at sites authorized by EPA (in consultation with COE) prior to the effective date of designation could be conducted lawfully if one of the following four situations applies:

(1) The activity is necessary to respond to an emergency threatening life, property or the environment; authorized by a National Marine Sanctuary permit issued under section 944.9; or authorized by a Special Use permit issued under Section 310 of the Act.

(2) With regard to Department of Defense activities: The activity is an existing military activity; or the activity is a new activity and exempted by the Director of the Office of Ocean and Coastal Resource Management or designee after consultation between the Director or designee and the Department of Defense. The regulations require that the Department of Defense carry out its activities in a manner that avoids to the maximum extent practicable any adverse impact on Sanctuary resources and qualities and that it, in the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by it, promptly coordinate with the Director or designee for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality. The final regulation regarding Department of Defense activities differs from the proposed regulation principally by:

(i) Making all military activities (as specifically identified in FEIS/MP) currently being carried out by the Department of Defense exempt from the Sanctuary regulatory prohibitions, not just those determined necessary for the national defense;

(ii) Adding the requirement to avoid to the maximum extent practicable any adverse impacts; and

(iii) Adding the requirement of prompt coordination, in the event of an

untoward incident, for the purpose of taking appropriate actions.

(3) The activity is authorized by a certification by the Director of the Office of Ocean and Coastal Resource Management or designee under § 944.10 of a valid lease, permit, license or other authorization issued by any Federal, State or local authority of competent jurisdiction and in existence on (or conducted pursuant to any valid right of subsistence use or access in existence on) the effective date of this designation, subject to complying with any terms and conditions imposed by the Director or designee as he or she deems necessary to achieve the purposes for which the Sanctuary was designated.

(4) The activity is authorized by a valid lease, permit, license, approval or other authorization issued by any Federal, State or local authority of competent jurisdiction after the effective date of Sanctuary designation, provided that the Director of the Office of Ocean and Coastal Resource Management or designee was notified of the application in accordance with the requirements of § 944.11, the applicant complies with the requirements of § 944.11, the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities.

The first activity prohibited is exploring for, developing or producing oil, gas or minerals within the Sanctuary. The resources and qualities of the Monterey Bay area, particularly sea otters, sea birds, and pinnipeds that use the haul-out sites, kelp forests and rocks along the Monterey Bay coast, and the high water quality of the area, are especially vulnerable to oil and gas activities in the area. A prohibition on oil and gas activities within the Sanctuary boundary will provide partial protection from oil and gas activities for the resources and qualities within the boundary. Only partial protection would be provided due to the remaining threat from oil and gas activities outside of the Sanctuary boundary and from vessel traffic, particularly oil tankers, transiting through and near the Sanctuary. A prohibition on mineral activities within the Sanctuary is consistent with the prohibition on alteration of or construction on the seabed as discussed below. "Mineral" is defined to mean clay, stone, sand, gravel, metalliferous ore, nonmetalliferous ore or any other solid material or other matter of commercial value.

The second activity prohibited is depositing or discharging from any location within the boundary of the Sanctuary materials or other substances except: (1) Fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary; (2) biodegradable effluent incidental to vessel use and generated by marine sanitation devices approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1322 *et seq.*; (3) water generated by routine vessel operations (*e.g.*, cooling water, deck wash down and graywater as defined by section 312 of the FWPCA) excluding oily wastes from bilge pumping; (4) engine exhaust, and (5) dredged materials deposited at disposal sites authorized by COE or EPA prior to the effective date of Sanctuary designation, provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval existing on the effective date of Sanctuary designation.

This prohibition is necessary in order to protect Sanctuary resources and qualities from the effects of pollutants deposited or discharged into the Sanctuary.

Disposal activities at the existing sites within the Sanctuary are allowed provided such disposal is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval existing on the effective date of Sanctuary designation. Once existing permits expire, additional disposal at such previously approved or permitted sites must be approved by NOAA in accordance with § 944.11. All other disposal of dredged material within the Sanctuary is prohibited. Point source discharges, including, but not limited to, desalination plants, are allowed provided such discharge is certified by NOAA in accordance with § 944.10 or approved by NOAA in accordance with § 944.11. After expiration of current permits, discharges from municipal treatment plants will be subject to the review process of § 944.11. At a minimum, secondary treatment will be required. Depending on the risk to Sanctuary resources and qualities, greater treatment may be required.

The third activity prohibited is depositing or discharging, from beyond the boundary of the Sanctuary, materials or other matter that subsequently enter the Sanctuary and injure a Sanctuary resource or quality, except for the first four exclusions discussed above for the second prohibited activity, dredged material deposited outside the Sanctuary at disposal sites off of the Golden Gate authorized prior to the effective date of Sanctuary designation, and dredged material deposited outside the Sanctuary at the duly authorized disposal site that will result from the disposal site study underway on the effective date of Sanctuary designation, provided that the dredged material disposal is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval. The future disposal site will be located within one of the Long-Term Management Strategy Ocean Study Areas described in appendix IV. When that disposal site is authorized, appendix IV will be updated to incorporate its precise location. The intent of this prohibition is to protect the Sanctuary resources and qualities from the harmful effects of land and sea-generated non-point and point source pollution.

The fourth activity prohibited is moving, removing or injuring or attempting to move, remove or injure a Sanctuary historical resource. Historical resources in the marine environment are fragile, finite and non-renewable. This prohibition is designed to protect these resources so that they may be researched and information about their contents and type made available for the benefit of the public. This prohibition does not apply to moving, removing or injury resulting incidentally from kelp harvesting, aquaculture or traditional fishing operations.

The fifth activity prohibited is drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary, except if any of the above results incidentally from: (1) Anchoring vessels; (2) kelp harvesting, aquaculture or traditional fishing operations; (3) installation of navigation aids; (4) harbor maintenance in the areas necessarily associated with Federal Projects in existence on the effective date of Sanctuary designation, including dredging of entrance channels and repair, replacement or rehabilitation of breakwaters and jetties; or (5) construction, repair, replacement or rehabilitation of docks or piers. Federal Projects are any water resources development projects conducted by COE or operating under a permit or other authorization issued by COE and authorized by Federal law.

The intent of this prohibition is to protect the resources and qualities of the Sanctuary from the harmful effects of activities such as, but not limited to, archaeological excavations, drilling into the seabed, strip mining, laying of pipelines and outfalls, and offshore commercial development, which may disrupt and/or destroy sensitive marine

benthic habitats, such as kelp beds, invertebrate populations, fish habitats, and estuaries and sloughs.

The sixth activity prohibited is taking marine mammals, sea turtles or seabirds in or above the Sanctuary, except as permitted by regulations, as amended, promulgated under the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.*, the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.*, and the Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.* The term "taking" includes all forms of harassment. The MMPA, ESA and MBTA prohibit the taking of species protected under those Acts. The prohibition overlaps with the MMPA, ESA, and MBTA but also extends protection for Sanctuary resources on an environmentally holistic basic and provides a greater deterrent with civil penalties of up to $50,000 per taking. The prohibition covers all marine mammals, sea turtles and seabirds in or above the Sanctuary.

The seventh activity prohibited is flying motorized aircraft at less than 1,000 feet (305 m) above the Sanctuary within four specified zones (See appendix II for the zones). This area-specific prohibition on overflights below 1,000 feet (305 m) is designed to limit potential noise impacts, particularly those that might startle hauled-out seals and sea lions, sea otters or birds nesting along the shoreline margins of the Sanctuary.

The eighth activity prohibited is the operation of motorized personal water craft within the Sanctuary except in four specified zones and access routes to and from these zones (see appendix III for the zones and routes). This regulation is intended to provide enhanced resource protection by prohibiting operation of motorized personal water craft in areas of high marine mammal and seabird concentrations, kelp forest areas, river mouths, estuaries, lagoons and other similar areas where sensitive marine resources are concentrated and most vulnerable to disturbance and other injury from personal water craft. The regulation is also intended to allow the continuation of this form of recreation while minimizing conflicts with other recreational users, as well as reducing esthetic disturbance.

Both the ninth and tenth prohibitions serve to facilitate enforcement actions for violations of Sanctuary regulations. The ninth prohibition is the possession within the Sanctuary of any historical resource or marine mammal, sea turtle or seabird, regardless of where the resource was taken, except in compliance with the ESA, MMPA and MBTA and the tenth prohibition is interfering with, obstructing, delaying or preventing investigations, searches, seizures of disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

Section 944.6 authorizes the regulation, including prohibition, on a temporary basis of any activity where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury.

Section 944.7 sets forth the maximum statutory civil penalty for violating a regulation—$50,000. Each day of a continuing violation constitutes a separate violation. Section 944.8 repeats the provision in section 312 of the Act that any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss or injury, and any vessel used to destroy, cause the loss of, or injure any sanctuary resource is liable in rem to the United States for response costs and damages resulting from such destruction, loss or injury. The purpose of these sections is to notify the public of the liability for violating a Sanctuary regulation or the Act.

Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR part 904.

Section 944.9 sets forth the procedures for applying for a National Marine Sanctuary permit to conduct a prohibited activity and the criteria governing the issuance, denial, amendment, suspension and revocation of such permits. A permit may be granted by the Director of the Office for Ocean and Coastal Resource Management or designee if he or she finds that the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will: Further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in the management of the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California. In deciding whether to issue a permit, the Director or designee is required to consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity, the duration of the activity and the duration of its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity, the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, the cumulative effects of the activity, and the end value of the activity. In addition, the Director or designee is authorized to consider any other factors she or he deems appropriate.

Section 944.10 sets forth procedures for requesting certification of leases, licenses, permits, approvals, other authorizations or rights in existence on the date of Sanctuary designation authorizing the conduct of an activity prohibited under paragraphs (a) (2)–(9) of § 944.5. Pursuant to paragraph (f) of § 944.5, the prohibitions in paragraphs (a) (2)–(9) of § 944.5 do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the holder of such authorization or right complies with the requirements of § 944.10 (*e.g.*, notifies the Director or designee of the existence of, requests certification of, and provides requested information regarding such authorization or right) and complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification by the Director or designee as she or he deems necessary to achieve the purposes for which the Sanctuary was designated.

Section 944.10 allows the holder 90 days from the effective date of Sanctuary designation to request certification. The holder is allowed to conduct the activity without being in violation of paragraphs (a) (2)–(9) of § 944.5 pending final agency action on his or her certification request, provided the holder has complied with all requirements of § 944.10.

Section 944.10 also allows the Director or designee to request additional information from the holder and to seek the views of other persons.

As a condition of certification, the Director or designee will impose such terms and conditions on the exercise of such lease, permit, license, approval, other authorization or right as she or he

deems necessary to achieve the purposes for which the Sanctuary was designated. This is consistent with the Secretary's authority under section 304(c)(2) of the Act. (Section 944.10 has no application to oil, gas or mineral activities as there is no existing lease, permit, license, approval, other authorization or right for any of these activities within the Sanctuary.)

The MOA entered into by NOAA, the State of California, EPA and the Association of Monterey Bay Area Governments regarding the Sanctuary regulations relating to water quality within State waters within the Sanctuary (discussed under Comment/Response (6) under section I. Background of this notice) specifies how the process of § 944.10 will be administered within State waters within the Sanctuary in coordination with the State permit program.

The holder may appeal any action conditioning, amending, suspending or revoking any certification in accordance with the procedures set forth in § 944.12.

Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right is subject to the provisions of § 944.11.

Section 944.11 states that consistent with paragraph (g) of § 944.5, the prohibitions of paragraphs (a)(2)–(9) of § 944.5 do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that the applicant notifies the Director or designee of the application for such authorization within 15 days of the date of filing of the application or of the effective date of Sanctuary designation, whichever is later, that the applicant is in compliance with the other provisions of § 944.11, that the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and that the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities. In order to ensure maintenance of program-wide consistency regarding these activities, which may address issues or uses of a highly sensitive nature on the local level, the authority granted the Director under § 944.11 to object to or impose terms or conditions on the exercise of any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation will not be delegated or otherwise assigned to other Federal officials below the Director's level.

Section 944.11 allows the Director or designee to request additional information from the applicant and to seek the views of other persons.

An application for an amendment to, an extension of, or a renewal of an authorization is also subject to the provisions of § 944.11.

The MOA entered into by NOAA, the State of California, EPA and the Association of Monterey Bay Area Governments regarding the Sanctuary regulations relating to water quality within State waters within the Sanctuary specifies how the process of § 944.11 will be administered within State waters within the Sanctuary in coordination with the State permit program.

The applicant may appeal any objection by, or terms or conditions imposed by, the Director to the Assistant Administrator or designee in accordance with the procedures set forth in § 944.12.

Section 944.12 sets forth the procedures for appealing to the Assistant Administrator or designee actions of the Director or designee with respect to: (1) The granting, conditioning, amendment, denial, suspension or revocation of a National Marine Sanctuary permit under § 944.9 or a Special Use permit under section 310 of the Act; (2) the granting, denial, conditioning, amendment, suspension or revocation of a certification under § 944.10; or (3) the objection to issuance or the imposition of terms and conditions under § 944.11.

Prior to conditioning the exercise of existing leases, permits, licenses, approvals, other authorizations or rights or conditioning or objecting to proposed authorizations NOAA intends to consult with relevant issuing agencies as well as owners, holders or applicants. NOAA's policy is to encourage best available management practices to minimize non-point source pollution entering the Sanctuary and, for municipal sewage discharge, to require, at a minimum, secondary treatment and sometimes tertiary treatment or more, depending on predicted effects on Sanctuary resources and qualities.

v. Miscellaneous Rulemaking Requirements

Executive Order 12291

Under Executive Order 12291, the Department must judge whether the regulations in this notice are "major" within the meaning of section 1 of the Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Administrator of NOAA has determined that the regulations in this motive are not major because they are not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The regulations in this motive allow all activities to be conducted in the Sanctuary other than a relatively narrow range of prohibited activities. The procedures in these regulations for applying for National Marine Sanctuary permits to conduct prohibited activities, for requesting certifications for pre-existing leases, licenses, permits, approvals, other authorizations or rights authorizing the conduct of a prohibited activity, and for notifying NOAA of applications for leases, licenses, permits, approvals or other authorizations to conduct a prohibited activity will all act to lessen any adverse economic effect on small entities. The regulations, in total, will not have a significant economic impact on a substantial number of small entities, and when they were proposed the General Counsel of the Department of Commerce so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, neither an initial nor final Regulatory Flexibility Analysis was prepared.

Paperwork Reductions Act

This rule contains collection of information requirements subject to the requirements of the Paperwork Reduction Act (Pub. L. 96–511). The collection of information requirements contained in the rule have been reviewed by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act and have been approved under OMB Control No. 0648–0141. Comments from the public on the collection of information requirements contained in this rule are invited and should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (attn: Desk Officer for NOAA) and to Richard Roberts, room 305, 6010 Executive Boulevard, Rockville, MD 20852.

Executive Order 12612

A Federalism Assessment (FA) was prepared for the proposed designation, draft management plan and proposed implementing regulations. The FA concluded that all were fully consistent with the principles, criteria and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in Policy Formulation and Implementation (52 FR 41685, Oct. 26, 1987). Copies of the FA are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

National Environmental Policy Act

In accordance with Section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)) and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(a)), a DEIS/MP was prepared for the designation and the proposed regulations. As required by section 304(a)(2) of the Act, the DEIS/MP included the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1433(b)(3)), maps depicting the boundary of the area proposed to be designated, and the existing and potential uses and resources of the area. Copies of the DEIS/MP were made available for public review on August 3, 1990, with comments due on October 3, 1990. Public hearings were held in Monterey, Santa Cruz and Half Moon Bay, California from September 12 to 14, 1990. All comments were reviewed and, where appropriate, incorporated into the FEIS/MP and these regulations. Copies of the FEIS/MP are available upon request (see address section).

Executive Order 12630

This rule does not have takings implications within the meaning of Executive Order 12630 sufficient to require preparation of a Takings Implications Assessment under that order. It would not appear to have an effect on private property sufficiently severe as effectively to deny economically viable use of any distinct legally potential property interest to its owner or to have the effect of, or result in, a permanent or temporary physical occupation, invasion, or deprivation. While the prohibition on the exploration, development and production of oil, gas and minerals from the Sanctuary might have a takings implication if it abrogated an existing lease for OCS tracts within the Sanctuary or an approval of an exploration or development and production plan, no OCS leases have been sold for tracts within the Sanctuary and no exploration or production and development plans have been filed or approved.

List of Subjects in 15 CFR Part 944

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 15, 1992.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reason set forth above, 15 CFR chapter IX is amended as follows:

SUBCHAPTER B—OCEAN AND COASTAL RESOURCE MANAGEMENT

Parts 921-943 [Transferred to Subchapter B]

1. Subchapter B heading is added to read as set forth above.

2. Parts 921 through 943 are transferred from subchapter A to subchapter B.

3. Part 944—is added to subchapter B to read as follows:

PART 944—MONTEREY BAY NATIONAL MARINE SANCTUARY

Sec.

944.1 Purpose.
944.2 Boundary.
944.3 Definitions.
944.4 Allowed activities.
944.5 Prohibited activities.
944.6 Emergency regulations.
944.7 Penalties for violations of regulations.
944.8 Response costs and damages.
944.9 National Marine Sanctuary permits—application procedures and issuance criteria.
944.10 Certification of pre-existing leases, licenses, permits, approvals, other authorizations or rights to conduct a prohibited activity.
944.11 Notification and review of applications for leases, licenses, permits, approvals or other authorizations to conduct a prohibited activity.
944.12 Appeals of administrative action.

Appendix I to Part 944—Monterey Bay National Marine Sanctuary Boundary Coordinates

Appendix II to Part 944—Zones Within the Sanctuary Where Overflights Below 1000 Feet Are Prohibited

Appendix III to part 944—Zones and Access Routes Within the Sanctuary Where the Operation of Personal Water Craft Is Allowed

Appendix IV to Part 944—Dredged Material Disposal Sites Adjacent to the Monterey Bay National Marine Sanctuary

Authority: Sections 302, 303, 304, 305, 307, 310 and 312 of title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.*).

§ 944.1 Purpose.

The purpose of the regulations in this part is to implement the designation of the Monterey Bay National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical and esthetic resources and qualities of the area.

§ 944.2 Boundary.

(a) The Monterey Bay National Marine Sanctuary consists of an area of approximately 4,024 square nautical miles of coastal and ocean waters, and the submerged lands thereunder, in and surrounding Monterey Bay, off the central coast of California.

(b) The northern terminus of the boundary is located along the southern boundary of the Gulf of Farallones National Marine Sanctuary and runs westward to approximately 123°07'W. The boundary then extends south in an arc which generally follows the 500 fathom isobath. At approximately 37°03'N, the boundary arcs south to 122°25'W, 36°10'N, due west of Partington Point. The boundary again follows the 500 fathom isobath south to 121°41'W, 35°33'N, due west of Cambria. The boundary then extends shoreward towards the mean high-water line. The landward boundary is defined by the mean high-water line between the Gulf of Farallones National Marine Sanctuary and Cambria, exclusive of a small area off the north coast of San Mateo County and the City and County of San Francisco between Point Bonita and Point San Pedro. Pillar Point, Santa Cruz, Moss Landing and Monterey harbors are excluded from the Sanctuary boundary shoreward from their respective International Collision at Sea regulation (Colreg.) demarcation lines except for Moss Landing Harbor, where all of Elkhorn Slough east of the Highway One bridge is included within

the Sanctuary boundary. The precise boundary of the Sanctuary appears in appendix I to this part.

§ 944.3 Definitions.

(a) The following definitions apply to this part:

Act means Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.*).

Administrator or *Under Secretary* means the Administrator of the National Oceanic and Atmospheric Administration/Under Secretary of Commerce for Oceans and Atmosphere.

Assistant Administrator means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Director means the Director of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

Effective date of Sanctuary designation means the date the regulations in this part implementing the designation of the Sanctuary become effective.

Federal Project means any water resources development project conducted by the U.S. Army Corps of Engineers or operating under a permit or other authorization issued by the Corps of Engineers and authorized by Federal law.

Historical resource means any resource possessing historical, cultural, archaeological or paleontological significance, including sites, structures, districts and objects significantly associated with or representative of earlier people, cultures and human activities and events. Historical resources include historical properties as defined in the National Historic Preservation Act, as amended, and implementing regulations, as amended.

Injure means to change adversely, either in the long or short term, a chemical, biological or physical attribute of, or the viability of. To "injure" therefore includes, but is not limited to, to cause the loss of and to destroy.

Mineral means clay, stone, sand, gravel, metalliferous ore, nonmetalliferous ore or any other solid material or other matter of commercial value.

Motorized personal water craft means any motorized vessel that is less than fifteen feet in length as manufactured, is capable of exceeding a speed of fifteen knots, and has the capacity to carry not more than the operator and one other person while in operation. The term includes, but is not limited to, jet skis, wet bikes, surf jets, miniature speed boats, air boats and hovercraft.

Person means any private individual, partnership, corporation or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

Sanctuary means the Monterey Bay National Marine Sanctuary.

Sanctuary quality means any particular and essential characteristic of the Sanctuary, including, but not limited to, water quality, sediment quality and air quality.

Sanctuary resource means any living or non-living resource of the Sanctuary that contributes to its conservation, recreational, ecological, historical, research, educational or esthetic value, including, but not limited to, the substratum of the Monterey Bay area, bottom formations, coralline algae, marine plants and algae, invertebrates, plankton, fish, birds, sea turtles, marine mammals and historical resources.

Take or *taking* means the following:

(1)(i) For any sea turtle, marine mammal or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, the term means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct;

(ii) For any other sea turtle, marine mammal or seabird, the term means to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct.

(2) For the purpose of both paragraphs (1) (i) and (ii), of this definition the term includes, but is not limited to, any of the following activities: Collecting any dead or injured sea turtle, marine mammal or seabird, or any part thereof; restraining or detaining any sea turtle, marine mammal or seabird, or any part thereof, no matter how temporarily; tagging any sea turtle, marine mammal or seabird; operating a vessel or aircraft or doing any other act that results in the disturbing or molesting of any sea turtle, marine mammal or seabird.

Vessel means a watercraft of any description capable of being used as a means of transportation in/on the waters of the Sanctuary.

(b) Other terms appearing in the regulations in this part are defined at 15 CFR 922.2 and/or in the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*

§ 944.4 Allowed activities.

All activities except those prohibited by § 944.5 may be undertaken subject to any emergency regulations promulgated pursuant to § 944.6, subject to all prohibitions, restrictions and conditions validly imposed by any other authority of competent jurisdiction, and subject to the liability established by section 312 of the Act (see § 944.8).

§ 944.5 Prohibited activities.

(a) Except as specified in paragraphs (c) through (h) of this § 944.5, the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted:

(1) Exploring for, developing or producing oil, gas or minerals within the Sanctuary.

(2) Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter except:

(i) Fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary;

(ii) Biodegradable effluent incidental to vessel use and generated by marine sanitation devices approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1322 *et seq.*;

(iii) Water generated by routine vessel operations (*e.g.*, cooling water, deck wash down and graywater as defined by section 312 of the FWPCA) excluding oily wastes from bilge pumping;

(iv) Engine exhaust; or

(v) Dredged material deposited at disposal sites authorized by the U.S. Environmental Protection Agency (EPA) (in consultation with the U.S. Army Corps of Engineers (COE)) prior to the effective date of Sanctuary designation, provided that the activity is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval existing on the effective date of Sanctuary designation.

(3) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injuries a Sanctuary resource or quality, except those listed in paragraphs (a)(2) (i) through (iv) of this § 944.5 and dredged material deposited at the authorized disposal sites described in appendix IV to this part, provided that the dredged material disposal is pursuant to, and complies with the terms and conditions of, a valid Federal permit or approval.

(4) Moving, removing or injuring, or attempting to move, remove or injure, a Sanctuary historical resource. This prohibition does not apply to moving, removing or injury resulting incidentally

from kelp harvesting, aquaculture or traditional fishing operations.

(5) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary, except as an incidental result of:

(i) Anchoring vessels;

(ii) Aquaculture, kelp harvesting or traditional fishing operations;

(iii) Installation of navigation aids;

(iv) Harbor maintenance in the areas necessarily associated with Federal Projects in existence on the effective date of Sanctuary designation, including dredging of entrance channels and repair, replacement or rehabilitation of breakwaters and jetties; or

(v) Construction, repair, replacement or rehabilitation of docks or piers.

(6) Taking any marine mammal, sea turtle or seabird in or above the Sanctuary, except as permitted by regulations, as amended, promulgated under the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.*, the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.*, and the Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.*

(7) Flying motorized aircraft, except as necessary for valid law enforcement purposes, at less than 1000 feet above any of the four zones within the Sanctuary described in Appendix II to this Part.

(8) Operating motorized personal water craft within the Sanctuary except within the four designated zones and access routes within the Sanctuary described in appendix III to this part.

(9) Possessing within the Sanctuary (regardless of where taken, moved or removed from), except as necessary for valid law enforcement purposes, any historical resource, or any marine mammal, sea turtle or seabird taken in violation of regulations, as amended, promulgated under the MMPA, ESA or MBTA.

(10) Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

(b) The regulations in this part shall be applied to foreign persons and foreign vessels in accordance with generally recognized principles of international law, and in accordance with treaties, conventions and other international agreements to which the United States is a party.

(c) The prohibitions in paragraphs (a)(2) through (10) of this § 944.5 do not apply to activities necessary to respond to emergencies threatening life, property or the environment.

(d)(1) All Department of Defense activities shall be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities. The prohibitions in paragraphs (a)(2) through (9) of this § 944.5 do not apply to existing military activities carried out by the Department of Defense, as specifically identified in the Final Environmental Impact Statement and Management Plan for the Proposed Monterey Bay National Marine Sanctuary (NOAA, 1992). (Copies of the FEIS/MP are available from the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.) New activities may be exempted from the prohibitions in paragraphs (a)(2) through (9) of this § 944.5 by the Director or designee after consultation between the Director or designee and the Department of Defense.

(2) In the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by the Department of Defense, the cognizant component shall promptly coordinate with the Director or designee for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality.

(e) The prohibitions in paragraphs (a)(2) through (9) of this § 944.5 do not apply to any activity executed in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issed pursuant to § 944.9 or a Special Use permit issued pursuant to section 310 of the Act.

(f) The prohibitions in paragraphs (a)(2) through (9) of this § 944.5 do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the holder of such authorization or right complies with § 944.10 and with any terms and conditions on the exercise of such authorization or right imposed by the Director or designee as a condition of certification as he or she deems necessary to achieve the purposes for which the Sanctuary was designated.

(g) The prohibitions in paragraphs (a)(2) through (9) of this § 944.5 do not apply to any activity authorized by any lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, provided that the applicant complies with § 944.11, the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date.

(h) Notwithstanding paragraphs (e) and (g) of this § 944.5, in no event may the Director or designee issue a National Marine Sanctuary permit under § 944.9 or a Special Use permit under section 310 of the Act authorizing, or otherwise approve: The exploration for, development or production of oil, gas or minerals within the Sanctuary; the discharge of primary-treated sewage within the Sanctuary (except by certification, pursuant to § 944.10, of valid authorizations in existence on the effective date of Sanctuary designation and issued by other authorities of competent jurisdiction); or the disposal of dredged material within the Sanctuary other than at sites authorized by EPA (in consultation with COE) prior to the effective date of Sanctuary designation. Any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.

§ 944.6 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury, any and all activities are subject to immediate temporary regulation, including prohibition.

§ 944.7 Penalties for violations of regulations.

(a) Each violation of the Act, any regulation in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than $50,000. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR part 904.

§ 944.8 Response costs and damages.

Under section 312 of the Act, any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss or injury, and any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable in rem to the United States for response costs and damages resulting from such destruction, loss or injury.

§ 944.9 National Marine Sanctuary permits—application procedures and issuance criteria.

(a) A person may conduct an activity prohibited by § 944.5 (a)(2) through (9) if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this § 944.9.

(b) Applications for such permits should be addressed to the Director of the Office of Ocean and Coastal Resource Management; Attn: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. An application must include a detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel and methodology to be employed. The qualifications and experience of all personnel must be set forth in the application. The application must set forth the potential effects of the activity, if any, on Sanctuary resources and qualities. Copies of all other required licenses, permits, approvals or other authorizations must be attached.

(c) Upon receipt of an application, the Director or designee may request such additional information from the applicant as he or she deems necessary to act on the application and may seek the views of any persons.

(d) The Director or designee, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by § 944.5(a)(2) through (9) if the Director or designee finds that the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will: Further research related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California. In deciding whether to issue a permit, the Director or designee shall consider such factors as: The professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; and the end value of the activity. In addition, the Director or designee may consider such other factors as he or she deems appropriate.

(e) A permit issued pursuant to this § 944.9 is nontransferable.

(f) The Director or designee may amend, suspend or revoke a permit issued pursuant to this § 944.9 for good cause. The Director or designee may deny a permit application pursuant to this § 944.9, in whole or in part, if it is determined that the permittee or applicant has acted in violation of the terms or conditions of a permit or of the regulations in this part or for other good cause. Any such action shall be communicated in writing to the permittee or applicant by certified mail and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(g) It shall be a condition of any permit issued that the permit or a copy thereof be displayed on board all vessels or aircraft used in the conduct of the activity.

(h) The Director or designee may, *inter alia*, make it a condition of any permit issued that any data or information obtained under the permit be made available to the public.

(i) The Director or designee may, *inter alia*, make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit and/or that the permit holder submit one or more reports on the status, progress or results of any activity authorized by the permit.

(j) The applicant for or holder of a National Marine Sanctuary permit may appeal the denial, conditioning, amendment, suspension or revocation of the permit in accordance with the procedures set forth in § 944.12.

§ 944.10 Certification of pre-existing leases, licenses, permits, approvals, other authorizations or rights to conduct a prohibited activity.

(a) The prohibitions set forth in § 944.5(a)(2) through (9) do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that:

(1) The holder of such authorization or right notifies the Director or designee, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this § 944.10; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director or designee, to achieve the purposes for which the Sanctuary was designated.

(b) The holder of a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or of any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, authorizing an activity prohibited by § 944.5(a) (2) through (9) may conduct the activity without being in violation of § 944.5, pending final agency action on his or her certification request, provided the holder is in compliance with this § 944.10.

(c) Any holder of a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or any holder of a valid right of subsistence use or access in existence on the effective date of Sanctuary designation, may request the Director or designee to issue a finding as to whether the activity for which the authorization has been issued, or the right given, is prohibited under § 944.5(a) (2) through (9).

(d) Requests for findings or certifications should be addressed to the

Director, Office of Ocean and Coastal Resource Management; Attn: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the lease, permit, license, approval or other authorization must accompany the request.

(e) The Director or designee may request additional information from the certification requester as or he deems necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the certification request.

(f) The Director or designee may amend any certification made under this § 944.10 whenever additional information becomes available justifying such an amendment.

(g) The Director or designee shall communicate any decision on a certification request or any action taken with respect to any certification made under this § 944.10, in writing, to both the holder of the certified lease, permit, license, approval, other authorization or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(h) Any time limit prescribed in or established under this § 944.10 may be extended by the Director or designee for good cause.

(i) The holder may appeal any action conditioning, amending, suspending or revoking any certification in accordance with the procedures set forth in § 944.12.

(j) Any amendment, renewal or extension not in existence on the effective date of Sanctuary designation of a lease, permit, license, approval, other authorization or right is subject to the provisions of § 944.11.

(k)(1) The National Oceanic and Atmospheric Administration (NOAA) has entered into a Memorandum of Agreement (MOA) with the State of California, EPA and the Association of Monterey Bay Area Governments regarding the Sanctuary regulations relating to water quality within State waters within the Sanctuary. With regard to permits, the MOA encompasses:

(i) National Pollutant Discharge Elimination System (NPDES) permits issued by the State of California under section 13377 of the California Water Code; and

(ii) Waste Discharge Requirements issued by the State of California under section 13263 of the California Water Code.

(2) The MOA specifies how the certification process of this § 944.10 will be administered within State waters within the Sanctuary in coordination with the State permit program.

(3) The MOA may be obtained from the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.

§ 944.11 Notification and review of applications for leases, licenses, permits, approvals or other authorizations to conduct a prohibited activity.

(a)(1) The prohibitions set forth in § 944.5(a)(2) through (9) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that:

(i) The applicant notifies the Director or designee, in writing, of the application for such authorization (and of any application for an amendment, renewal or extension of such authorization) within fifteen (15) days of the date of application or of the effective date of Sanctuary designation, whichever is later;

(ii) The applicant complies with the other provisions of this § 944.11;

(iii) The Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization (or amendment, renewal or extension); and

(iv) The applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities.

(2) The authority granted the Director under this § 944.11 to object to or impose terms or conditions on the exercise of any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation may not be delegated or otherwise assigned to other Federal officials below the Director's level.

(b) Any potential applicant for a lease, permit, license, approval or other authorization from any Federal, State or local authority (or for an amendment, renewal or extension of such authorization) may request the Director or designee to issue a finding as to whether the activity for which an application is intended to be made is prohibited by § 944.5(a)(2) through (9).

(c) Notifications of filings of applications and requests for findings should be addressed to the Director, Office of Ocean and Coastal Resource Management; Attn: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the application must accompany the notification.

(d) The Director or designee may request additional information from the applicant as he or she deems necessary to determine whether to object to issuance of such lease, license, permit, approval or other authorization (or to issuance of an amendment, extension or renewal of such authorization), or what terms and conditions are necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the application.

(e) The Director, or designee if there are no objections, terms or conditions, shall notify, in writing, the agency to which application has been made of his or her review of the application and possible objection to issuance. After review of the application and information received with respect thereto, the Director, or designee if there are no objections, terms or conditions, shall notify both the agency and applicant, in writing, whether he or she has an objection to issuance and what terms and conditions he or she deems necessary to protect Sanctuary resources and qualities. The Director shall state the reason(s) for any objection or the reason(s) that any terms and conditions are deemed necessary to protect Sanctuary resources and qualities.

(f) The Director may amend the terms and conditions deemed necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(g) Any time limit prescribed in or established under this § 944.11 may be extended by the Director or designee for good cause.

(h) The applicant may appeal any objection by, or terms or conditions imposed by, the Director to the Assistant Administrator or designee in accordance with the procedures set forth in § 944.12.

(i)(1) NOAA has entered into a Memorandum of Agreement (MOA) with

the State of California, EPA and the Association of Monterey Bay Area Governments regarding the Sanctuary regulations relating to water quality within State waters within the Sanctuary. With regard to permits, the MOA encompasses:

(i) National Pollutant Discharge Elimination System (NPDES) permits issued by the State of California under section 13377 of the California Water Code; and

(ii) Waste Discharge Requirements issued by the State of California under section 13263 of the California Water Code.

(2) The MOA specifies how the process of this § 944.11 will be administered within State waters within the Sanctuary in coordination with the State permit program.

§ 944.12 Appeals of administrative action.

(a) Except for permit actions taken for enforcement reasons (see subpart D of 15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a § 944.9 National Marine Sanctuary permit, an applicant for, or a holder of, a section 310 of the Act Special Use permit, a § 944.10 certification requester or a § 944.11 applicant (hereinafter appellant) may appeal to the Assistant Administrator or designee:

(1) The grant, denial, conditioning, amendment, suspension or revocation by the Director or designee of a National Marine Sanctuary or Special Use permit;

(2) The conditioning, amendment, suspension or revocation of a certification under § 944.10; or

(3) The objection to issuance or the imposition of terms and conditions under § 944.11

(b) An appeal under paragraph (a) of this § 944.12 must be in writing, state the action(s) by the Director or designee appealed and the reason(s) for the appeal, and be received within 30 days of receipt of notice of the action by the Director or designee. Appeals should be addressed to the Assistant Administrator, Office of Ocean and Coastal Resource Management, Attn: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235.

(c) While the appeal is pending, appellants requesting certification pursuant to § 944.10 who are in compliance with such section may continue to conduct their activities without being in violation of the prohibitions in § 944.5 (a)(2) through (9). All other appellants may not conduct their activities without being subject to the prohibitions in § 944.5 (a)(1) through (10).

(d) The Assistant Administrator or designee may request the appellant to submit such information as the Assistant Administrator or designee deems necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator or designee within 45 days of the postmark date of the request. The Assistant Administrator may seek the views of any other persons. The Assistant Administrator or designee may hold an informal hearing on the appeal. If the Assistant Administrator or designee determines that an informal hearing should be held, the Assistant Administrator or designee may designate an officer before whom the hearing shall be held. The hearing officer shall give notice in the **Federal Register** of the time, place and subject matter of the hearing. The appellant and the Director or designee may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator or designee.

(e) The Assistant Administrator or designee shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the Director or designee and any information submitted regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision. The Assistant Administrator or designee shall notify the appellant of the final decision and the reason(s) therefor in writing. The Assistant Administrator or designee's decision shall constitute final agency action for the purposes of the Administrative Procedure Act.

(f) Any time limit prescribed in or established under this § 944.12 other than the 30 day limit for filing an appeal may be extended by the Assistant Administrator, designee or hearing officer for good cause.

Appendix I to Part 944—Monterey Bay National Marine Sanctuary Boundary Coordinates

(Appendix Based on North American Datum of 1983.)

APPROXIMATELY 4,024 SQUARE NAUTICAL MILES

Point	Latitude	Longitude
1	37 52 56.09055	122 37 39.12564
2	37 39 59.06176	122 45 3.79307
3	37 36 58.39164	122 46 9.73871
4	37 34 17.30224	122 48 14.38141
5	37 31 47.55649	122 51 35.56769
36	37 30 34.11030	122 54 22.12170
7	37 29 39.05866	123 00 27.70792
8	37 30 29.47603	123 05 46.22767
9	37 31 17.66945	123 07 47.63363
10	37 27 10.93594	123 08 24.32210
11	37 20 35.37491	123 07 54.12763
12	37 13 50.21805	123 06 15.50600
13	37 07 48.76810	123 01 43.10994
14	37 03 46.60999	122 54 45.39513
15	37 02 06.30955	122 46 35.02125
16	36 55 17.56782	122 48 21.41121
17	36 48 22.74244	122 48 56.29007
18	36 41 30.91516	122 48 19.40739
19	36 34 45.76070	122 46 26.96772
20	36 28 24.18076	122 43 32.43527
21	36 22 20.70312	122 39 28.42026
22	36 16 43.93588	122 34 26.77255
23	36 11 44.53838	122 28 37.16141
24	36 07 26.88988	122 21 54.97541
25	36 04 07.08898	122 14 39.75924
26	36 01 28.22233	122 07 00.19068
27	35 59 45.46381	121 58 56.36189
28	35 58 59.12170	121 50 26.47931
29	35 58 53.63866	121 45 22.82363
30	35 55 45.60623	121 42 40.28540
31	35 50 15.84256	121 43 09.20193
32	35 43 14.26690	121 42 43.79121
33	35 35 41.88635	121 41 25.07414
34	35 33 11.75999	121 37 49.74192
35	35 33 17.45869	121 05 52.89891
36	37 35 39.73180	122 31 14.96033
37	37 36 49.21739	122 37 00.22577
38	37 46 00.98983	122 39 00.40466
39	37 49 05.69080	122 31 46.30542

Appendix II to Part 944—Zones Within the Sanctuary Where Overflights Below 1000 Feet Are Prohibited

The four zones are:

(1) From mean high water out to three nautical miles between a line extending from Point Santa Cruz on a southwesterly heading of 220° and a line extending from 2.0 nautical miles north of Pescadero Point on a southwesterly heading of 240°;

(2) From mean high water out to three nautical miles between a line extending from the Carmel River mouth on a westerly heading of 270° and a line extending due west along latitude 35° 33' 17.5612 off of Cambria;

(3) From mean high water and within a five nautical mile arc drawn from a center point at the end of Moss Landing Pier; and

(4) Over the waters of Elkhorn Slough east of the Highway One bridge to Elkhorn Road.

Appendix III to Part 944—Zones and Access Routes Within the Sanctuary Where the Operation of Motorized Personal Water Craft Is Allowed

The four zones and access routes are:

(1) The approximately one [1.0] square nautical mile area off Pillar Point Harbor from launch ramp (37°30' N, 122°29' W) through harbor entrance to the northern

boundary of Zone One bounded by (a) 37°29.6′ N (breakwater buoy), 122°29′ W; (b) 37°28.8′ N (bell buoy), 122°28.9′ W; (c) 37°28.8′ N, 122°28′ W; and (d) 37°29.6′ N, 122°28′ W.

(2) The approximately three [3.0] square nautical mile area off of Santa Cruz Small Craft Harbor ramp from 36°57.4′ N along a 100 yard wide access route due south along 122° W to the northern boundary of Zone Two (marked by the whistle buoy at 10 fathom curve) bounded by (a) 36°55′ N, 122°02′ W; (b) 36°55′ N, 121°58′ W; (c) 36°56.5′ N, 121°58′ W; and (d) 36°56.5′ N, 122°02′ W;

(3) The approximately five [5.0] square nautical mile area off of Moss Landing Harbor/Elkhorn Yacht Club Launch Ramp from 36°48.5′ N along a 100 yeard wide access route due west along harbor entrance to the eastern boundary of Zone Three bounded by (a) 36°50′ N, 121°49.3′ W; (b) 36°50′ N, 121°50.8′ W; (c) 36°46.7′ N, 121°50.8′ W; (d) 36°46.7′ N, 121°49′ W; (e) 36°47.8′ N, 121°48.2′ W; and (f) 36°48.9′ N, 121°48.2′ W; and

(4) The approximately five [5.0] square nautical mile area off of the U.S. Coast Guard Pier (Monterey Harbor) Launch Ramp from 36°36.5′ N, 121°53.5′ W along a 100 yard wide access route due north to the southern boundary of Zone Four bounded by (a) 36°38.7′ N, 121°55.4′ W; (b) 36°36.9′ N, 121°52.5′ W; (c) 36°38.3′ N, 121°51.3′ W; and (d) 36°40′ N, 121°54.4′ W.

Appendix IV to Part 944—Dredged Material Disposal Sites Adjacent to the Monterey Bay National Marine Sanctuary

(Appendix based on North American Datum of 1983.)

As of the effective date of Sanctuary designation, the U.S. Army Corps of Engineers operates the following dredged material disposal sites adjacent to the Sanctuary off of the Golden Gate:

Point	Latitude	Longitude
1	37 45.875	122 34.140
2	37 44.978	122 37.369
3	37 44.491	122 37.159
4	37 45.406	122 33.889
5	37 45.875	122 34.140

In addition, the U.S. Environmental Protection Agency, as of the effective date of Sanctuary designation, is (in consultation with the U.S. Army Corps of Engineers) in the process of establishing a dredged material disposal site outside the northern boundary of the Monterey Bay National Marine Sanctuary. When that disposal site is authorized, this appendix will be updated to incorporate its precise location. The site will be located outside the Monterey Bay National Marine Sanctuary and any other existing national marine sanctuary and within one of the following Long-Term Management Strategy ocean study areas:

Study Area 3

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary of that area:

Point	Latitude	Longitude
1	37 25.850	123 21.926
2	37 25.793	123 21.928
3	37 25.733	123 21.919
4	37 25.688	123 21.910
5	37 25.630	123 21.896
6	37 25.566	123 21.875
7	37 25.513	123 21.859
8	37 25.451	123 21.820
9	37 25.394	123 21.779
10	37 25.334	123 21.698
11	37 25.268	123 21.595
12	37 25.180	123 21.456
13	37 25.139	123 21.358
14	37 25.057	123 21.240
15	37 25.992	123 21.167
16	37 24.878	123 21.093
17	37 24.765	123 21.034
18	37 24.700	123 20.975
19	37 24.602	123 20.872
20	37 24.521	123 20.783
21	37 24.449	123 20.682
22	37 24.391	123 20.599
23	37 24.342	123 20.503
24	37 24.298	123 20.421
25	37 24.245	123 20.340
26	37 24.193	123 20.238
27	37 24.147	123 20.134
28	37 24.103	123 20.031
29	37 24.062	123 19.934
30	37 24.017	123 19.839
31	37 23.952	123 19.662
32	37 23.906	123 19.517
33	37 23.855	123 19.396
34	37 23.790	123 19.278
35	37 23.728	123 19.125
36	37 23.644	123 18.968
37	37 23.562	123 18.836
38	37 23.482	123 18.707
39	37 23.367	123 18.556
40	37 23.254	123 18.437
41	37 23.123	123 18.319
42	37 22.977	123 18.231
43	37 22.820	123 18.142
44	37 22.685	123 18.113
45	37 22.555	123 18.083
46	37 22.392	123 18.068
47	37 22.229	123 18.054
48	37 22.051	123 18.039
49	37 21.868	123 18.023
50	37 21.697	123 18.023
51	37 21.547	123 18.010
52	37 21.401	123 17.995
53	37 21.173	123 17.980
54	37 20.978	123 17.965
55	37 20.767	123 17.950
56	37 20.588	123 17.936
57	37 20.458	123 17.921
58	37 20.285	123 17.894
59	37 20.179	123 17.876
60	37 20.084	123 17.876
61	37 19.986	123 17.882
62	37 19.877	123 17.894
63	37 19.792	123 17.921
64	37 19.694	123 17.950
65	37 19.592	123 17.999
66	37 19.489	123 18.056
67	37 19.352	123 18.134
68	37 19.223	123 18.231
69	37 19.126	123 18.305
70	37 19.028	123 18.378
71	37 18.914	123 18.482
72	37 18.833	123 18.556
73	37 18.719	123 18.658
74	37 18.615	123 18.764
75	37 18.492	123 18.880
76	37 18.378	123 18.998
77	37 18.265	123 19.101
78	37 18.151	123 19.190
79	37 18.070	123 19.264
80	37 18.004	123 19.328
81	37 17.951	123 19.393
82	37 17.884	123 19.454
83	37 17.805	123 19.525
84	37 17.735	123 19.567
85	37 17.641	123 19.600
86	37 17.565	123 19.617
87	37 17.489	123 19.622
88	37 17.401	123 19.617
89	37 17.352	123 19.606
90	37 17.305	123 19.583
91	37 17.273	123 19.558
92	37 17.248	123 19.514
93	37 25.802	123 0.617
94	37 25.850	123 21.926

The portion of the area described by the above points that lies within the Monterey Bay National Marine Sanctuary as described in Appendix I is excluded.

Study Area 4

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary that area: Table follows

Point	Latitude	Longitude
1	37 17.496	123 7.528
2	37 17.499	123 14.071
3	37 17.383	123 14.285
4	37 17.279	123 14.412
5	37 17.176	123 14.537
6	37 17.047	123 14.651
7	37 16.949	123 14.754
8	37 16.814	123 14.879
9	37 16.664	123 15.026
10	37 16.568	123 15.118
11	37 16.451	123 15.219
12	37 16.348	123 15.308
13	37 16.206	123 15.383
14	37 16.090	123 15.446
15	37 15.999	123 15.484
16	37 15.818	123 15.547
17	37 15.637	123 15.585
18	37 15.482	123 15.585
19	37 15.314	123 15.598
20	37 15.184	123 15.610
21	37 15.055	123 15.635
22	37 14.912	123 15.673
23	37 14.783	123 15.698
24	37 14.667	123 15.712
25	37 14.551	123 15.724
26	37 14.421	123 15.749
27	37 14.292	123 15.799
28	37 14.188	123 15.850
29	37 14.072	123 15.887
30	37 13.956	123 15.938
31	37 13.801	123 16.001
32	37 13.672	123 16.064
33	37 13.568	123 16.102
34	37 13.451	123 16.178
35	37 13.322	123 16.229
36	37 13.193	123 16.266
37	37 13.063	123 16.279
38	37 12.973	123 16.304
39	37 12.830	123 16.330
40	37 12.650	123 16.355
41	37 12.456	123 16.367
42	37 12.275	123 16.367
43	37 12.122	123 16.349
44	37 11.987	123 16.312
45	37 11.853	123 16.269
46	37 11.754	123 16.216
47	37 11.631	123 16.142
48	37 11.537	123 16.067
49	37 11.473	123 15.994
50	37 11.420	123 15.930
51	37 11.380	123 15.872
52	37 11.344	123 15.825
53	37 11.279	123 15.698

Point	Latitude	Longitude
54	37 11.227	123 15.547
55	37 11.188	123 15.421
56	37 11.150	123 15.269
57	37 11.116	123 15.124
58	37 11.098	123 14.980
59	37 11.085	123 14.828
60	37 11.072	123 14.626
61	37 11.059	123 14.437
62	37 11.052	123 14.359
63	37 11.033	123 14.259
64	37 11.004	123 14.158
65	37 10.978	123 14.078
66	37 10.942	123 13.978
67	37 10.890	123 13.877
68	37 10.847	123 13.802
69	37 10.804	123 13.727
70	37 10.712	123 13.614
71	37 10.648	123 13.531
72	37 10.564	123 13.439
73	37 10.508	123 13.370
74	37 10.502	123 7.508
75	37 17.496	123 7.528

Study Area 5

The area described by the following points and a five-nautical-mile-wide zone west of the western boundary that area:

Point	Latitude	Longitude
1	37 43.444	123 23.515
2	37 43.436	123 30.053
3	37 34.568	123 30.053
4	37 34.574	123 20.234
5	37 34.661	123 19.507
6	37 34.725	123 19.376
7	37 34.725	123 19.376
8	37 35.031	123 19.452
9	37 35.935	123 19.081
10	37 36.769	123 18.542
11	37 37.698	123 17.788
12	37 37.765	123 17.743
13	37 37.789	123 17.827
14	37 37.838	123 17.911
15	37 37.887	123 17.996
16	37 37.937	123 18.105
17	37 37.998	123 18.202
18	37 38.085	123 18.359
19	37 38.183	123 18.529
20	37 38.270	123 18.674
21	37 38.356	123 18.832
22	37 38.455	123 18.977
23	37 38.554	123 19.134
24	37 38.640	123 19.255
25	37 38.726	123 19.364
26	37 38.825	123 19.497
27	37 38.911	123 19.606
28	37 38.985	123 19.703
29	37 39.071	123 19.811
30	37 39.195	123 19.981
31	37 39.318	123 20.138
32	37 39.404	123 20.272
33	37 39.478	123 20.356
34	37 39.565	123 20.465
35	37 39.664	123 20.574
36	37 39.762	123 20.695
37	37 39.840	123 20.791
38	37 39.922	123 20.889
39	37 39.997	123 20.986
40	37 40.095	123 21.095
41	37 40.181	123 21.192
42	37 40.268	123 21.288
43	37 40.330	123 21.373
44	37 40.416	123 21.470
45	37 40.516	123 21.563
46	37 40.616	123 21.667
47	37 40.736	123 21.785
48	37 40.860	123 21.906
49	37 40.983	123 22.027
50	37 41.107	123 22.148
51	37 41.230	123 22.269
52	37 41.378	123 22.390
53	37 41.515	123 22.499
54	37 41.669	123 22.607
55	37 41.803	123 22.704
56	37 41.920	123 22.768
57	37 42.036	123 22.825
58	37 42.174	123 22.889
59	37 42.295	123 22.957
60	37 42.421	123 23.012
61	37 42.583	123 23.105
62	37 42.704	123 23.165
63	37 42.826	123 23.225
64	37 43.005	123 23.310
65	37 43.088	123 23.358
66	37 43.205	123 23.410
67	37 43.327	123 23.467
68	37 43.376	123 23.482
69	37 43.444	123 23.515

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federal register

Friday
September 18, 1992

Part IV

The President

Proclamation 6474—National POW/MIA Recognition Day, 1992

Federal Register
Vol. 57, No. 182
Friday, September 18, 1992

Presidential Documents

Title 3—

The President

Proclamation 6474 of September 16, 1992

National POW/MIA Recognition Day, 1992

By the President of the United States of America

A Proclamation

As we Americans celebrate the collapse of imperial communism and the expansion of democracy around the world, we are especially grateful to the courageous United States military personnel who defended the cause of freedom in war. Yet, while we welcome improved prospects for international cooperation and peace, we also remember our fellow Americans who continue to suffer the uncertainties of wartime: the families of American service members and civilians who are still listed as missing and for whom the fullest possible accounting has not yet been made.

As a sign of our Nation's commitment to obtaining the answers that these families seek, on September 18, 1992, the flag of the National League of POW/MIA Families will be flown over the White House, the U.S. Departments of State, Defense, and Veterans Affairs, the Selective Service System headquarters, and the Vietnam Veterans Memorial. This black and white emblem will continue to symbolize America's clear, unequivocal resolve to keep faith with those who so faithfully served and defended us.

Through the eyewitness testimony of former American prisoners of war, we know that many were subjected to extreme deprivation and torture, in violation of fundamental standards of morality and in stark contravention of international agreements governing treatment of war prisoners. Their experiences have not only underscored our debt to those who risked their lives and liberty for our sake but also strengthened our resolve to secure the return of any Americans who may still be held against their will. Doing so remains a matter of highest national priority, as do our efforts to obtain the fullest possible accounting for the missing and the repatriation of all recoverable remains of those who died as a result of their service to our Nation. On this occasion, we renew our pledge to obtain the answers that the families of these Americans deserve, in order that they may gain the peace of certainty and share more fully in the celebration of freedom's expansion around the globe.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 18, 1992, as National POW/MIA Recognition Day. I urge all Americans to join in honoring former American POWs as well as those service members and civilians who are still missing and unaccounted for as a result of serving our Nation. I also encourage all Americans to join in saluting the families of these individuals for their dedication to the truth and for their perseverance in seeking answers. Finally, I call on State and local government officials, as well as private organizations, to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

George Bush

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