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WHAT: Free public briefings (approximately 3 hours) to present:
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3. The important elements of typical Federal Register documents.

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

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WHEN: May 12 and June 15 at 9:00 am
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
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WHEN: May 25, at 1:00 pm
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

RIN 0581-AA89
[DA–91–017–B]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (General Specifications) by incorporating provisions to specify the sampling, testing, and recordkeeping requirements relating to an expanded drug residue monitoring program in USDA-approved dairy plants. This action was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, the Food and Drug Administration (FDA), dairy trade associations and producer groups.

EFFECTIVE DATE: June 7, 1993.


SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as a “non-major” rule under the criteria contained therein.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The Administrator, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because participation in the USDA-approved plant program is voluntary and the amendments will not increase the costs to those utilizing the program.

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements that are included in this action have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0110. These amendments increase the frequency of tests for drug residues that must be conducted by USDA-approved dairy plants of loads of producer milk. There are approximately 800 approved dairy plants. The current frequency is at least four tests in 6 months for each producer's milk or commingled sample. This final rule provides that each load of producer milk delivered to a USDA-approved facility must be tested. The current General Specifications require testing of milk for antibiotics. This action amends the General Specifications to require testing for beta lactam drug residues.

Records of drug residue tests and records of notifications to State regulatory agencies concerning positive test results and disposition of positive-testing milk are to be retained for a period of 12 months. In addition, current requirements do not stipulate the minimum retention time for somatic cell test results. The amendments specify that somatic cell count records be retained for a period of 12 months.

An occurrence of drug residue in milk or milk products may be a health concern to consumers. USDA has therefore developed a model drug residue monitoring program for manufacturing grade milk. FDA has developed the program for Grade A milk.

In order to establish an expanded drug residue monitoring program concerning milk and milk products originating in USDA-approved dairy plants, USDA is amending the general specifications for dairy plants in part 58, subpart B, of the grading and inspection regulations concerning dairy products, as follows:

1. Provide That All Milk Received in USDA-Approved Plants Be Sampled and Tested for the Presence of Beta Lactam Drugs.

Previously, the General Specifications provided for the testing of milk for antibiotics at a minimum frequency of four times in 6 months. These amendments specify that all milk which is received for processing in USDA-approved plants be sampled and tested for beta lactam drugs.

2. Provide That the Testing of Milk Be Completed Prior to Processing.

Previously, the General Specifications did not contain requirements for the timely completion and reporting of the antibiotic tests. These amendments specify that testing be completed prior to processing the load of milk.


The amendments require USDA-approved plants to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.


The amendments require dairy plants to: (a) Test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c)
include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) provide field service assistance to farmers regarding drug residue issues.

5. Provide Revisions To Update and Clarify Somatic Cell Testing Requirements

Changes include correcting the action level at which the Wisconsin Mastitis Test must be confirmed.

USDA grade standards are voluntary standards that are developed to facilitate the orderly marketing process. Dairy plants are free to choose whether or not to use the standards. When manufactured or processed dairy products are graded the USDA regulations governing the grading of dairy products are used. Included in these regulations are the requirements that all graded dairy products be produced in a USDA-approved plant and that charges be assessed for grading and inspection services provided by USDA.

The National Conference on Interstate Milk Shipments is developing a database intended to compile information concerning drug residue test results which are reflective of the milk supply. The Department encourages participation in this voluntary program.

Public Comments

On July 27, 1992, the Department published a proposed rule (57 FR 33130) to amend the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The public comment period closed August 26, 1992.

Comments were received from six commenters: Two representing State regulatory agencies, one representing dairy producers, one representing dairy processors, one representing veterinarians, and one representing a dairy cooperative.

Discussion of Comments

1. One commenter was concerned that the proposal duplicated State drug residue monitoring programs and was not consistent with existing State laws. The Department advocates nationally uniform regulations for monitoring drug residue in the milk supply and has worked closely with the Dairy Division of NASA to promote uniformity. During the development of the proposal for monitoring drug residue in USDA-approved dairy plants, the Department consulted with NASDA representatives to provide requirements consistent with currently existing State laws. The Department believes the expanded drug residue monitoring program accomplishes this.

2. Two commenters requested that the minimum record retention time be reduced from 12 months to 6 months. These commenters felt the change would provide for consistency with the Grade A milk program and reduce recordkeeping requirements.

Since 1975, USDA-approved dairy plants have maintained sediment and bacterial test records for a minimum of 12 months. This action expands the requirement to include drug residue and somatic cell results.

The Department believes that accurate records detailing a 12-month history of drug residue test results is necessary for the USDA-approved dairy plant program. Further, under state programs, three occurrences of positive drug residue tests within a 12-month period will require that State administrative procedures be initiated to suspend the producer's milk shipping privileges.

Also, the Department believes that somatic cell test results are equally as important as sediment and bacterial results in evaluating quality histories. Provisions in the Grade A milk program require State regulatory agencies to maintain a history of milk quality and drug residue test results. The USDA-approved plant program does not impose record retention requirements on State regulatory agencies.

3. One commenter requested the deletion of the requirement that milk buyers obtain quality and drug residue test history for producers transferring milk shipments from another plant.

Since 1975, USDA requirements have specified the transfer of producer quality records when a milk producer changes milk buyers. This action expands the requirements to include a history of drug residue test results.

The Department recognizes the difficulties which occur when a new buyer requests quality records for a transfer producer. However, a producer's quality and drug residue test history is essential in establishing test frequency and determining sanctions.

4. There were several comments recommending changes outside the scope of the proposal. These comments suggested: Changing the requirements for rejecting milk due to bacterial estimate, modifying the list of acceptable somatic cell tests, lowering the maximum allowable bacterial estimate, lowering the maximum allowable somatic cell limit, and using sani-guide discs to determine sediment in milk.

Since the proposal did not request public comment concerning these topics, these comments may be considered as future changes are proposed.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 58, subpart B, is amended as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58, continues to read as follows:


2. Section 58.132 is revised as follows:

§ 58.132 Basis for classification.

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test, and quality control tests for sediment content, bacterial estimate and somatic cell count. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide, herbicide and drug residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

3. In § 58.133, paragraphs (b)(1), (b)(2), (b)(6), and (c) are revised to read as follows:

§ 58.133 Methods for quality and wholesomeness determination.

(a) All milk received from producers and shipped as raw milk shall meet the following quality specifications:

(b) Somatic cell count. (1) A laboratory examination to determine the level of somatic cells shall be made at least four times in each 6-month period at irregular intervals on milk received from each patron.

(2) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1).

(ii) Wisconsin Mastitis Test—WMT value of 18 mm.

(6) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also exceeds 1,000,000 per ml, subsequent milkings shall not be accepted for market until satisfactory
compliance is obtained. Shipments may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer may be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) Drug residue level. (1) USDA-approved plants shall not accept for processing any milk testing positive for drug residue. All milk received at USDA-approved plants shall be sampled and tested, prior to processing, for beta lactam drug residue. When directed by the regulatory agency, additional testing for other drug residues shall be performed. Samples shall be analyzed for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the Food and Drug Administration (FDA) as effective in determining compliance with "safe levels" or established tolerances. "Safe levels" and tolerances for particular drugs are established by the FDA. Other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results, may be employed on a temporary basis until they are evaluated by the AOAC and accepted or rejected by the FDA.

(2) Individual producer milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) Milk in farm bulk tanks. A sample shall be taken at each farm and shall include milk from each farm bulk tank.

(ii) Milk in cans. A sample shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.

(3) Load milk samples for beta lactam drug residue testing shall be obtained from each milk shipment as follows:

(i) Milk in bulk milk pickup tankers. A sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.

(ii) Milk in cans. A sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.

(4) Follow-up to positive-testing samples. (i) When a load sample tests positive for drug residue, the appropriate State regulatory agency shall be notified immediately of the positive test result and of the intended disposition of the shipment of milk containing the drug residue.

(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency.

(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.

4. Sections 58.136 through 56.140 are revised to read as follows:

§ 58.136 Rejected milk.
A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (§ 58.133(c)), if its classification as No. 1 for sediment content (§ 58.134), or if it tests positive for drug residue (§ 58.133(c)).

§ 58.137 Excluded milk.
A plant shall not accept milk from a producer if:

(a) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (§ 58.134);

(b) The milk has been classified "Undergrade" for bacterial estimate for more than 4 successive weeks (§ 58.135);

(c) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (§ 58.133(b)(6)); or

(d) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (§ 58.133(c)(4)).

§ 58.138 Quality testing of milk from new producers.
A quality examination and tests shall be made on the first shipment of milk from a producer shipping milk to a plant for the first time or resuming shipment to a plant after a period of non-shipment. The milk shall meet the requirements for acceptable milk, somatic cell count and drug residue level (§§ 58.137, 58.134 and 58.135). The buyer shall also confirm that the producer's milk is currently not excluded from the market (§ 58.137).

Thereafter, the milk shall be tested in accordance with the provisions in §§ 58.133, 58.134 and 58.135.

§ 58.139 Record of tests.
Accurate records listing the results of quality and drug residue tests for each producer shall be kept on file at the plant. Additionally, the plant shall obtain the quality and drug residue test records (§§ 58.140(e), (f) and (g)) for any producer transferring milk shipment from another plant. These records shall be available for examination by the inspector.

§ 58.140 Field service.
A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant should routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

5. In § 58.148, paragraphs (e), (f) and (g) are added to read as follows:

§ 58.148 Plant records.

(e) Load and individual drug residue test results. Retain for 12 months.
(f) Notifications to appropriate State regulatory agencies of positive drug residue tests and intended and final dispositions of milk testing positive for drug residue. Retain for 12 months.
(g) Somatic cell count test results on raw milk from each producer. Retain for 12 months.

L.P. Massaro,
Acting Administrator.
[FR Doc. 93-10717 Filed 5-5-93; 8:45 am]
BILLING CODE 4910-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-14-39-AD; Amendment 39-5957; AD 93-08-19]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.
ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all British Aerospace Model ATP series airplanes. This action requires measuring the electrical bonding resistance between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles, and modifying the electrical bonding, if necessary. This amendment is prompted by a recent report of loss of engine power on a Model ATP series airplane due to malfunctioning of the de-ice system and subsequent ingestion of ice into the engine, which has been attributed to insufficient electrical bonding. The actions specified in this AD are intended to prevent multiple engine power loss during flight in freezing precipitation.

DATES: Effective May 6, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 1993.

Comments for inclusion in the Rules Docket must be received on or before July 6, 1993.


The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16028, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.


SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA) which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model ATP series airplanes. This AD requires measuring the electrical bonding resistance between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles, and modifying the electrical bonding, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self–addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–49–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

§ 39.13 [Amended]

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

33-08-19 British Aerospace: Amendment 39-8567. Docket 93-NM-49-AD.

Applicability: All Model ATP series airplanes, certificated in any category. Compliance: Required as indicated, unless accomplished previously.

To prevent multiple engine power loss during flight in freezing precipitation, accomplish the following:

(a) Within 16 days after the effective date of this AD, measure the electrical resistance of the electrical bonding between certain components in engine nacelle module 3 and the airframe earth on the left and right engine nacelles in accordance with Jetstream Aircraft, Ltd., Service Bulletin ATP–24–55, Revision 1, dated April 24, 1993.

(1) If the electrical resistance measures less than 3 ohms, prior to further flight, reassemble the throttle stepper meter controller installation, overseal all bolts, and perform an operational test of the standby power lever controls in accordance with the service bulletin.

(2) If the electrical resistance measures 3 or more ohms, prior to further flight, accomplish the actions described in paragraphs (a)(2) through (a)(4) of the Accomplishment Instructions of the service bulletin, as applicable.

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

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

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

(d) The measurement, modification, oversealing, and operational test shall be done in accordance with Jetstream Aircraft, Ltd., Service Bulletin ATP–24–55, Revision 1, dated April 24, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dallas International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1607 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 6, 1993.

Issued in Renton, Washington, on April 27, 1993.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FRR Doc. 93–10730 Filed 5–5–93; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[FRR No. RM93–16–000]

FERC Form No. 15, Interstate Pipeline’s Annual Report of Gas Supply, and FERC Form No. 16, Report on Gas Supply and Requirements; Order Extending Time for Compliance


AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order extending time for compliance.

SUMMARY: The Commission is considering whether natural gas pipeline companies should continue to be required to file FERC Form No. 15, Interstate Pipeline’s Annual Report of Gas Supply, and FERC Form No. 16, Report on Gas Supply and Requirements, in light of the ongoing general industry restructuring. Pending the completion of its review, this order extends the time specified in the Commission’s regulations for the filing of the two forms until July 31, 1993.

EFFECTIVE DATE: This order will become effective on the date of issuance, April 27, 1993.


SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text of diskette in Wordperfect format may also be
ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 63
[FRL-4652-2]

National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of complete enforceable commitments received.

SUMMARY: This notice provides a list of companies that have submitted “complete” enforceable commitments to the EPA under the Early Reductions Provisions [section 112(i)(5)] of the Clean Air Act (CAA) as amended in 1990. The list covers commitments determined by the EPA to be complete through April 6, 1993 and includes the name of each participating company, the associated emissions source location, and the EPA Regional Office which is the point of contact for further information.

Supplementary Information: Under section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990, an existing source of hazardous air pollutant emissions may obtain a 6-year extension of compliance with an emission standard promulgated under section 112(d) of the CAA, if the source achieves significant reductions of hazardous air pollutant emissions prior to certain dates. On October 29, 1992, the EPA Administrator signed a final rule to implement this “Early Reductions” provision. The final rule was published in the Federal Register on December 29, 1992, (57 FR 61970).

Sources choosing to participate in the Early Reductions Program must document base year emissions and post-reduction emissions to show that sufficient emission reductions have been achieved to qualify for a compliance extension. As a first step toward this demonstration, some sources may be required to submit an enforceable commitment containing base year emission information, or if not required, may voluntarily submit such information to the EPA for approval. As stated in the proposed Early Reductions rule, the EPA will review these submittals to verify emission information, and also will provide the opportunity for public review and comment. Following the review and comment process and after sources have had the chance to revise submittals (if necessary), the EPA will approve or disapprove the base year emissions.

To facilitate the public review process for program submittals, the proposed rule contains a commitment by the EPA to give monthly public notice of submittals received which have been determined to be complete and which are about to undergo technical review within the EPA. Members of the public wishing to obtain more information on a specific submittal then may contact the appropriate EPA Regional Office representative listed above.

Eighty-seven enforceable commitments have been received by the EPA, and nineteen have been determined to be complete to date. Some of the early reductions submittals received actually contain multiple enforceable commitments; that is, some companies have decided to divide their particular plant sites into more than one early reductions source. Each of these sources must achieve the required

Natural gas pipeline services and provides a schedule for implementing that restructuring. The rule applies to all pipelines that provide open-access transportation service.

Federal Register / Vol. 58, No. 86 / Thursday, May 6, 1993 / Rules and Regulations
emissions reductions individually to qualify for a compliance extension. The purpose of today's notice is to add commitments from Monsanto, Polyken, and Occidental Chemical to the previously published list of commitments that have been determined to be complete by EPA under the Early Reductions Program. Since the last notice, EPA has deemed complete one commitment from Monsanto for a source in Springfield, Massachusetts, one from Polyken in Franklin, Kentucky, and one from Occidental Chemical in Belle, West Virginia. As the remaining submittals are determined to be complete, they will appear in subsequent monthly notices.

At a later time (most likely within one to three months of today's date), the EPA Regional Offices will provide a formal opportunity for the public to comment on the submittals added to the list by today's notice. To do this, the Regional Office will publish a notice in the source's general area announcing that a copy of the source's submittal is available for public inspection and that comments will be received for a 30 day period.

The table below lists those companies that have made complete enforceable commitments or base year emission submittals under the Early Reductions Program through April 6, 1993. These submittals are undergoing technical review within the EPA at this time.

**TABLE 1**

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>EPA region</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Kalama Chemical, Inc</td>
<td>Kalama, WA</td>
<td>X</td>
</tr>
<tr>
<td>2. Amoco Chemical Co. (first source)</td>
<td>Texas City, TX</td>
<td>VI</td>
</tr>
<tr>
<td>3. Amoco Chemical Co. (second source)</td>
<td>Texas City, TX</td>
<td>VI</td>
</tr>
<tr>
<td>4. Johnson &amp; Johnson Medical, Inc</td>
<td>Sherman, TX</td>
<td>VI</td>
</tr>
<tr>
<td>5. PPG Industries</td>
<td>Lake Charles, LA</td>
<td>VI</td>
</tr>
<tr>
<td>6. Allied-Signal (first source)</td>
<td>Baton Rouge, LA</td>
<td>VI</td>
</tr>
<tr>
<td>7. Allied-Signal (second source)</td>
<td>Baton Rouge, LA</td>
<td>VI</td>
</tr>
<tr>
<td>8. Allied-Signal (third source)</td>
<td>Baton Rouge, LA</td>
<td>VI</td>
</tr>
<tr>
<td>9. Allied-Signal (first source)</td>
<td>Ironton, OH</td>
<td>V</td>
</tr>
<tr>
<td>10. Allied-Signal (second source)</td>
<td>Ironton, OH</td>
<td>V</td>
</tr>
<tr>
<td>11. Monsanto</td>
<td>Saugatuck, IL</td>
<td>V</td>
</tr>
<tr>
<td>12. Dow Coming</td>
<td>Midland, MI</td>
<td>V</td>
</tr>
<tr>
<td>14. Texaco-NaOH</td>
<td>Port Neches, TX</td>
<td>VI</td>
</tr>
<tr>
<td>15. Wyeth Ayerst</td>
<td>Rouses Point, NY</td>
<td>II</td>
</tr>
<tr>
<td>16. Marathon Oil</td>
<td>Garyville, LA</td>
<td>VI</td>
</tr>
<tr>
<td>17. Monsanto</td>
<td>Springfield, MA</td>
<td>I</td>
</tr>
<tr>
<td>18. Polyken</td>
<td>Franklin, KY</td>
<td>IV</td>
</tr>
<tr>
<td>19. Occidental Chemical</td>
<td>Balo, WV</td>
<td>III</td>
</tr>
</tbody>
</table>

**SUMMARY:** This order revokes in its entirety a public land order which withdrew 13,277.03 acres of public lands for use by the Bureau of Indian Affairs in connection with the Navajo Indian Irrigation Project. The lands are presently held in trust for the Navajo Tribe of Indians by the United States under Public Land Order No. 5624. The locatable minerals are controlled by the Navajo Tribe of Indians and are not available for mining. The lands have been and will remain open to mineral leasing. This is a record-clearing action only.

**EFFECTIVE DATE:** May 6, 1993.

**FOR FURTHER INFORMATION CONTACT:** Georgiana E. Armijo, BLM New Mexico State Office, PO Box 27115, Santa Fe, New Mexico, 87502, 505-438-7594.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 5245, which withdrew the following described lands for the Navajo Indian Irrigation Project, is hereby revoked in its entirety:

   **New Mexico Principal Meridian**
   
   T. 28 N., R. 11 W., Sec. 30, lots 2, 3, and 4, NE 1/4, SE 1/4, SW 1/4, NE 1/4, and SW 1/4; 1/26 N., R. 12 W., Sec. 2, lots 1 and 2, SW 1/4, and NE 1/4.
   
   T. 27 N., R. 12 W., Sec. 1, lots 3 and 4, SW 1/4, NW 1/4, SW 1/4, and NE 1/4.

2. Sec. 2.

3. Sec. 3, lots 1 to 4, inclusive, SW 1/4, NE 1/4, SE 1/4, and SW 1/4.

4. Sec. 5, lots 1 and 2, SW 1/4, NE 1/4, NE 1/4, and SW 1/4.

5. Sec. 8, NE 1/4, and SW 1/4.

6. Sec. 11,

7. NE 1/4, SW 1/4, and SW 1/4.

8. Sec. 22,


10. Sec. 27, NE 1/4, SW 1/4, and SW 1/4.

11. Sec. 28, NE 1/4.

12. Sec. 34, NE 1/4, and NE 1/4.


15. Sec. 14, NE 1/4, SW 1/4, and SW 1/4.

16. Sec. 21, SW 1/4, and SE 1/4.

17. Sec. 22, SW 1/4, SW 1/4, and SW 1/4.

18. Sec. 23, EV 1/2, SW 1/4, SE 1/4, and SW 1/4.

19. Sec. 24, W 1/4, SW 1/4, SW 1/4, and SW 1/4.

20. Sec. 25, SE 1/4.

21. Sec. 29, SE 1/4, and SW 1/4.

22. Sec. 32, NE 1/4, SW 1/4, and SE 1/4.

23. Secs. 33, 34, and 35.

24. Secs. 36, NE 1/4, SW 1/4, and SW 1/4.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1301

RIN 0970-AB03

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF)
Administration for Children and Families (ACF).

ACTION: Final rule.

SUMMARY: The Administration on Children, Youth and Families is amending 45 CFR 1301.32 to add the Office of Management and Budget (OMB) approval number for information collection requirements in the Head Start Grants Administration rule.

DATES: This amendment is effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Mottola, Acting Commissioner, Administration on Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 205–8347.

SUPPLEMENTARY INFORMATION:

Background

The Administration on Children, Youth and Families published a final rule on September 14, 1992 (57 FR 41881), which revises and clarifies for Head Start grantees the requirements implementing the statutory provision that limits development and administrative costs to 15 percent of total costs. The final rule also clarifies that training and technical assistance funds awarded to grantees must be included in total approved program costs, and are therefore subject to the 20 percent non-Federal matching requirement.

Purpose of Amendment to Section 1301.32

Paragraphs (f)(2) and (3) of 45 CFR 1301.32, in the September final rule, contain information collection requirements for which an OMB approval number is required. In addition, OMB requires the approval number to be displayed in the rule. OMB approved and assigned a number to the information collection requirements in § 1301.32 on January 26, 1993. This amendment adds that number at the end of the section.

Waiver of Notice and Comment Procedures

The Administrative Procedure Act (5 U.S.C. 553(b)) requires that a notice of proposed rulemaking be published unless the Department finds, for good cause, that such notice and opportunity for public comment is impracticable, unnecessary, or contrary to the public interest. In this instance, the rule in question effects only a technical change by including the OMB Control Number at the end of the section that contains information collection requirements. Accordingly, the Department has determined that it would be unnecessary to use notice and comment procedures in issuing this amendment to display an OMB Control Number.

Impact Analyses

As the only purpose of this rule is to display the OMB control number at the end of 45 CFR 1301.32, no impact analyses is required.

List of Subjects in 45 CFR Part 1301

Development and administrative costs, Dual benefit costs, Head Start, Indirect costs, Program costs, Total approved costs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)


Neil J. Stillman,
Deputy Assistant Secretary for Information Resources Management.

For the reasons set forth in the preamble, 45 CFR part 1301 is amended as follows:

1. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9831 et seq.

2. Section 1301.32 is amended by adding the OMB Control Number at the end of the section.

§ 1301.32 Limitation on costs of development and administration of a Head Start program.

* * * * *

Information collection requirements contained in paragraphs (f)(2) and (3) of this section were approved on January 26, 1993, by the Office of Management and Budget under Control Number 0980–1043.

[Federal Register: 56 FR 10329, March 5, 1991 (Volume 56, Part 53); 10329 Filed 3–5–91; 8:45 am]

BILLING CODE 4130–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–214; RM–7101; RM–7226]

Radio Broadcasting Services; Homerville, Lakeland and Statenville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a petition for reconsideration filed by Lakeland Broadcasters, Inc. of the Report and Order in this proceeding. See 56 FR 51844, October 16, 1991. This Memorandum Opinion and Order substitutes Channel 290C3 for Channel 290A and modifies the license of Station WHFE(FM), Lakeland, Georgia, to reflect the new channel; substitutes Channel 254A for Channel 288A and modifies the license of Station WBTY(FM), Homerville, Georgia, to reflect operation on the new channel; and allot Channel 248A in lieu of Channel 254A and instructs the permittee, La Taurus Productions, Inc., to amend its construction permit for Statenville, Georgia. This document further specifies that Station WXMK(FM), Dock Junction, Georgia and Station WQHL (FM), Live Oak, Florida must amend their pending applications to adhere to the minimum distance separation requirements of § 73.121 of the Commission’s rules. See supplemental information, infra. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beaty, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Memorandum Opinion and Order, MM Docket No. 90–214, adopted April 14, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission’s copy contractors, ITS, Inc., (202) 857–3800, 1919 M Street, NW, room 246,
Washington, DC 20036 or 2100 M Street, NW., Washington, DC 20037.

The coordinates for Channel 290C3 at Lakeland, Georgia, are North Latitude 31–02–25 and West Longitude 83–05–00, with a site restriction 1.3 kilometers (.8 miles) west of the community. The coordinates for Channel 254A at Homerville, Georgia, are those of its license site, North Latitude 31–02–04 and West Longitude 82–51–50. The coordinates for Channel 248A at Statesville, Georgia, are North Latitude 30–45–40 and West Longitude 82–52–45, with a site restriction 15.5 kilometers (9.6 miles) northeast of the community.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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


§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 254A and adding Channel 248A at Statesville, by removing Channel 288A and adding Channel 254A at Homerville, and by removing Channel 290A and adding Channel 290C3 at Lakeland.

Federal Communications Commission.

Douglas W. Webbink,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10619 Filed 5–9–93; 8:45 am]
BILLING CODE 7712–01–M

47 CFR Part 73

[MM Docket No. 90–544; RM–7527 and RM–7615]

Radio Broadcasting Services; Thief River Falls and Walker, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Olmstead Broadcasting, Inc., thereby substituting Channel 257C3 for Channel 257A at Thief River Falls, Minnesota, and modifying the license for Station KDQ–FM accordingly. See 57 FR 10428, March 26, 1992. The coordinates for Channel 257C3 are 48–04–52 and 96–20–05. Canadian concurrence has been obtained for this allotment. The Petition for Reconsideration filed by De La Hunt Broadcasting Corporation is dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 434–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 90–544, adopted April 12, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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


§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 257A and adding Channel 257C3 at Thief River Falls.

Federal Communications Commission.

Douglas W. Webbink,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–10623 Filed 5–9–93; 8:45 am]
BILLING CODE 7712–01–M

48 CFR Part 509

[APD 2800.12A, CHGE 45]

General Services Administration Acquisition Regulation; Administrative Records for Debarment and Suspension

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5 (APD 2800.12A), is amended by adding a new paragraph to provide for furnishing parties a copy of the administrative record in a debarment proceeding, and to redesignate other paragraphs; to add a new paragraph to provide for furnishing parties a copy of the administrative record in a suspension proceeding, and to redesignate other paragraphs. The intended effect is to simplify the process for releasing documents in the administrative record to parties proposed for debarment or suspension.

EFFECTIVE DATE: May 21, 1993.


SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the Federal Register on March 16, 1992 (57 FR 10454). Favorable comments were received from the Coalition for Government Procurement. The Coalition indicated it believed the change would simplify the release of documents to parties proposed for debarment or suspension and help ensure that Government suspension and debarment proceedings are conducted in an open and fair manner.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

GSA certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule will make it easier for parties proposed for debarment or suspension, including small entities, to obtain the administrative record which formed the basis for the decision to propose debarment or suspension. Accordingly, the rule will have a beneficial impact on small entities.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 509

Government procurement.

1. The authority citation for 48 CFR part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c).
PART 509—CONTRACTOR QUALIFICATIONS

2. Section 509.406–3 is amended by redesignating paragraphs (b)(6) through (9) as (b)(7) through (10) and republishing them as set forth below and adding a new paragraph (b)(6) to read as follows:

§509.406–3 Procedures.

(b) * * * * *

(6) Upon request, the affected party will be furnished a copy of the administrative record which formed the basis for the decision to propose debarment. If there is a reason to withhold from the party any portion of the record, the party will be notified that a portion of the record is being withheld and will be informed of the reasons for the withholding.

(7) In actions not based on a conviction or judgment, the party may request a fact-finding hearing to resolve a genuine dispute of material fact. The party shall identify the material facts in dispute and the basis for disputing the facts. If the fact-finding official determines that there is a genuine dispute of material fact, the fact-finding official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the fact-finding official’s request. Extensions may be granted for good cause upon the request of the party or the agency.

(8) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute material facts relating to the proposed debarment through the submission of oral and written evidence;

(ii) Resolve facts in dispute and provide the fact-finding official with written findings of fact based on a preponderance of evidence; and

(iii) Provide the fact-finding official with a determination as to whether a cause for debarment exists, based on facts as found.

(9) Hearings will be conducted by the fact-finding official in accordance with rules consistent with FAR 9.406–3(b)(2) promulgated by that official.

(10) The fact-finding official will notify the affected parties of the schedule for the hearing. The fact-finding official shall deliver written findings of fact to the debarring official together with a transcription of the proceeding, if made, within 20 calendar days after the hearing record closes.

3. Section 509.407–3 is amended by redesignating paragraph (b)(5) and (6) as (b)(6) and (7) and revising them as set forth below and adding a new paragraph (b)(5) to read as follows:

§509.407–3 Procedures.

(b) * * * * *

(5) Upon request, a copy of the administrative record will be furnished to the affected party under the guidelines set forth at 509.406–3(b)(6).

(6) Fact-finding hearings will not be conducted in actions based on indictments, or in cases in which the suspending official determines that there is a genuine dispute of material fact, the suspending official shall refer the matter to the fact-finding official. A party may request a fact-finding hearing to resolve genuine disputes of material fact in other cases. The party shall identify the material facts in dispute and the basis for disputing the facts. If the suspending official determines that there is a genuine dispute of material fact, the suspending official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the suspending official’s request. Extensions may be requested by the party or the agency.

(7) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute facts relating to the suspension action through the submission of oral and written evidence;

(ii) Determine whether, in light of the evidence presented, there is adequate evidence to support a cause of suspension. Hearings will be conducted as outlined in 509.406–3(b)(9).

Richard H. Hopf, III,
Associate Administrator for Acquisition Policy.

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 222
[Docket No. 921077–3081]

Endangered and Threatened Species; Saimaa Seal

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

ACTION: Final rule.

SUMMARY: NMFS is listing the Saimaa seal (Phoca hispida saimensis) as endangered under the endangered Species Act of 1973 (ESA). NMFS used the best available scientific and commercial information to make this determination. The Saimaa seal is a subspecies of the ringed seal (Phoca hispida) that has adapted to a freshwater environment. Scientists estimate the population at about 160–180. The seals are limited in range to Lake Saimaa in eastern Finland.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Dean Wilkinson, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

The ESA is administered jointly by the U.S. fish and Wildlife Service (USFWS), the Department of the Interior, and NMFS. NMFS has jurisdiction over pinniped species (except walrus) and makes determinations under section 4(a) of the ESA as to whether such species should be listed as endangered or threatened. The USFWS maintains and publishes the List of Endangered and Threatened Wildlife in 50 CFR part 17 for all species determined by NMFS or USFWS to be endangered or threatened. A list of threatened and endangered species under the jurisdiction of NMFS is also contained in 50 CFR 227.4 and 223.23(a), respectively.

The ESA defines “species” to include any subspecies of fish, wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature.

Section 4(a)(1) of the ESA and NMFS listing regulations set forth procedures for listing species. Based on the best available scientific and commercial information, the Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon one or a combination of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;

2. Overutilization for commercial, recreational, scientific, or educational purposes;

3. Disease or predation;

4. Inadequacy of existing regulatory mechanisms;

5. Other natural or man-made factors affecting its continued existence.

NMFS conducted a status review of the Saimaa seal and concluded that the
species is endangered based on listing factors (1), (4), and (5). NMFS then published a proposed rule (57 FR 60162, December 16, 1992) with a 60-day comment period. The proposed rule contained a background discussion of specific information leading to this rule. Background information previously presented will not be repeated here.

Comments and Responses

Four written comments were received in response to the proposed rule from: The American Society of Mammalogists; the American Association of Zoological Parks and Aquariums; the Marine Mammal Center in Sausalito, California; and a scientist who has conducted research on the species. All supported the proposed listing.

Two of the commenters noted that the Seal Specialists Group of the International Union for the Conservation of Nature and Natural Resources has determined that the Saimaa seal should be listed as endangered. The commenters stated that an endangered listing would be appropriate because it would be consistent with the international classification.

One commenter pointed out that the Ministry of the Environment in Finland has developed a plan to protect two other areas as natural parks in Lake Saimaa during the next 10 years. When these parks are in place, the core parts of the four breeding areas will be protected. The commenter pointed out, however, that only terrestrial areas are included in the parks, but that the Government of Finland is considering a law making it possible to incorporate aquatic areas into the parks. In order to do this, it will be necessary to purchase the aquatic areas from private holders.

This comment reinforces two of the points contained in the proposed rule. First, habitat alterations have contributed to the decline of the population, and not all of the breeding areas are currently protected. In addition, although the Government of Finland has taken protective measures, additional regulatory action would help preserve the species. The contemplated actions would be likely to reduce mortality in juvenile seals and could make a significant contribution to the recovery of the species.

Determination

Based on the best available scientific and commercial data, NMFS has determined that the Saimaa seal should be classified as endangered. NMFS has determined that this condition is caused by a combination of the factors specified under section 4(a)(1) of the ESA.

Recommended Critical Habitat

Regulations regarding listing of species and designation of critical habitat (50 CFR 424.12(h)), specify that critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction. Because of the range of the Saimaa seal, it is not possible to incorporate foreign areas into critical habitat designation. Therefore, the appropriate location for critical habitat is the Saimaa seal's range of occurrence, which is within U.S. jurisdiction.

Classification

This restriction of criteria for a listing is consistent with the international classification. The commenters stated that an endangered listing would be appropriate because it would be consistent with the international classification.

As noted in the conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291 and the Regulatory Flexibility Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of Executive Order 12612.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.


Samuel W. McKeen,

For the reasons set forth in the preamble, 50 CFR part 222 is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for Part 222 continues to read as follows:


§222.23 [Amended]

2. In §222.23, paragraph (a) is amended by adding the phrase "Saimaa seal (Phoca hispida saimensis);" immediately after the phrase

“Mediterranean monk seal (Monachus monachus);” in the second sentence.

[FR Doc. 93–10692 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–22–M

Atlantic Tuna Fisheries; Bluefin Tuna

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

ACTION: Closure of the southern longline component of the Incidental Catch category.

SUMMARY: NMFS issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in the Regulatory Area south of 36°00'N latitude. Closure of this fishery is necessary because the total annual quota of 54 mt of Atlantic bluefin tuna allocated for this subcategory has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATES: The closure is effective 0001 hours local time May 4, 1993 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Aaron E. King, 301–713–2347 or Kevin B. Foster, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 et seq.) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(e)(2) of the regulations provides for an 1993 annual quota of 85 mt of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. Of the 85 mt quota for longline vessels, no more than 67 mt can be harvested in the area south of 36°00'N latitude.

If a quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under §285.22(b) to subtract the overharvest from, or add the underharvest to, that quota for 1993; provided that the total of the 1992 harvest plus the 1993 adjusted quotas and the reserve does not exceed 2,497 mt.

The longline component of the Incidental Catch category fishery for Atlantic bluefin tuna operating south of
36°00' N. latitude in the Regulatory Area, exceeded its quota for 1992 by 13.2 mt. This overharvest was dealt with in a separate action, and is further explained in Federal Register notice 57 FR 59310, published December 15, 1992, resulting in an adjusted 1993 maximum harvest for the southern longline Incident Catch subcategory of 54 mt.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under §285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under §285.22. The Assistant Administrator is further authorized under §285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under §285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the Regulatory Area will be attained by May 4, 1993. Fishing for, and retention of, Atlantic bluefin tuna south of 36°00' N. latitude harvested under §285.22(e)(2) must cease at 0001 local time on May 4, 1993. During the closure of the fishery south of 36°00' N. latitude, it is prohibited to catch with longline gear, or possess Atlantic bluefin tuna taken with longline gear, south of 36°00' N. latitude, including possession to land (i.e., offload) the fish shoreside. Fishing for Atlantic bluefin tuna by longline vessels possessing an incidental catch permit, may continue north of 36°00' N. latitude, until the quota is reached and closure occurs. Landing (i.e., offloading), or entering port with the intent to offload, of fish caught north of 36°00' N. latitude, however, is restricted to ports north of 36°00' N. latitude.

**Classification**

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

**Authority:** 16 U.S.C. 971 et seq.

**List of Subjects in 50 CFR Part 285**

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

**Detected:** April 30, 1993.

**Joseph F. Clem, Chief, Plans and Regulations Division.**

FR Doc. 93-10634 Filed 4-30-93; 4:54 pm

**BILLS AND CODES: 3510-22-M**

**50 CFR Part 661**

[Docket No. 930402-3102]

**Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California**

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

**ACTION:** Emergency interim rule for 1993 fishery management measures; request for comments.

**SUMMARY:** The Secretary of Commerce (Secretary) issues an emergency interim rule to establish fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California from May 1 through May 31, 1993. Specific fishery management measures vary by fishery and area. Together they establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3-200 nautical miles) off Washington, Oregon, and California. Based on concerns regarding Klamath River fall chinook salmon, the Secretary has disapproved the proposed 1993 salmon seasons recommended by the Pacific Fishery Management Council (Council). The management measures implemented by this emergency rule will allow the ocean salmon fisheries to begin while the Council develops revised season proposals that meet the Secretary's concerns. Following development of revised management measures, the Secretary will implement salmon seasons for the remainder of the year. This action is necessary to begin the salmon fishery on May 1, as recommended by the Council, in order to allow commercial and recreational fishermen to access many other harvestable salmon stocks that might not be available if the season opening were delayed. It is intended to prevent overfishing and to be consistent with the allocation objectives and spawning goals of the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP), except for changes described below that increase spawning escapement of Klamath River fall chinook. The Council recommendations upon which this rule is based are discussed and fully analyzed in the Council's Preseason Report III Analysis of Council-Adopted Management Measures for 1993 Ocean Salmon Fisheries.

**DATES:** Effective from 0001 hours P.D.T., May 1, 1993, until 2400 hours P.D.T., May 31, 1993. Comments will be accepted through May 17, 1993.

**ADDRESSES:** Comments may be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140, or Rodney R. McNinis at 310-980-4030.

**SUPPLEMENTARY INFORMATION:**

**Background**

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan. The framework FMP was approved in 1984 and has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the Federal Register. Under the FMP, the Council makes recommendations to the Secretary on a management regime for the salmon fishery. If the Secretary approves the recommendations, he implements the management measures.

Klamath River fall-run chinook are the primary management concern off southern Oregon and northern California. In 1993, the abundance of Klamath fall-run chinook is expected to be 178,000 age-3 and age-4 fish at the beginning of the fishing season. Although this forecast is above last year's record low abundance, it is 48 percent below the 1985-1992 average ocean population forecast. Ocean escapement to the Klamath River (inriver run size) in 1992 totaled 25,900 adult fish, the lowest inriver run size since comprehensive inriver monitoring began in 1978. The spawning escapement goal for the Klamath River system is 33-34 percent of the potential adult salmon with a minimum of 35,000 natural spawners (fish that spawn outside of the hatcheries). In 1992, the Klamath River fall chinook escapement fell below the minimum spawning escapement floor for the third consecutive year; a review work group has been appointed to review this stock in accordance with FMP guidelines. It is estimated that an ocean season in 1993 similar to that adopted preseason in 1992 would result in an escapement above the minimum spawning escapement floor.
In recent years, several Federal and regional actions have been undertaken to improve the habitat conditions within the Klamath River Basin for the purpose of increasing the production of anadromous fish populations, including the fall chinook salmon. Multi-agency task forces, including Federal, state and local governments, have been working for several years under the lead of the Department of the Interior, with the cooperation of the Department of Commerce, to restore salmon habitat in the Klamath River and its major tributary, the Trinity River. The Trinity River has been adversely impacted by the diversion of much of its natural flow into the Sacramento River Basin through the Central Valley Project. The Secretary of the Interior, in 1991, agreed to increase the minimum flow of water that would be released down the Trinity River from 240,000 acre-feet to 340,000 acre-feet. This action was taken to improve the habitat for salmon. On October 30, 1992, the Central Valley Project Improvement Act (Pub. L. 102-575) was signed. That Act included the 340,000 acre-foot minimum flow and provided for studies that may lead to an increased minimum flow after 1996.

During the preschool ocean salmon fishery management process, the Council was advised by the Department of the Interior that it should manage the Ocean fishery so that the Indian tribes on the Klamath River could take 50 percent of the harvestable Klamath River salmon. The Council considered a range of harvest rates for the ocean fisheries ranging from 12 to 28 percent of the Klamath River fall chinook.

At the Council’s April 6–9 meeting, it recommended to the Secretary management measures that would result in an ocean harvest rate of 22 percent on Klamath River fall chinook salmon stocks and achieve the spawning escapement floor if the Klamath River tribes were to limit their harvest to one-half (17,400 fish) of the non-Indian harvest (ocean harvest plus inriver recreational catch of 2,600 fish) of Klamath fall chinook. However, a 22 percent harvest rate combined with a tribal harvest equal to the non-Indian harvest of Klamath River fall chinook would return approximately 21,000 natural spawners, 61 percent of the natural spawning escapement floor, to the Klamath River. Were this to happen, the Klamath River escapement floor of 35,000 natural spawners would be breached for a fourth consecutive year.

Subsequent to the Council’s April meeting, the Departments of Commerce and the Interior had extensive discussions regarding the spawning escapement, commercial and recreational ocean harvest, and tribal inriver harvest of Klamath River fall chinook. These discussions also considered conservation issues resulting from the severe and prolonged California drought and the failure to achieve the Klamath River fall chinook natural spawning escapement floor for the past four years. The Departments of Commerce and the Interior have concluded that 1993 offers a unique opportunity, because of the end of the drought, to begin to address conservation concerns for Klamath River fall chinook, and to begin to rebuild the stock to levels that will support healthy and sustained harvests by both tribal and non-tribal fisheries.

In view of the fact that the Council’s ocean fishery recommendation to achieve the Klamath River fall chinook natural spawning escapement floor of 35,000 natural Klamath River fall chinook spawners for the past 3 years (15,500, 11,500, 11,000 adult natural spawners, respectively), and the fact that the long-term drought in California has ended and the region is enjoying the best water conditions in recent years, the Department of Commerce believes that it is in the best long-term interest of the Klamath River fall chinook resource, the fishing industry, and the tribal fisheries, to achieve as large a spawning escapement as reasonably possible in 1993. This provides the best opportunity to increase production of Klamath River fall chinook significantly beginning in 3 to 4 years when the production from the 1993 brood will return. Thus, the Secretary has determined that the Klamath River fall chinook natural spawning escapement in 1993 should be greater than the 35,000 fish spawning escapement floor.

In light of concerns about the need to increase conservation while meeting minimum tribal ceremonial and subsistence needs, the Department of the Interior has agreed that, for 1993, the Klamath tribal catch will be restricted to 18,500 chinook, in order to provide for greater spawning escapement.

Based on the Departments of Commerce and the Interior’s conservation concerns and the expected tribal inriver catch, the Secretary has determined that the Council’s recommended 22 percent harvest rate on Klamath River fall chinook will not achieve the expected tribal harvest and a spawning escapement in excess of the 35,000 spawning escapement floor. Consequently, the Secretary has disapproved the Council’s recommendation. The Secretary is requesting that the Council reconsider its proposals for the 1993 season and resubmit for consideration a proposed ocean fishery that will return sufficient fall chinook to the Klamath River to provide for a tribal inriver harvest of 18,500 fall chinook, and a spawning escapement of at least 38,000 natural spawners. The Secretary has balanced the conservation need for additional spawners against the economic impacts on the ocean fishery in this year, and has determined that a spawning escapement of 38,000 natural spawners is a reasonable accommodation of the competing needs. The Secretary believes that the short-term sacrifices made by both tribal and non-tribal fishermen to achieve a modest increase of at least 3,000 natural spawners above the FMP’s spawning escapement goal, combined with better environmental conditions and the Department of the Interior’s commitment to good management for fish production in the Trinity River, a major tributary of the Klamath River, will substantially improve the probability that the Klamath River fall chinook run will rebuild to a level that can sustain healthy fisheries.

In order to allow fisheries to begin on May 1, pending revisions to be made by the Council, the Secretary issues this emergency rule. This rule incorporates all of the Council-recommended management measures for fisheries that occur through May 31, except that the May 1 to May 6 troll fishery between Horse Mountain and Point Arena is excluded and the chinook quota for the recreational fishery beginning May 5 between Humbolt and Horse Mountains (the Klamath Management Zone) is reduced from 12,000 to 8,000 chinook. The Secretary determined to reduce ocean impacts on Klamath fall chinook immediately in order to preserve flexibility for the Council to shape management measures later in the season. This emergency rule effectively amends the FMP to modify temporarily the spawning escapement goal for Klamath River chinook salmon.

After receiving revised season recommendations that meet the Secretary’s spawning escapement objective and the expected level of tribal inriver harvest, the Secretary will publish a subsequent rule to implement the remainder of the seasons.

Management Measures for May 1993

The Secretary is establishing the following allowable ocean harvest levels and management measures for the fisheries that will occur from May 1 through May 31, which are designed to apportion the burden of protecting weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs.
These management measures are intended to establish May fisheries while preserving flexibility for the Council to reconfigure the remaining ocean salmon fisheries.

A. South of Cape Falcon

In the area south of Cape Falcon, the management measures in this rule are based primarily on concerns for Klamath River fall chinook and Sacramento River winter chinook. The greatest constraint on the ocean management measures was the low abundance of Klamath River fall chinook as described above.

Winter-run chinook from the Sacramento River are listed under the federal Endangered Species Act as a threatened species. In 1991, NMFS concluded a formal consultation with the Council regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation determined that the 1990 level of impacts from the ocean fisheries would not jeopardize the continued existence of the winter run. NMFS also recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when the winter run is entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1993. The overall impact of the 1993 salmon management program on the winter run is expected to be significantly less than in 1990, the base year for the biological opinion. This expectation is based on the harvest rate model for the Central Valley Index stocks of fall chinook, which will experience a harvest rate of 71 percent in 1993 as compared to 79 percent in 1990. These rates are only indicators of the relative impact on the winter run because these fish are less vulnerable to the ocean fisheries than fall-run chinook due to the timing of the seasons, as well as their growth and migration patterns.

Commercial Troll Fisheries

Chinook quotas are again being implemented in some areas to assure that the ocean impacts on threatened Sacramento River winter-run chinook, threatened Snake River fall chinook, and Sacramento and Klamath River fall chinook do not exceed those that have been modeled. Specifically, the commercial troll fishery will be limited to a quota of 38,000 chinook through May 31 in the area between Florence South Jetty and Humbug Mountain, Oregon. That quota represents a portion of the total 71,000 chinook quota recommended by the Council for this area through August 31. Other chinook quotas are anticipated to be in effect after May 31 and are not within the scope of this rule.

Due to the need to limit harvest impacts on Oregon coastal natural coho, there will be no retention of coho by the commercial troll fisheries south of Cape Falcon.

From Point Reyes, California, to the U.S.-Mexico border, the commercial fishery for all salmon except coho will open May 1 and remain open while this rule is in effect.

In the area between Point Arena and Point Reyes, California, the commercial fishery for all salmon except coho will open May 1 and close May 31, while this rule is in effect.

The area between Humbug Mountain, Oregon, and Point Arena, California, will be closed to commercial salmon fishing during the effective period of this rule.

From Cape Arago to Humbug Mountain, Oregon, the all-salmon-except-coho season will open May 1 through May 31 under the 38,000 chinook quota for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line in this area.

From Florence South Jetty to Cape Arago, Oregon, an all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, subject to closure upon attainment of the overall catch quota of 38,000 chinook for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line.

From Cape Falcon to Florence South Jetty, Oregon, the all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, with gear restricted to no more than four spreads per line.

Recreational Fisheries

The recreational fishery for all salmon between Point Arena and the U.S.-Mexico border opened on the nearest Saturday to February 15 and closes on the nearest Saturday to February 22. The recreational fishery for all salmon except coho will remain open during the effective period of this rule.

Recreational fisheries south of Cape Falcon, the recreational fishery for all salmon except coho will open May 1 and remain open during the effective period of this rule, subject to closure upon attainment of the catch quota of 8,000 chinook. This season will be open Wednesday through Saturday only, with a one-fish daily bag limit.

From Cape Falcon to Humbug Mountain, the recreational fishery for all salmon will open May 1 and remain open during the effective period of this rule, 7 days a week, shoreward of a line generally representing the 27 fathom curve. This season will have a two-fish daily bag limit, with no more than two fish in seven consecutive days, and no more than 10 fish per year.

B. North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook, lower Columbia River hatchery fall chinook, and natural coho stocks of the Quillayute, Hoh, Queets, and Skagit Rivers. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, user groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in U.S. v. Washington, U.S. v. Oregon, and Hoh Indian Tribe et al. v. Baldrige.

The total allowable chinook catch in the ocean north of Cape Falcon was established to ensure that the impacts on Snake River spring/summer and fall chinook stocks, which are listed as threatened species under the Endangered Species Act, did not exceed recent years' level of impacts. For Snake River wild spring chinook, the available information indicates that it is highly unlikely these fish are impacted in Council area fisheries. For Snake River wild summer chinook, these fish comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely these fish are significantly impacted in Council area fisheries. For Snake River wild fall chinook, which are caught in Council area fisheries, the Council estimated a reduction of 10 percent in the ocean exploitation rate under the Council's recommended 1993 ocean measures compared to the 1986-1990 average by using the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook.

Commercial Troll Fisheries

The commercial fishery between the U.S.-Canada border and Cape Falcon will open on May 1 for all salmon except coho and remain open during the effective period of this rule, subject to closure upon the attainment of the
30,400 chinook harvest guideline. The control zone at the mouth of the Columbia River will be closed.

Recreational Fisheries

During the effective period for this rule, the only recreational fishery north of Cape Falcon is an all-salmon-except-coho fishery in Washington State waters east of the Bonilla-Tatoosh Line only, from May 1 through the earlier of May 31 or 1,000 chinook quota, with a two-fish daily bag limit.

Treaty Indian Fisheries

Treaty Indian troll fisheries north of Cape Falcon are governed by a quota of 33,000 chinook salmon. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. The all-salmon-except-coho seasons will open May 1 and remain open during the effective period of this rule, if the chinook quota is not reached. The minimum length restriction for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches (61 cm) for chinook.

The following tables and text are the management measures being implemented by this emergency rule from May 1 through May 31, 1993. Additional seasons which begin on or after June 1 will be addressed in a subsequent rule after a determination can be made regarding the reconfiguration of the remaining ocean salmon fisheries. These early season management measures are responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. They are consistent with requirements of the Magnuson Act and other applicable law, including U.S. obligations to Indian tribes with treaty-secured fishing rights.

BILLING CODE 2510-25-0
Table 1. Commercial management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery.)

### A. SEASONS, SUBAREA QUOTAS, AND SPECIES

(Shaded areas represent closures.)

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<th>MAY</th>
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<tr>
<td>U.S.-CANADA BORDER</td>
<td>U.S.-CANADA BORDER</td>
</tr>
<tr>
<td>5/1 thru earlier of expiration of emergency rule or guideline of 30,400 chinook (E.1.). All salmon except coho. Control Zone 1 (C.3.), Columbia River mouth, is closed. See D.1.</td>
<td>CAPE FALCON CAPE FALCON</td>
</tr>
<tr>
<td>5/1 thru expiration of emergency rule. All salmon except coho. No more than 4 spreads per line.</td>
<td>FLORENCE SOUTH JETTY FLORENCE SOUTH JETTY</td>
</tr>
<tr>
<td>5/1 thru earlier of expiration of emergency rule or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.</td>
<td>CAPE ARAGO CAPE ARAGO</td>
</tr>
<tr>
<td>5/1 thru earlier of 5/31 or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.</td>
<td>HUMBUG MOUNTAIN HUMBUG MOUNTAIN</td>
</tr>
<tr>
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<td>HORSE MOUNTAIN</td>
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<td>POINT ARENA</td>
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<tr>
<td>5/1 thru 5/31. All salmon except coho.</td>
<td>POINT REYES POINT REYES</td>
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<td>U.S.-MEXICO BORDER</td>
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</tbody>
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### B. MINIMUM SIZE LIMITS (Inches)

<table>
<thead>
<tr>
<th></th>
<th>Chinook</th>
<th>Coho</th>
<th>Pink</th>
</tr>
</thead>
<tbody>
<tr>
<td>North of Cape Falcon</td>
<td>28.0</td>
<td>21.5</td>
<td></td>
</tr>
<tr>
<td>Cape Falcon to Humbug Mountain</td>
<td>26.0</td>
<td>19.5</td>
<td></td>
</tr>
<tr>
<td>South of Humbug Mountain</td>
<td>26.0</td>
<td>19.5</td>
<td></td>
</tr>
</tbody>
</table>

Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

### C. GENERAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

#### C.1. Hooks

- Single point, single shank barbless hooks are required.

#### C.2. Line Restriction

- Off California, no more than 6 lines per boat are allowed.
C.3. **Control Zone I** - The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line (continuing to Buoy #2, then to Buoy #4, then to Buoy #2SJ, then continuing on) to the tip of the south jetty, is closed.

C.4. **Transit Through Closed Areas with Salmon on Board** - It is unlawful for a vessel, which has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.5. **Landing Salmon in Closed Areas** - Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

D. **POSSESSION, LANDING, AND SPECIAL RESTRICTIONS BY MANAGEMENT AREA**

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

D.1. **U.S.-Canada Border to Cape Falcon, May/June All-Salmon-Except-Coho Season** - The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure.

E. **QUOTAS**

E.1. **Chinook Guideline North of Cape Falcon** - The troll fishery will be managed to keep chinook catch within a guideline of 30,400 chinook.

E.2. **Chinook Quota Between Florence South Jetty and Humbug Mountain** - The troll fishery will be limited by a catch quota of 38,000 chinook.
Table 2. Recreational management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery.)

### A. SEASONS, SUBAREA QUOTAS, SPECIES AND BAG LIMITS

(Shaded areas represent closures.)

<table>
<thead>
<tr>
<th>MAY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.-CANADA BORDER</td>
<td>U.S.-CANADA BORDER</td>
</tr>
<tr>
<td>Open east of Bonilla-Tatoosh Line only. 5/1 thru earlier of 5/31 or 1,000 chinook quota (D.1.). Open 7 days per week. All salmon except coho. 2 fish per day.</td>
<td></td>
</tr>
<tr>
<td>CAPE ALAVA</td>
<td>CAPE ALAVA</td>
</tr>
<tr>
<td>QUEETS RIVER</td>
<td>QUEETS RIVER</td>
</tr>
<tr>
<td>LEADBETTER POINT</td>
<td>LEADBETTER POINT</td>
</tr>
<tr>
<td>CAPE FALCON</td>
<td>CAPE FALCON</td>
</tr>
<tr>
<td>5/1 thru expiration of emergency rule. Open 7 days per week. All salmon. 2 fish per day. No more than 2 fish in 7 consecutive days and no more than 10 fish per year (C.3.). Open only within the 27 fathom curve (C.2.).</td>
<td></td>
</tr>
<tr>
<td>HUMBUG MOUNTAIN</td>
<td>HUMBUG MOUNTAIN</td>
</tr>
<tr>
<td>5/5 thru earlier of expiration of emergency rule or 8,000 chinook quota (D.2.). Open Wed. thru Sat. only. All salmon. 1 fish per day.</td>
<td></td>
</tr>
<tr>
<td>HORSE MOUNTAIN</td>
<td>HORSE MOUNTAIN</td>
</tr>
<tr>
<td>Continuing (opened on nearest Sat. to 2/15) thru expiration of emergency rule. All salmon. 2 fish per day.</td>
<td></td>
</tr>
<tr>
<td>POINT ARENA</td>
<td>POINT ARENA</td>
</tr>
<tr>
<td>Continuing (opened on nearest Sat. to 3/1) thru expiration of emergency rule. All salmon. 2 fish per day.</td>
<td></td>
</tr>
<tr>
<td>U.S.-MEXICO BORDER</td>
<td>U.S.-MEXICO BORDER</td>
</tr>
</tbody>
</table>

### B. MINIMUM SIZE LIMITS (Total length in inches)

<table>
<thead>
<tr>
<th></th>
<th>Chinook</th>
<th>Coho</th>
<th>Pink</th>
</tr>
</thead>
<tbody>
<tr>
<td>North of Cape Falcon</td>
<td>24.0</td>
<td>16.0</td>
<td>None</td>
</tr>
<tr>
<td>Cape Falcon to Humbug Mountain</td>
<td>20.0</td>
<td>16.0</td>
<td>None</td>
</tr>
<tr>
<td>South of Humbug Mountain</td>
<td>20.0</td>
<td>20.0</td>
<td>None, except 20.0 off California</td>
</tr>
</tbody>
</table>

### C. SPECIAL REQUIREMENTS, RESTRICTIONS AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required north of Point Conception, California

C.2. Area Within the 27 Fathom Curve - The ocean area that is bounded by a line from Cape Falcon to 45°46′00″ N., 124°01′20″ W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04′15″ N., 124°04′00″ W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40′40″ N., 124°09′15″ W. (approximately 3 nautical miles west of Yaquina Head) to 44°08′30″ N., 124°12′00″ W. (approximately 3 nautical miles west of Heceta Head) to 43°40′15″ N., 124°14′30″ W. (approximately 0.5 nautical miles west of the Umpqua Whistle Buoy) to 43°31′30″ N., 124°17′00″ W. (approximately 1.7 nautical miles west of the beach) to 43°15′15″ N., 124°28′00″ W. (approximately 3 nautical miles west of the beach) to 43°01′30″ N., 124°29′05″ W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56′00″ N., 124°33′10″ W. (approximately 2.4 nautical miles west of the mouth of Floras Creek) to 42°50′20″ N., 124°38′30″ W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40′30″ N., 124°28′45″ W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.
C.3. **Annual Possession Restriction Between Cape Falcon and Humbug Mountain** - No more than 10 salmon of any species may be retained per year from the ocean area between Cape Falcon, Oregon and Humbug Mountain, Oregon.

C.4. For the purposes of California Fish and Game Code, section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

D. **QUOTAS**

D.1. **Chinook Quota North of Cape Alava** - The recreational fishery will be limited by a harvest quota of 1,000 chinook.

D.2. **Chinook Quota Between Humbug Mountain and Horse Mountain** - The recreational fishery will be limited by a harvest quota of 8,000 chinook.
Table 3. Treaty Indian management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

### A. SEASONS, SPECIES, MINIMUM SIZE LIMITS, AND GEAR RESTRICTIONS

<table>
<thead>
<tr>
<th>Tribe and Area Boundaries</th>
<th>Open Seasons</th>
<th>Salmon Species</th>
<th>Minimum Size Limit (inches)</th>
<th>Special Restrictions by Area</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Makah</strong> — That portion of the Fishery Management Area (FMA) north of 48°02’15” N. latitude (Norwegian Memorial) and east of 125°44’00” W. longitude</td>
<td>May 1 thru earlier of expiration of emergency rule or chinook quota</td>
<td>All except coho</td>
<td>24 –</td>
<td>Barbless hooks. No more than 8 fixed lines per boat, or no more than 4 hand-held lines per person.</td>
</tr>
<tr>
<td><strong>Quileute</strong> — That portion of the FMA between 48°07’36” N latitude (Sand Point) and 47°31’42” N latitude (Quets River) east of 125°44’00” W. longitude</td>
<td>May 1 thru earlier of expiration of emergency rule or chinook quota</td>
<td>All except coho</td>
<td>24 –</td>
<td>Barbless hooks. No more than 8 fixed lines per boat.</td>
</tr>
<tr>
<td><strong>Hoh</strong> — That portion of the FMA between 47°54’18” N. latitude (Quillayute River) and 47°21’00” N. latitude (Quinault River) east of 125°44’00” W. longitude</td>
<td>May 1 thru earlier of expiration of emergency rule or chinook quota</td>
<td>All except coho</td>
<td>24 –</td>
<td>Barbless hooks. No more than 8 fixed lines per boat.</td>
</tr>
<tr>
<td><strong>Quinault</strong> — That portion of the FMA between 47°40’06” N. latitude (Destruction Island) and 46°53’18” N. latitude (Point Chehalis) east of 125°44’00” W. longitude</td>
<td>May 1 thru earlier of expiration of emergency rule or chinook quota</td>
<td>All except coho</td>
<td>24 –</td>
<td>Barbless hooks. No more than 8 fixed lines per boat.</td>
</tr>
</tbody>
</table>

### B. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a federal court for that tribe’s treaty fishery.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook and 12 inches for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

- **Makah Tribe** — None.
- **Quileute, Hoh, and Quinault tribes** — Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile radius of the mouths of the Queets River (47°31’42” N. latitude) and the Hoh River (47°45’12” N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21’00” N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce’s management regime.

### C. QUOTAS

C.1. The overall treaty troll ocean quota is 33,000 chinook salmon. This quota includes troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through May 31.
Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

**Troll Fishing Gear.** Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

**Recreational Fishing Gear.** Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 (1.8 kg) pounds.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

**Geographical Landmarks**

Wherever the words "nautical miles of shore" are used in this rule, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this notice are at the following locations:

<table>
<thead>
<tr>
<th>Location</th>
<th>Latitude/Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bonilla-Tatoosh</td>
<td>48°10'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>48°00'18&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>47°31'42&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>46°38'10&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>46°18'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>46°13'40&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°35'45&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°13'40&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>40°05'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>38°57'30&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>37°59'44&quot; N. lat.</td>
</tr>
<tr>
<td>South Jetty</td>
<td>42°00'30&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°35'45&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°13'40&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>40°05'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>38°57'30&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>37°59'44&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>34°27'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°35'45&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>42°13'40&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>40°05'00&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>38°57'30&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>37°59'44&quot; N. lat.</td>
</tr>
<tr>
<td></td>
<td>34°27'00&quot; N. lat.</td>
</tr>
</tbody>
</table>

**Inseason Notice Procedures**

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206-322-6667 or 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast.

Inseason actions will also be filed with the Federal Register as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

The management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see ADDRESSES) during business hours until the end of the comment period.

**Classification**

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that the measures described in this preamble are necessary to respond to emergency situations and are consistent with the Magnuson Act and other applicable law. The Secretary has determined that, absent this emergency rule, the ocean salmon fishery will be unnecessarily closed pending submission of revised 1993 season proposals by the Council and the Secretary's final decision on the entire 1993 ocean salmon season. Delay in the start of the fishing season would deny ocean fishermen access to harvestable salmon stocks which, if taken later in the year, would produce unacceptable impacts on other salmon stocks. Implementation of this emergency rule meets the goals and objectives of the FMP and preserves the Secretary's flexibility for implementing management measures later in the season. It prevents the economic harm that otherwise would occur to the ocean salmon fishermen and coastal communities if the season were to remain closed on May 1. Therefore, it is necessary to implement ocean salmon fishing regulations by emergency action pursuant to 16 U.S.C. 1855(c).

The Assistant Administrator finds that the reasons justifying the promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act. Any delay in implementing this rule would cause unnecessary economic harm to users of the resource. The public had opportunities to comment on the management measures being implemented during meetings of the Council and its advisory committees in March and April 1993. The public will also have an opportunity to comment on the emergency measures during the comment period provided by this rule.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent with the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California, and the San Francisco Bay Conservation and Development Commission. This determination has been submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Council prepared an environmental assessment (EA), the scope of which included this action, and the Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Directors (see ADDRESSES).

This emergency rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it was not required to be promulgated as a proposed rule and the rule is issued without an opportunity for prior public comment. Since notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a)
and 604(a) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis needs to be prepared.

This emergency rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under E.O. 12612. Washington, Oregon, and California are expected to implement State regulations compatible with this Federal rule.

On March 31, 1991, NMFS issued a biological opinion that considered the effects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the FMP is not likely to jeopardize the continued existence of the species. The 1993 season falls within the scope of the 1991 opinion, and the seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

NMFS has prepared a biological opinion that considered the effects of the 1993 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River that concluded the fishery as proposed by the Council for May 1993 fishing under the FMP is not likely to jeopardize the continued existence of the listed stocks. These management measures are within the scope of that opinion.

List of Subjects in 50 CFR Part 661
Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Samuel W. McKeen,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:
Authority: 16 U.S.C. 1801 et seq.

2. Effective from May 1 through May 31, 1993, the appendix to part 661 is amended in the table in IV.A., by suspending the existing entry for Klamath Fall Chinook, and its footnote number 3, and adding a new entry for Klamath Fall Chinook to read as follows:

<table>
<thead>
<tr>
<th>System</th>
<th>Spawning goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Klamath Fall Chinook (temporary).</td>
<td>Between 33 and 34 percent of the potential adults from each brood of natural spawners, but no fewer than 38,000 naturally spawning adults in 1993.</td>
</tr>
</tbody>
</table>

1 Represents adult natural spawning escapement goal for viable natural stocks or adult hatchery return goal for stocks managed for artificial production.

[FR Doc. 93-10626 Filed 4-30-93; 4:58 pm]
BILLING CODE 3510-22-M
This section of the Federal Register contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220
[No. LS-92-006]
RIN 0581-AA77

Soybean Promotion and Research Program; Procedures for Conduct of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Soybean Promotion and Research Order was implemented July 9, 1991, as authorized by the Soybean Promotion, Research, and Consumer Information Act. The Act requires that the Secretary conduct a referendum among eligible soybean producers not earlier than 18 months and not later than 36 months after the issuance of an Order to determine whether the Order should be continued. Accordingly, a referendum must be held on or after January 9, 1993, but not later than July 9, 1994. This proposed rule sets forth the procedures for conducting the required continuance referendum. The proposed rule would also be applicable to any subsequent referenda which may be conducted pursuant to the Act.

DATES: Written comments must be received by June 7, 1993.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief, Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, room 2624-S; PO Box 96456; Washington, DC 20009-6456. Comments will be available for public inspection during regular business hours at the above office in room 2624 South Agriculture Building, 14th and Independence Avenue, S.W., Washington, DC.

Comments on the information collection requirements contained in this proposed rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch 202/720-1115.

SUPPLEMENTARY INFORMATION:

Regulatory Impact

This proposed rule has been reviewed by the United States Department of Agriculture in accordance with the Departmental Regulation No. 1512-1 and the criteria contained in Executive Order No. 12291 and has been determined to be a non-major rule because it does not meet the criteria for a major rule as stated in the Order. This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1971 of the Act, a person subject to the Soybean Promotion and Research Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petition provides the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The statute provides that the district court of the United States in any district in which the person who is a petitioner resides or carries on business has jurisdiction to review a ruling on the petition if a complaint for the purpose is filed not later than 20 days after the date of the entry of the ruling. Further, section 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. One exemption in the Act concerns assessments collected by Qualified State Soybean Boards. The exception provides that to ensure adequate funding of the operations of Qualified State Soybean Boards under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a Qualified State Soybean Board in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referenda conducted during specified periods by a State relating to the continuation or termination of a Qualified State Soybean Board or State soybean assessment. This action has also been reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This proposed rule would establish procedures for the conduct of referenda. It permits all eligible soybean producers to register and to vote. Participation in referenda is voluntary. The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget. They have been assigned OMB control number 0581-0093. The information collection requirements in this proposed rule include the following:

(a) For in-person voting: (1) Each producer of soybeans voting in a referendum must complete a Ballot (Form LS-49) at the County Cooperative Extension Service office. The producer must fill out the ballot and insert it in the Ballot Envelope (Form LS-49-1). (2) Each producer must fill out a Certification and Registration Form which is printed on the Referendum Envelope (LS-49-2). The Ballot Envelope containing the ballot is then inserted in the Referendum Envelope (LS-49-2). The estimated average time burden for completing the forms for in-person voting is 6 minutes per voter.

(b) For absentee voting: Each producer of soybeans requesting absentee voting in a referendum must complete a Combined Registration and Absentee Ballot (Form LS-44). The producer must fill out the form and insert the ballot portion in a Ballot Envelope (LS-44-2) and then insert the sealed Ballot Envelope and the registration portion in the Referendum Envelope (LS-44-1) and place in the mail. The estimated average time burden for completing this procedure is 6 minutes per voter.
The initial referendum is to be conducted not earlier than 18 months after the approval, the Act requires that no later than 18 months after approval, the Secretary conduct a poll of soybean producers to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the Order. If the Secretary determines, based on the poll, that the conduct of a refund referendum is supported by at least 20 percent of the producers (not less than one-fifth of which may be producers in any one State), a referendum will be conducted not later than 1 year after the Secretary's decision.

The Act also requires the Secretary to hold additional referenda if requested by 10 percent or more of the producers who during a representative period were engaged in the production of soybeans. No more than one-fifth may be producers in any one State, as determined by the Secretary. The Act specifies that a referendum shall be conducted for a reasonable period of time not to exceed 3 days as determined by the Secretary and that eligible persons are to certify that they were engaged in the production of soybeans during the representative period and vote, at the same time. The Act also provides that referenda shall be conducted at county offices of the State Cooperative Extension Service (CES) and that provision shall be made for absentee mail ballots to be provided on request. The Extension Service of the United States Department of Agriculture will coordinate the State and County Cooperative Extension Service roles in conducting the referendum.

The proposed rule sets forth procedures to be followed in conducting referenda under the Act. The proposed rule includes provisions concerning definitions, supervision of the referenda, registration, voting procedures, reporting referenda results, and disposition of the ballots and records. It is proposed that the Agricultural Stabilization and Conservation Service (ASCS) of the Department, will assist in the conduct of referenda by (1) counting ballots; (2) determining the eligibility of challenged voters; and (3) reporting referenda results.

List of Subjects in 7 CFR Part 1220
Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements.

Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that title 7 of the CFR part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

2. Subpart E is added to read as follows:
Subpart E—Procedure for the Conduct of Referenda
Sec.
Definitions
1220.501 Act.
1220.502 Administrator.
1220.503 Agricultural Stabilization and Conservation County Committee.
1220.504 Agricultural Stabilization and Conservation Service.
1220.505 Agricultural Stabilization and Conservation Service County Executive Director.
1220.506 Cooperative Extension Service.
1220.507 Cooperative Extension Service Agent.
1220.508 Department.
1220.509 Deputy Administrator.
1220.510 Extension Service of the U.S. Department of Agriculture.
1220.511 Order.
1220.512 Person.
1220.513 Producer.
1220.514 Public notice.
1220.515 Referenda.
1220.516 Registration period.
1220.517 Representative period.
1220.518 Secretary.
1220.519 Soybeans.
1220.520 State and United States.
1220.521 Voting period.

Referendum
1220.522 General.
1220.523 Supervision of referenda.
1220.524 Eligibility.
1220.525 Time and place of registration and voting.
1220.526 Facilities for registering and voting.
1220.527 Registration form and ballot.
1220.528 Registration and voting procedures.
1220.529 List of registered producers.
1220.530 Challenge of eligibility.
1220.531 Receiving ballots.
1220.532 canvassing ballots.
1220.533 ASCS county office report.
1220.534 ASCS State office report.
1220.535 Results of the referendum.
1260.536 Disposition of ballots and records.
1220.537 Instructions and forms.
§ 1220.508 Department. 
The term Department means the United States Department of Agriculture.

§ 1220.509 Deputy Administrator. 
The term Deputy Administrator means the Deputy or Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

§ 1220.510 Extension Service of the U.S. Department of Agriculture. 
The term Extension Service of the U.S. Department of Agriculture or any officer or employee of the Department to whom there has been delegated authority to act in the Administrator's stead.

§ 1220.511 Order. 
The term Order means the Soybean Promotion and Research Order.

§ 1220.512 Person. 
The term Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1220.513 Producer. 
The term Producer means any person engaged in the growing of soybeans in the United States, who owns, or shares the ownership and risk of loss of such soybeans.

§ 1220.514 Public notice. 
The term Public notice means information regarding a referendum which shall be provided by the Secretary, without advertising expenses, through press releases and by State and county CES offices and county ASCS offices, by means of newspapers, electronic media, county newsletters, and the like. Such notice shall contain the referendum date and location, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

§ 1220.515 Referenda. 
The term Referenda means any referenda to be conducted by the Secretary pursuant to the Act whereby producers shall be given the opportunity to vote.

§ 1220.516 Registration period. 
The term Registration period means a 1-day period to be announced by the Secretary for registration of producers desiring to vote in a referendum. The registration period shall be the same day as the voting period.

§ 1220.517 Representative period. 
The term Representative period means the period designated by the Secretary pursuant to section 1970 of the Act.

§ 1220.518 Secretary. 
The term Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has been delegated or to whom authority may hereafter be delegated the authority to act in the Secretary's stead.

§ 1220.519 Soybeans. 
The term Soybeans means all varieties of Glycine max or Glycine soja.

§ 1220.520 State and United States. 
The terms State and United States include the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1220.521 Voting period. 
The term voting period means a 1-day period to be announced by the Secretary for voting in a referendum.

Referendum

§ 1220.522 General. 
(a) A referendum to determine whether eligible producers favor the continuance of the Order and other referenda provided for under the Act shall be conducted in accordance with this subpart.

(b) Referendum results will be based on the Secretary's determination of approval or disapproval by a majority of the producers casting valid ballots in a referendum.

(c) Referenda shall be conducted at the county offices of the Cooperative Extension Service.

(d) The Agricultural Stabilization and Conservation Service of the Department shall assist in the conduct of referenda.

§ 1220.523 Supervision of referenda. 
The Administrator, AMS, shall be responsible for conducting referenda in accordance with this subpart.

§ 1220.524 Eligibility. 
(a) Eligible producers. Each person who was a producer during the representative period is entitled to register and vote in the referendum. Each producer entity shall be entitled to cast only one ballot in the referendum.

(b) Proxy registration and voting. Proxy registration and voting is not authorized except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any eligible producer entity (other than an individual producer), such as a corporation or partnership, may register
and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any producer entity shall certify that he or she is authorized by such entity to take such action.

(c) Joint and group interest. A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation engaged in the production of soybeans as a producer entity shall be entitled to only one vote; provided, however, that any member of a group may register to vote as a producer if he or she is an eligible producer separate from the group.

§ 1220.525 Time and place of registration and voting.

A referendum shall be held for 1 day on a day to be determined by the Secretary. Eligible persons shall register and vote following the procedures in § 1220.528. Except for absentee ballots, the registration and voting shall take place during business hours of each county CES office.

§ 1220.526 Facilities for registering and voting.

Each county CES office shall provide adequate facilities and space to permit producers to register and to mark their ballots in secret and a sealed box or other suitable receptacle for registration forms and ballots which shall be kept under observation during office hours and secured at all times. Copies of the Order and a summary of the Order shall be available for review.

§ 1220.527 Registration form and ballot.

A ballot (LS-49) and certification and registration form (LS-49-2) shall be used for voting in person. The information required includes name, address, and telephone number and also contains a certification statement, referenced in § 1220.528(a)(1). The ballot requires producers to check a "yes" or "no." A combined registration and voting form (Form LS-44-2) shall be used for absentee voting.

§ 1220.528 Registration and voting procedure.

(a) Registering and voting in person.

(1) Each producer desiring to vote in a referendum shall register on the day of voting at the county CES office in which the producer's residence is located or at the county CES office serving the county in which the producer's residence is located. Producer entities other than individuals shall register at the county CES office in the county in which their headquarters office or business is located or at the county CES office.

(b) Absentee voting.

(1) Eligible producers and entities unable to vote in person may request and obtain a combined absentee registration and voting form (Form LS-44) and two envelopes—one marked "SOYBEAN BALLOT" (Form LS-44-2) and the other marked "SOYBEAN REFERENDUM." Any individual registering to vote as a producer if he or she is authorized by such entity to take such action.

(2) To register, eligible producers must complete and sign the registration form (Form LS-44), and certify that:

(i) They or the entity they represent were producers during the specified representative period; and

(ii) If voting on behalf of an entity referred to in subsection § 1220.524, they are authorized to do so.

(3) A producer, after completing the registration form and marking the ballot, shall remove the ballot portion of Form LS-44 and seal the completed ballot in a separate envelope marked "SOYBEAN BALLOT" (Form LS-44-2) and place it in a second envelope marked "SOYBEAN REFERENDUM" (Form LS-44-1) and mail it to the local county CES office of the county in which they reside or the county CES office serving the county in which they reside. In the case of a partnership, corporation, estate, or other entity, the registration form and ballot must be mailed to the county CES office in the county in which its main office is located or the county CES office in the county serving the county in which its main office is located.

(4) Absentee ballots must be received in the county CES office by the close of business, 5 business days before the date of the referendum. Absentee ballots received after that date shall be counted as invalid ballots. Upon receiving the "SOYBEAN REFERENDUM" envelope containing the registration form and ballot, the county CES agent or his designee shall place it, unopened in a secure ballot box. The county CES agent or his designee shall enter the names of absentee voters on the voter registration list (Form LS-44-3).

(5) A person casting an absentee ballot which is not recorded as being received or which is received after the deadline specified in this section may vote in person at the appropriate CES office on the day of the referendum.

§ 1220.529 List of registered producers.

The voter registration lists (Form LS-49-3 and LS-44-3) shall be available for inspection on the day of the referendum at the county CES office and subsequently at the ASCS county office. They shall be posted during regular office hours in a conspicuous public location at the ASCS county office on the second business day following the date of the referendum.

§ 1220.530 Challenge of eligibility.

(a) Challenge period. On the day of the referendum, the names of challenged voters may be reported to the CES county agent who will refer them to the ASCS county office. After that,
the names of the challenged voters shall be referred directly to the ASCS county office. A challenge of a person's eligibility to vote may be made no later than the close of business the second business day after the date of the referendum.

(b) **Who may challenge.** A person's eligibility to vote may be challenged by any person.

(c) **Determination of challenges.** The ASCS county committee or its representative shall make a determination concerning the eligibility of a producer who has been challenged and notify challenged producers as soon as practicable, but no later than 5 business days after the date of the referendum. If the ASCS county committee or its representative is unable to determine whether a person was a producer during the representative period, it may require the person to submit records such as tax returns, sales documents, or other similar documents to prove that the person was a producer during the representative period.

(d) **Challenged ballot.** The registration form/envelope (Form LS-49-2) containing the ballots cast by producers voting in person whose eligibility is challenged shall be removed from the ballot box and placed in a separate box until the challenge has been resolved. Envelopes containing absentee voter registration forms and absentee ballots (Form LS-44) of challenged absentee voters also shall be removed from the ballot box and placed in the box containing ballots of challenged producers. A challenged ballot shall be determined to have been resolved if the determination of the ASCS county committee or its representative is not appealed within the time allowed for appeal or there has been a determination by the ASCS county committee after an appeal.

(e) **Appeal.** A person declared to be ineligible to register and vote by the ASCS county committee or its representative may file an appeal at the ASCS county office within 3 business days after notification of such decision. Such person may be required to provide documentation such as tax returns, sales documents, or similar documents in order to demonstrate his or her eligibility. An appeal shall be determined by the ASCS county committee as soon as practicable, but in all cases no later than the 9th business day after the date of the referendum. The ASCS county committee's determination on an appeal is final.

§ 1220.531 Receiving ballots.

A ballot shall be considered to have been received during the voting period if (a) it was cast in the county CES office prior to the close of business on the day of the referendum; or (b) an absentee ballot was received in the county CES office not later than close of business 5 business days before the date of the referendum.

(c) **Spoiled ballots.** Ballots shall be considered as spoiled ballots when they are mutilated or marked in such a way that it cannot be determined whether it is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(d) **Confidentiality.** All ballots shall be confidential and the contents of the ballots shall not be divulged except as the Secretary may direct. The public may witness the opening of the ballot box and tabulation of the votes but may not interfere with the process.

§ 1220.533 ASCS county office report.

The ASCS county office shall notify the ASCS State office of the results of the referendum. Each ASCS county office shall transmit the results of the referendum in its county to the ASCS State office. Such report shall include the information listed in § 1220.532(a). The results of the referendum in each county may be made available to the public. A copy of the report of results shall be posted for 30 days in the ASCS county office in a conspicuous place accessible to the public, and a copy shall be kept on file in the ASCS county office for a period of at least 12 months.

§ 1220.534 ASCS State office report.

Each ASCS State office shall transmit to the Deputy Administrator, ASCS, a written summary of the results of the referendum received from all the ASCS county offices within the State. The summary shall include the information on the referendum results contained in the reports from all county offices within each State and be certified by the ASCS State executive director. The ASCS State office shall maintain a copy of the summary where it shall be available for public inspection for a period of not less than 12 months.

§ 1220.535 Results of the referendum.

(a) The Deputy Administrator, ASCS, shall submit to the Administrator, AMS, the results of the referendum. The Administrator, AMS, shall prepare and submit to the Secretary a report of the results of the referendum. The results of any referendum shall be issued by the Department in an official press release and published in the Federal Register. State reports, and related papers shall be available for public inspection in the office of the Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, room 2624 South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC.

(b) If the Secretary deems it necessary, the report of any State or county shall
be re-examined and checked by such persons that may be designated by the Deputy Administrator, ASCS, or the Secretary.

§ 1220.536 Disposition of ballots and records.
Each ASCS county executive director shall place in sealed containers marked with the identification of the referendum the voter registration list, absentee voter request list, voted ballots, challenged registration forms/envelopes, challenged absentee voter registration forms, challenged ballots found to be ineligible, invalid ballots, spoiled ballots, and county summaries. Such records shall be placed under lock in a safe place under the custody of the ASCS county executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator, ASCS, by the end of such time, the records shall be destroyed.

§ 1220.537 Instructions and forms.
The Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the referendum.

Done at Washington, DC, on: April 30, 1993.
L.P. Massaro,
Acting Administrator.
[FR Doc. 93–10716 Filed 5–5–93; 8:45 am]
BILLING CODE 3410–2–P

NUCLEAR REGULATORY COMMISSION
10 CFR Parts 30 and 35
RIN 3150–AESS
Authorization To Prepare Radiopharmaceutical Reagent Kits and Elute Radiopharmaceutical Generators; Use of Radiopharmaceuticals for Therapy; Extension of Expiration Date

AGENCY: Nuclear Regulatory Commission.
ACTION: Proposed rule; extension of expiration date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to extend the expiration date of the interim final rule related to the preparation and therapeutic use of radiopharmaceuticals from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the NRC completes a related rulemaking to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). The NRC expects that this broader rule would be completed and issued as a final rule before the end of 1994. This proposed extension of the expiration date is necessary to maintain the relief provided by the interim final rule.

DATES: The comment period expires June 7, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.
Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.
Copies of any public comments received on the proposed rule may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.
FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3797.

SUPPLEMENTARY INFORMATION:
Background
On June 5, 1989, the American College of Nuclear Physicians (ACNP) and the Society of Nuclear Medicine (SNM) submitted a petition for rulemaking (PRM–35–9), requesting the Commission to amend its regulations to permit licensed nuclear pharmacists and physicians greater flexibility in the preparation and use of radiopharmaceuticals. After reviewing the petition and consulting with the U.S. Food and Drug Administration (FDA), the NRC determined that some issues raised in the petition needed to be resolved expeditiously.
Subsequently, on August 23, 1990, the Commission published an interim final rule in the Federal Register (55 FR 34153) to allow medical use licensees, under certain conditions and limitations, to use therapeutic radiopharmaceuticals for indications and methods of administration not listed in the FDA-approved package inserts. In addition, the interim final rule allows medical use licensees and commercial nuclear pharmacies to depart from the manufacturer's instructions for preparing diagnostic radiopharmaceuticals using radionuclide generators and reagent kits, provided that the licensees follow the directions of a physician authorized user. The NRC amended the interim final rule to eliminate certain recordkeeping requirements related to the preparation and use of radiopharmaceuticals (57 FR 45566, October 2, 1992). The interim final rule will expire on August 23, 1993 unless it is extended.
Currently, the NRC is working on a broader proposed rule in response to PRM–35–9 that would resolve the issues raised in the petition, including the issues addressed by the interim final rule. The Commission intends to replace the provisions of the interim final rule with the provisions of this broader rule. The NRC expects that this broader rule will be promulgated and effective before the end of 1994. Therefore, the NRC is proposing to extend the expiration date of the interim final rule from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is completed and effective. This proposed extension is necessary to maintain the relief from restrictions provided by the interim final rule.

Discussion
Section 30.34 Terms and Conditions of Licenses
The NRC is proposing to extend the expiration date in paragraph (b)(1) of this section from August 23, 1993, to December 31, 1994. This extension is proposed to allow commercial nuclear pharmacies to continue to prepare byproduct material under the provisions of the interim final rule until the broader rule is effective.

Section 35.200 Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies.
The NRC is proposing to extend the expiration date in paragraph (c)(1) of this section from August 23, 1993, to December 31, 1994. This extension is proposed to allow medical use licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is effective.

Section 35.300 Use of Radiopharmaceuticals for Therapy
The NRC is proposing to extend the expiration date in paragraph (b)(1) of this section from August 23, 1993, to December 31, 1994. This extension is
proposed to allow medical use licensees to continue to use byproduct material under the provisions of the interim final rule until the broader rule is effective. Also, the NRC is proposing to replace the word “method” with the word “methods” in paragraph (b)(1) of this section to correct a typographical error.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under approval numbers 3150--0010 and 3150--0017.

Regulatory Analysis

In August 1990, the NRC implemented an interim final rule allowing licensees to depart from (a) the manufacturer’s instructions for preparing diagnostic radiopharmaceuticals, and (b) the package insert instructions regarding use of radiopharmaceuticals for therapy. The effective period for the rule is from August 23, 1990, to August 23, 1993.

The NRC is proposing to extend the expiration date from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until there is an effective final rule in a related rulemaking in response to the ACNP–SNM petition to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). The NRC expects that this broader rule would be completed and effective before the end of 1994. This proposed extension of the expiration date is necessary to continue the relief from restrictions provided by the interim final rule until the effective date of the broader rule.

The alternative to this proposed extension is to maintain the existing expiration date. Under this alternative, the provisions in the interim final rule would expire on August 23, 1993, as would the relief from restrictions provided by the interim final rule.

The NRC concludes that this proposed extension is justified to continue to allow licensees to use byproduct material under the provisions of the interim final rule until the broader rule is effective.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that, if adopted, this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect medical use licensees including some private practice physicians. Some of these licensees would be considered small entities under the NRC’s size standards published in the Federal Register on November 6, 1991 (56 FR 56672). The proposed amendments would extend the expiration date of the interim final rule from August 23, 1993, to December 31, 1994. The proposed extension would allow licensees to continue to use byproduct material under the provisions of the interim final rule until the NRC completes a related rulemaking to address broader issues for the medical use of byproduct material (including those issues addressed by the interim final rule). Therefore, for the reasons provided above, this amendment would not have a significant economic impact on a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed amendment because this amendment does not impose requirements on existing nuclear power reactor licensees. Therefore, a backfit analysis was not prepared for this proposed amendment.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30 and 35.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:


Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234).

Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.34, paragraph (i)(1) is revised to read as follows:

§ 30.34 Terms and conditions of licenses.

(i)(1) From August 23, 1990, to December 31, 1994, each licensee eluting generators and processing radioactive material with diagnostic reagent kits for which the Food and Drug Administration (FDA) has approved a “New Drug Application” (NDA), may depart from the manufacturer’s elution and preparation instructions (for radiopharmaceuticals authorized for use pursuant to 10 CFR 35.200), provided that the licensee follows the directions of an authorized user physician.

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

3. The authority citation for part 35 continues to read as follows:


4. In § 35.200, paragraph (c)(1) is revised to read as follows:

§ 35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies.

(c)(1) From August 23, 1990, to December 31, 1994, a licensee may depart from the manufacturer’s instructions for eluting generators and preparing reagent kits for which the Food and Drug Administration (FDA) has approved a “New Drug Application” (NDA), by following the
directions of an authorized user physician.

§ 35.300 Use of radiopharmaceuticals for therapy.

(b)(1) From August 23, 1990, to December 31, 1994, a licensee may depart from the package insert instructions regarding indications or methods of administration for a radiopharmaceutical for which the Food and Drug Administration (FDA) has approved a “New Drug Application” (NDA), provided that the authorized user physician has prepared a written directive as required by § 35.32(a).

Dated at Rockville, Maryland, this 23rd day of April, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.

[FR Doc. 93–10686 Filed 5–5–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Land Uses and Prohibitions; Noncommercial Group Uses

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing rules governing noncommercial group events and noncommercial distribution of printed material within the National Forest System. These revisions would ensure that the authorization procedures for these activities comply with First Amendment requirements of free speech and assembly.

DATES: Comments must be received in writing by August 4, 1993.

ADDRESSES: Send written comments to Recreation, Cultural Resources, and Wilderness Management Staff (2340), Forest Service, USDA, PO Box 96090, Washington, DC 20090–6090.


SUPPLEMENTARY INFORMATION:

Background

The First Amendment of the United States Constitution provides in part that the government may not abridge the freedom of speech or assembly peacefully. U.S. Const., amend. I. Freedom of speech means the right to disseminate ideas freely, both orally or in writing. It is well established that the government may enforce reasonable restrictions on First Amendment activities. Such restrictions are appropriate where they are justified without regard to the content of the regulated speech, where they are narrowly tailored to further a significant governmental interest, and where they leave open ample alternative channels for communication of information. Clark v. Community for Creative Non-Violence, 485 U.S. 288, 293 (1984). Permits have been recognized as constitutional restrictions of time, place, and manner when specific and objective standards guide the licensing authority. Shuttlesworth v. City of Birmingham, 394 U.S. 147, 150–51, 153 (1969).

The Forest Service regulates activity on National Forest System lands through the issuance of special use authorizations. Issuing special use authorizations allows the Forest Service to protect resources and improvements on National Forest System lands and to prevent conflicts among potential or existing uses and activities. The rules at 36 CFR part 251, subpart B, govern the issuance of special use authorizations for all uses of National Forest System lands, improvements, and resources, except the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222).

On June 21, 1984, the Secretary of Agriculture promulgated a revision to 36 CFR part 251, subpart B. That rule required a permit for two types of noncommercial group events, recreation events and special events, both of which involved ten or more participants or spectators. As defined, recreation events entailed competition, entertainment, or training, and special events included a meeting, assembly, demonstration, parade, or other activity involving the expression of views. Noncommercial groups that did not fall into either of these categories did not have to have a permit. Moreover, the rule contained different standards for denying a special use authorization for each type of group event (49 FR 25440).

Subsequently, a federal district court held that it is unconstitutional to require a group to obtain a special use authorization simply because they gather to exercise their constitutional right of free speech. The court explained that the Forest Service has the right to regulate large group activities on government land, but only if the regulation is content-neutral and applies to all large groups. United States v. Israel, No. CR–86–027–TUC–RMB (D. Ariz. May 10, 1986).

On May 10, 1988, the Forest Service published an interim rule amending 36 CFR 251.50 through 251.54 to comport with First Amendment rights of assembly and free speech within the National Forest System (53 FR 16546).

Upon challenge of this rule, a federal district court held that the Forest Service had failed to show good cause for adopting the interim rule without prior notice as required by the Administrative Procedure Act, 5 U.S.C. 553. United States v. Rainbow Family, 695 F. Supp. 294, 302–06 (E.D. Tex. 1988). In addition, the court invalidated the classification established by the 1984 rule, which on its face singled out expressive conduct and required that it be treated differently from other activity. The court held that the 1984 rule lacked clear and objective standards for determining when a group activity is a “recreation event” and when it is a “special event” involving the exercise of free speech. Rainbow Family, 695 F. Supp. at 309, 312. The court further held that the standards for evaluating an application for an authorization for expressive conduct were unconstitutionally vague as they vested too much discretion in the authorized officer. Id. at 309–12. The court ruled that the 1984 regulations were invalid for failure to impose a timeframe for filing and acting on an application, and that the absence of any requirement in the 1984 regulations that a reason be stated for denial of a special use authorization made it impossible to discern the grounds for an authorized officer’s decision. Id. at 311–12. Finally, the court held that the 1984 rule was invalid for failure to provide for judicial review of the administrative determination. Id. at 311.

As a result of these court rulings, the Forest Service is proposing revisions of the rules governing special uses at 36 CFR part 251. The purpose of this proposed rule is to regulate noncommercial group events and noncommercial distribution of printed material on National Forest System lands in compliance with First Amendment rights of assembly and free speech. To achieve this goal, the proposed rule contains specific, content-neutral criteria for evaluating applications for noncommercial group
events and noncommercial distribution of printed material and requires that the same criteria be applied to those activities, regardless of whether they involve First Amendment rights. In addition, the proposed rule requires an authorized officer to notify an applicant in writing of the reasons for denial of a special use authorization and provides for immediate judicial review of a decision denying an authorization.

Section-by-Section Analysis

Amendments to Part 251

Section 251.50—Scope

Paragraph (a) would be revised for clarity and to make explicit that an application is required for authorization of a special use. Paragraph (c) would be revised to clarify that a special use authorization is required for noncommercial group events involving 25 or more people and noncommercial distribution of printed material.

The agency has an interest in regulating group activities. Group activities tend to have a greater impact on forest resources and facilities than activities involving individuals or smaller parties. The agency also has an interest in regulating when noncommercial distribution of printed material occurs. Such distribution can occur by posting, affixing or erecting the material, which could damage natural resources if not regulated. In addition, as distribution generally occurs in crowded areas, it can obstruct traffic and create unsafe traffic conditions, for example, where a single-lane road provides the only access to a popular national forest attraction or where a national forest is near an urban center.

Section 251.51—Definitions

Section 251.51 contains definitions used in part 251, subpart B. The proposed rule would revise the definition for “group event” and add new terms and definitions for “commercial use or activity,” “noncommercial use or activity,” “printed material,” and “distribution of printed material.”

The term “group event” would cover any activity that involves and/or attracts 25 or more people, regardless of the purpose of the gathering. Thus, this term would embrace all groups that were included in the “special event” and “recreation event” categories of the 1984 rule, as well as those that were excluded. The Forest Service is proposing a cutoff of 25 people based on a review of the potential impact on resources and facilities. The agency believes that activities involving 25 or more people tend to have a greater impact on resources and facilities and thus require evaluation by an authorized officer. If the agency required an authorization for smaller group activities, the agency would be inundated with applications, which would create an unnecessary administrative burden and cost in light of the generally low impact of these activities. Public comment is especially invited on this group number threshold.

The terms and definitions for “commercial use of activity” and “noncommercial use or activity” would be added to clarify which activities would be subject to the authorization requirement in § 251.50(c)(3). The terms and definitions for “printed material” and “distribution of printed material” would be added to clarify one of the types of activities subject to the authorization requirement in § 251.50(c)(3).

Section 251.54—Special Use Applications

Section 251.54 of the existing rule prescribes procedures and requirements for processing applications for special use authorizations. Section 251.54(a) encourages all proponents to contact an authorized officer as early as possible so that potential constraints may be identified, the proposal can be considered in land management plans if necessary, and processing of an application can be tentatively scheduled. The proposed rule would amend § 251.54(a) to provide that the proponent will be given guidance and information about the items listed in paragraphs (a)(1) through (a)(8) only to the extent applicable to the proposed use and occupancy. For example, fees and bonding requirements listed in paragraph (a)(4) would not apply to applications for noncommercial group uses and noncommercial distribution of printed material. The terms and definitions for “printed material” and distribution of printed material would not be discussed with proponents of those activities.

Section 251.54(e) specifies the information that must be contained in an application for a special use authorization. The proposed rule would amend paragraph (e)(1) to specify applicant identification requirements applicable to all special uses. Specifically, paragraph (e)(1) would require any applicant to provide his or her name and mailing address, or if the applicant is not an individual, the name and address of the applicant’s agent who is authorized to receive notice of actions pertaining to the application.

Additionally, the proposed rule would amend this paragraph by adding a new paragraph (e)(2) to specify separate information requirements for noncommercial group uses and noncommercial distribution of printed material. Paragraph (e)(2) would require applicants for noncommercial group uses and noncommercial distribution of printed material to provide the following:

1. A description of the proposed activity;
2. A description of the National Forest System land and any facilities the applicant would like to use;
3. The estimated number of participants and spectators;
4. The date and time of the proposed activity; and
5. The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the applicant.

This is the minimum information needed by the authorized officer to apply the evaluation criteria in the proposed rule. Application information requirements for all other special uses would remain as provided in the existing rule, with one exception. The provision currently in paragraph (e)(1) concerning the deference to be given to findings of another agency would be moved to a new paragraph (f)(4), since this provision relates to the processing of applications rather than to their content.

The Rainbow court identified the need for a specific timeframe for granting or denying an application for a noncommercial group event or noncommercial distribution of printed material. 695 F. Supp. at 311. This decisionmaking process, however, may trigger extensive statutory and regulatory requirements, including those imposed by the National Environmental Policy Act of 1969 (NEPA), 42 USC 4331 et seq., the Endangered Species Act (ESA), 16 USC 1531 et seq., the National Historic Preservation Act, 16 USC 470 et seq., and other laws. The time needed to comply with these requirements varies greatly depending on the particular circumstances of each application.

Committing to a specific timeframe could put the agency in the position of having to choose between violating either its own regulations or one or more of these statutory mandates. Consequently, the agency has determined that it would be infeasible and arbitrary to specify a time period in which final agency decision would be made.

In recognition of these competing concerns, the proposed rule would add a new paragraph (f)(5) providing that the agency would grant or deny an application for noncommercial group events or noncommercial distribution of...
print material without unreasonable delay. A determination of whether the agency acted with sufficient speed would require an analysis of what is reasonable under the circumstances, in view of the applicable statutory and regulatory obligations. Applicants are encouraged to contact the agency as early as possible to discuss the amount of time that could be required to make a decision, and to apply sufficiently in advance for a proposed activity to allow the agency to comply with applicable statutory and regulatory requirements.

Section 251.54(h) of the 1984 rule enumerated grounds for denying an application for a special use other than a special event. Section 251.54(i) listed separate grounds for denying an application for a special event, which involved the expression of views. Thus, the 1984 rule applied different criteria for activities with First Amendment implications than for all other activities, including other types of group events. Moreover, the criteria for First Amendment activities were not specific enough to reduce the potential for application of disparate standards in reviewing applications for an authorization.

The proposed rule would presume that any noncommercial group event and noncommercial distribution of printed material would be authorized, upon a determination that seven evaluation criteria were met. These criteria would merely regulate time, place, and manner with respect to a proposed activity. The proposed rule would dictate that these same criteria be applied to all types of noncommercial group events and noncommercial distribution of printed material. Thus, these criteria are intended to be content-neutral, are narrowly tailored to advance significant governmental interests, and leave open ample alternative channels for communication of the information.

Specifically, § 251.54(h)(1) of the proposed rule would provide that an authorized officer shall grant an application for any noncommercial group event or for noncommercial distribution of printed material, upon a determination that:

(1) The proposed activity is not prohibited by the rules at 36 CFR part 261, subpart A, or by an order issued pursuant to 36 CFR part 261, subpart B, or by federal, state, or local law unrelated to the content of expressive activity. This criterion would allow the agency to deny an application for an activity that would violate federal, state, or local law. This criterion would also allow the Forest Service to regulate where a proposed activity would be conducted. The Forest Service must comply with applicable federal law and regulations in managing the National Forest System. For example, the Wilderness Act requires the Forest Service to protect and manage wilderness areas so as to preserve their natural condition and to ensure that the imprint of human activity remains substantially unnoticeable. 16 U.S.C. 1131(c). The ESA prohibits a taking of an endangered species. A “taking” as defined by the ESA includes the loss of a listed species habitat. Thus, an authorized officer might deny an application if the activity would be conducted in a wilderness area or would risk a taking of a threatened or endangered species such as the spotted owl or grizzly bear. In addition, an authorized officer would have to deny an application if the activity would be conducted in an area that is closed or restricted pursuant to an order issued under 36 CFR part 261. Under a 261 order, the Forest Service might close a trial in the event of extreme fire danger or inclement weather.

(2) The proposed activity is consistent or can be made consistent with the applicable approved land and resource management plan. The National Forest Management Act requires that “[r]esource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans.” 16 U.S.C. 1604(i). An activity is consistent with a forest plan if it adheres to a plan’s standards and guidelines that are forest-wide or that are included in management prescriptions for specific management areas. Standards and guidelines describe any activities that are not permitted to occur in a specified area or prescribe how activities must be implemented for environmental protection or other purposes. Forest plans are developed in accordance with the rules at 36 CFR part 219 and adopted with extensive public participation and comment.

(3) The proposed activity would not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land, including but not limited to uses and activities authorized pursuant to parts 222, 223, 228, and 251 of this chapter. Under this criterion, an authorized officer might require a large group to alter arrival and departure times or to use an alternative access route to avoid congestion. An officer might suggest an alternate site on the opening day of fishing season for the same reason. This criterion would also allow the Forest Service to ensure that a group of Boy Scouts is not given a site that is already being used as pastureland under a grazing permit or that is currently being logged under a timber sale contract.

The 1984 rule provided that an application for a special event could be denied if the event conflicted with a previously approved use or if it would be of such nature or duration that it could not reasonably be accommodated in the place and time requested (49 FR 25449). The federal district court in Rainbow Family held that denying a permit because it “conflicts” with another use or because it “cannot reasonably be accommodated” in the time and place requested allows for too much discretion on the part of the authorized officer. 695 F. Supp. at 312. This proposed rule would address the court’s concern by providing specific examples of how an activity covered by this paragraph could delay, halt, or prevent existing or scheduled activities and what those activities might include. Similarly, the proposed rule would remove the constitutionally vague criterion which allows an authorized officer to deny an application for an activity covered by this proposed rule on the ground that it cannot reasonably be accommodated in the time and place requested.

(4) The proposed activity would not pose a substantial danger to public health. Considerations of public health shall be limited to the following with respect to the proposed site:

(a) The sufficiency of sanitation facilities;
(b) The adequacy of waste disposal facilities;
(c) The availability of sufficient potable drinking water, in view of the expected number of users and duration of use;
(d) The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site;
(e) The risk of contamination of the water supply; and
(f) The sufficiency of a plan for safe handling of food.

(5) The proposed activity would not pose a substantial danger to public safety. Considerations of public safety shall not include concerns about possible reaction to the users’ identity or beliefs from non-members of the group seeking an authorization and shall be limited to the following:

(a) The potential for physical injury to other forest users from the proposed activity;
(b) The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;
(c) The potential for physical injury to users from scheduled or existing uses or activities on National Forest System land; and
(d) The adequacy of ingress and egress in case of an emergency.

The 1984 rule allowed an authorized officer to deny an application for a special event if it presented a clear and present danger to the public health or safety (49 FR 25449). The Rainbow rule struck down this language because it was too vague and allowed for too much discretion on the part of the authorized officer. 695 F. Supp. at 311. The proposed rule would overcome this deficiency. In regulating where the activity would occur, the criterion in the proposed rule would restrict the authorized officer's discretion by enumerating concrete, content-neutral considerations of public health and safety.

(6) The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded. This activity does not implicate the First Amendment and is currently prohibited by Forest Service policy as inconsistent with National Forest System purposes.

(7) A person or persons 21 years of age or older has been designated to sign and does sign a special use authorization on behalf of the applicant.

The agency must have someone to contact for purposes of special use administration. The authorized officer may have questions about the application or may need to notify the applicant in the event of an emergency. If the application does not identify a contact person, the agency cannot make the appropriate notifications. In addition, someone on behalf of the applicant must accept the responsibilities associated with use of National Forest System land.

Public comment is especially invited on the seven evaluation criteria.

If, at the conclusion of the application process, the application does not meet the seven criteria, an administrative officer could deny the application. Under proposed § 251.54(b)(2), however, an authorized officer would have to notify an applicant in writing of the reasons for denial of an application for a special use authorization. The proposed rule would make explicit that a denial of an application under § 251.54(h)(1) would constitute final agency action and would be immediately subject to judicial review.

Section 251.56—Terms and Conditions

The proposed rule would amend § 251.56(e) on bonding to provide that an authorized officer could not require bonding for holders of authorizations for noncommercial group events or noncommercial distribution of printed material. This amendment would clarify the agency's intent to ensure that no undue burdens are imposed on the exercise of First Amendment rights.

Section 251.57—Fees

The proposed rule revises § 251.57 on fees for special use authorizations to provide that no fees will be charged when the authorization is for a noncommercial group event or for the noncommercial distribution of printed material. This revision would clarify the agency's intent to ensure that no undue burdens are imposed on the exercise of First Amendment rights.

Section 251.60—Termination, Revocation, and Suspension

Section 251.60 provides several grounds for terminating, revoking, or suspending a special use authorization, one of which is for reasons in the public interest. The proposed rule would amend this broad basis for termination, revocation, or suspension to exclude authorizations for noncommercial group events or noncommercial distribution of printed material. This amendment would clarify the agency's intent to ensure that the authorized officer does not have unbridled discretion with respect to administration of noncommercial First Amendment activities in the National Forest System. Under § 251.60(a), an authorized officer could still terminate, revoke, or suspend an authorization for these activities for noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; for failure of the holder to exercise the rights and privileges granted; with the consent of the holder; or when, by its terms, a fixed or agreed upon condition, event, or time occurs.

Amendment to Part 261

In addition to the changes at 36 CFR part 261, subpart B, the proposed rule would make corollary amendments to the rules at 36 CFR part 261, subpart A, which contain general prohibitions in effect for the National Forest System.

The proposed rule would amend the authority citation for part 261 to consolidate the references. The proposed rule would also amend the definitions and prohibitions governing occupancy and use to make them consistent with the requirement in part 251 that a special use authorization is required for noncommercial distribution of printed material.

Section 261.2—Definitions

In the definitions section, the term "affixing" would be replaced by the word "placing." "Placing" could be construed to prohibit leaving printed material under windshield wipers or on dashboards of vehicles, neither of which would result in injury to public or private property. Use of the word "affixing" would narrow the prohibition to address damage to forest resources and facilities.

Section 261.10—Occupancy and Use

With respect to distribution of printed material, the proposed rule would prohibit delaying, halting, or preventing administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land; misrepresenting the purposes or affiliations of those distributing the material; or misrepresenting the availability of the material without cost or donation. Consistent with the third evaluation criterion proposed for part 251, this language would regulate time, place, and manner for the distribution of printed material. This prohibition would also protect the public from fraud by prohibiting specific types of misrepresentation in the context of such distribution.

Section 261.14—Developed Recreation Sites

The proposed rule would remove from this section the prohibition on distribution of printed material without a special use authorization. This prohibition is subsumed in the prohibition contained in § 261.10(g), which applies throughout the National Forest System.

Summary

With the changes in definitions and establishment of very limited circumstances under which an authorized officer could deny a special use authorization for noncommercial group events and noncommercial distribution of printed material, the proposed rule would preserve the fundamental constitutional rights of free speech and assembly, while providing reasonable administrative mechanisms to control or prevent adverse impacts on resources and public health and safety.

Public comment is invited and will be considered in adoption of the final rule. It will aid analysis of comments if
This proposed rule has been reviewed under Executive Order 12778, Civil - Justice Reform. If this proposed rule were adopted, (1) all state and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

The information an applicant must provide the Forest Service to obtain an authorization for a noncommercial group event or noncommercial distribution of printed material (proposed § 251.54(e)(2)(i) (A)-(E)) constitutes an information requirement as defined by the Paperwork Reduction Act and the Office of Management and Budget implementing rules at 5 CFR part 1320 and thus would require OMB approval before adoption of the final rule. The Forest Service is requesting OMB approval of the information required for these applications. The agency estimates that each applicant would spend an average of one to four hours preparing an application, depending on the scope and complexity of the proposed activity. Comments on this information requirement should be submitted to the office listed in this proposed rule under ADDRESSES, as well as to the: Forest Service Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Environmental Impact

This proposed rule consists primarily of technical and administrative changes related to authorization of occupancy and use of National Forest System lands. No extraordinary circumstances have been identified that might cause this proposed action to have a significant effect on the human environment. Therefore, the agency's preliminary determination is that this proposed rule is categorically excluded from documentation in an Environmental Impact Statement or an Environmental Assessment (40 CFR 1508.4; Forest Service Handbook 1909.15, Environmental Policy and Procedures, section 31.1b(2), 57 FR 43208, September 18, 1992). A final determination will be made at the time of publication of the final rule.

List of Subjects

36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, Water resources.

36 CFR Part 261

Law enforcement, National forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend part 251, subpart B, and part 261, subpart A, of chapter II of title 36 of the Code of Federal Regulations as follows:

PART 251—LAND USES

Subpart B—Special Uses

1. The authority citation for subpart B continues to read:


2. Amend § 251.50 by revising the heading and paragraphs (a), (c), introductory text, and (c)(3) to read as follows:

§ 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those provided for in the regulations governing the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222), are designated "special uses." Before engaging in a special use, persons or entities must submit an application to an authorized officer and must obtain a special use authorization from the authorized officer, unless that requirement is waived by paragraph (c) of this section.

(c) A special use authorization is not required for noncommercial recreational activities such as camping, picnicking, hiking, fishing, hunting, horseback riding, and boating, as well as noncommercial activities involving the expression of views such as assemblies, meetings, demonstrations, and parades, except for:

(1) Noncommercial group events or noncommercial distribution of printed material as defined in § 251.51 of this subpart.

3. Amend § 251.51 by removing the terms and definitions for Distributing noncommercial printed material and Noncommercial printed material, revising the definition for "Group event," and adding the following new terms and definitions in alphabetical order to read as follows:
§251.51 Definitions.

Commercial use or activity—any use or activity on National Forest System lands involving the charge of an entry or participation fee, or the purchase, sale, or exchange of a product or service, regardless of whether the use or activity is intended to produce a profit.

Distribution of printed material—disseminating, posting, affixing, or erecting printed material as defined in this section or soliciting information, views, or signatures in conjunction with the distribution of printed material.

Group event—an activity conducted on National Forest System lands that involves and/or attracts 25 or more people.

Noncommercial use or activity—any use or activity that does not involve a commercial use or activity as defined in this section.

Printed material—any written and/or graphic material including but not limited to pamphlets, periodicals, leaflets, brochures, photographs or graphics, handbills, signs, petitions, posters, bumper stickers, and booklets.

4. Amend §251.54 by revising paragraphs (a), introductory text, (e)(1), (e)(2)(i), and the introductory text of (e)(2)(ii), redesignating paragraphs (f)(1) and (f)(2) as (f)(2) and (f)(3) and redesignating the first sentence of paragraph (f) as paragraph (f)(1), and adding new paragraphs (f)(4) and (f)(5) and revising paragraph (h) to read as follows:

§251.54 Special use applications.

(a) Preapplication activity. When occupancy or use of National Forest System land is desired, a proponent is encouraged to contact the Forest Service office(s) responsible for management of the affected land as early as possible so that potential constraints may be identified, the proposal can be considered in land management plans if necessary, and processing of an application can be tentatively scheduled. To the extent applicable to the proposed use and occupancy, the proponent will be given guidance and information about:

(e) Application content—(1) Applicant identification. Any applicant for a special use authorization shall provide the applicant's name and mailing address, or if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application.

(2) Minimum information.—(i) Noncommercial group events and noncommercial distribution of printed material. An applicant for noncommercial group events and noncommercial distribution of printed material shall provide the following:

(A) A description of the proposed activity;

(B) A description of the National Forest System land and any facilities the applicant would like to use;

(C) The estimated number of participants and spectators;

(D) The date and time of the proposed activity; and

(E) The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the applicant.

(ii) All other special uses. If requested by an authorized officer, an applicant in one of the following categories shall furnish the information specified for that category:

(A) A State and local government agency: a copy of the authorization under which the application is made;

(B) A public corporation: the statute or other authority under which it was organized;

(C) A Federal government agency: the title of the agency official delegated the authority to file the application.

(D) A private corporation: (1) Evidence of incorporation and its current good standing; (2) if reasonably obtainable by the applicant, the name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; (3) the name and address of each affiliate of the entity; (4) in the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly; or (5) in the case of an affiliate which controls the entity, the number of shares and the percentage of any class of voting stock of that entity owned, either directly or indirectly by the affiliate; or

(E) A partnership, association or other unincorporated entity: a certified copy of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the State.

(4) Processing applications. (1) * * * * * * * * * * * *

The authorized officer shall give due deference to the findings of another agency such as the Public Utility Commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled if reference is made to the previous filing date, place, and case number.

(5) A decision to grant or deny an application for a noncommercial group event or noncommercial distribution of printed material shall be made without unreasonable delay.

(b) Response to applications for noncommercial group events or for the noncommercial distribution of printed material. (1) An authorized officer shall grant an application for a special use authorization for a noncommercial group event or for noncommercial distribution of printed material, upon a determination that:

(i) The proposed activity is not prohibited by the rules at 36 CFR part 261, subpart A, or by orders issued pursuant to 36 CFR part 261, subpart B, or by Federal, State, or local law;

(ii) The proposed activity is consistent or can be made consistent with the applicable approved land and resource management plan required pursuant to 36 CFR part 219;

(iii) The proposed activity will not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land, including but not limited to uses and activities authorized pursuant to parts 222, 223, 228, and 251 of this chapter;

(iv) The proposed activity will not pose a substantial danger to public health. Considerations of public health shall be limited to the following with respect to the proposed site:

(A) The sufficiency of sanitation facilities;

(B) The adequacy of waste disposal facilities;

(C) The availability of sufficient potable drinking water, in view of the expected number of users and duration of use;

(D) The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site;

(E) The risk of contamination of the water supply;

(F) The sufficiency of a plan for safe handling of food.

(v) The proposed activity will not pose a substantial danger to public safety. Considerations of public safety shall not include concerns about possible reaction to the users' identity or beliefs from non-members of the group seeking an authorization and shall be limited to the following:
(A) The potential for physical injury to other forest users from the proposed activity;
(B) The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;
(C) The potential for physical injury to users from scheduled or existing uses or activities on National Forest System land; and
(D) The adequacy of ingress and egress in case of an emergency;
(vi) The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded; and
(vii) A person or persons 21 years of age or older has been designated to sign and does sign a special use authorization on behalf of the applicant.

2. If an authorized officer denies an application because it does not meet the criteria in paragraphs (h)(1)(i) through (vii) of this section, the authorized officer shall notify the applicant in writing of the reasons for the denial. A denial of an application under paragraph (h)(1)(i) through (vii) of this section constitutes final agency action and is immediately subject to judicial review.

3. Amend §251.56 by revising paragraph (e) to read as follows:

§251.56 Terms and conditions.

(e) Bonding. An authorized officer may require the holder of a special use authorization for other than noncommercial group events and noncommercial distribution of printed material to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or by any applicable law, regulation or order.

4. Amend §251.57 by redesignating paragraphs (d) through (g) as (e) through (h) and adding a new paragraph (d) to read as follows:

§251.57 Rental fees.

(d) No fee shall be charged when the authorization is for a noncommercial group event or for the noncommercial distribution of printed material as defined in §251.51 of this subpart.

5. Revise §251.60(b) to read as follows:

§251.60 Termination, revocation, and suspension.

(b) A special use authorization may be suspended, revoked or terminated, in the discretion of the authorized officer, for reasons in the public interest, except that this provision shall not apply to special use authorizations for noncommercial group events or noncommercial distribution of printed material.

PART 261—PROHIBITIONS

8. Revise the authority citation for part 261 to read as follows:


Subpart A—General Prohibitions

9. Amend §261.2 by adding the following new terms and definitions in alphabetical order to read as follows:

§261.2 Definitions.

Distribution of printed material. Disseminating, posting, affixing, or erecting printed material as defined in this section or soliciting information, views, or signatures in conjunction with the distribution of printed material.

Printed material. Any written and/or graphic material including but not limited to pamphlets, leaflets, brochures, photographs or graphics, handbills, signs, petitions, posters, bumper stickers, and booklets.

10. Amend §261.10 by redesignating paragraphs (h) through (m) as paragraphs (i) through (n), revising paragraph (g), and adding a new paragraph (h) to read as follows:

§261.10 Occupancy and use.

(g) Distributing any printed material without a special use authorization.

(h) When distributing printed material, delaying, halting, or preventing administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System land; misrepresenting the purposes or affiliations of those selling or distributing the material; or misrepresenting the availability of the material without cost or donation.

§261.14 [Amended]

11. Amend §261.14 by removing paragraph (p) and redesignating paragraph (q) as paragraph (p).
issues and presentations by interested parties. At the June 9, 1993 meeting, implementation issues will be discussed.

Inspection of Documents: Meeting materials, including a preliminary agenda, will be mailed approximately one week prior to the meeting or distributed at the meeting. The mailing list has been compiled from previous public meeting attendees and by requests. Anyone wishing to be added to the mailing list for meeting materials may contact Wendy Smith at the address or phone number above.


James Hanlon,
Acting Director, Office of Science and Technology.

FOR FURTHER INFORMATION CONTACT:
[FR Doc. 93-10711 Filed 5-5-93; 8:45 am]
BILLING CODE 6550-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Trenton, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Robert D. Fogel, the personal representative of the estate of William H. Burckhalter, licensee of Station WEWB (FM), Channel 269A, Trenton, Florida, requesting the substitution of Channel 269C2 for Channel 269A at Trenton, Florida, and the modification of Station WCWB(FM)'s license to specify operation on the higher class channel. The coordinates for Channel 269C2 at Trenton are North Latitude 29-35-00 and West Longitude 83-05-50.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert D. Fogel, Legare, Hare, & Smith P.O. Box 578, 63 Broad Street, Charleston, SC 29402 (Counsel for Estate of William H. Burckhalter).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-117, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW, room 246, or 2100 M Street, NW, suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

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

[FR Doc. 93-10620 Filed 5-5-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

Radio Broadcasting Services; Kahalu'u, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Brewer Broadcasting Corp., requesting the substitution of Channel 291C for Channel 291A at Kahalu'u, Hawaii, and the modification of Station KLEOF(MF)'s license to specify operation on the higher class channel. The coordinates for Channel 291C at Kahalu'u are North Latitude 19-44-30 and West Longitude 155-57-23.

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dan J. Alpert, 1250 Connecticut Avenue, NW, #700, Washington, DC 20036 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-117, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW, room 246, or 2100 M Street, NW, suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

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

[FR Doc. 93-10621 Filed 5-5-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

Radio Broadcasting Services; Hali'imaile, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by RC Broadcasting, Inc. requesting the substitution of Channel 268C for
Channel 28A at Hālīʻimaʻile, Hawaii, as that community's first wide coverage area FM service. The proposed coordinates are North Latitude 20°49'24" and West Longitude 156°27'27".

DATES: Comments must be filed on or before June 21, 1993, and reply comments on or before July 6, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant as follows: Dan J. Alpert, 1250 Connecticut Avenue, NW., #700, Washington, DC 20036 (Attorney for Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Notice of Proposed Rule Making, MM Docket No. 93-119, adopted April 13, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230) 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission’s copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., room 246, or 2100 M Street, NW suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73
Radio broadcasting.

Federal Communications Commission
Michael C. Rager,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10622 Filed 5-5-93; 8:45 am]
Endangered and Threatened Wildlife and Plants; Notice of Public Hearing on Proposed Establishment of a Nonessential Experimental Population of Black-footed Ferrets in North-Central Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed reintroduction of black-footed ferrets (Mustela nigripes) into the 11,061 km² (4,237 mi²) North-Central Montana Black-footed Ferret Experimental Population Area in North-Central Montana. This reintroduction is proposed to implement a primary recovery action for this federally listed endangered species and to evaluate release techniques.

DATES: The comment period extends from April 13, 1993 through June 14, 1993. A public hearing will be held from 7 p.m. to 10 p.m. on May 24, 1993.

ADDRESSES: The public hearing will be held in the second floor meeting room, Malta City Hall, 39 South 2d East, Malta, Montana. Written comments and materials concerning the proposal for a nonessential experimental population of black-footed ferrets in North-Central Montana should be sent to the Billings Suboffice Coordinator, U.S. Fish and Wildlife Service, Ecological Services, 1501 14th Street West, Suite 230, Billings, Montana 59102. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dennis M. Christopherson (see ADDRESSES above) at telephone (406) 657-6750.

SUPPLEMENTARY INFORMATION: Background

The U.S. Fish and Wildlife Service (Service) in cooperation with the Montana Department of Fish, Wildlife and Parks has proposed to reintroduce black-footed ferrets (Mustela nigripes) into the 11,061 km² (4,237 mi²) of the UL Bend National Wildlife Refuge in South Phillips County, Montana. This reintroduction is proposed to implement a primary recovery action for this federally listed endangered species and to evaluate release techniques. As part of the reintroduction effort, the black-footed ferret population in the experimental population area is proposed to be designated as "nonessential experimental" under the authority of section 10(j) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). This special designation would increase the Service’s flexibility in managing the newly released population of black-footed ferrets. Additional information on this proposed rulemaking was published in the Federal Register (58 FR 19221) on April 13, 1993.

A public hearing will be held on May 24, 1993, to provide interested parties an opportunity to make their views known on the proposed rulemaking. During the public comment period, any member of the public may send in comments, which must be received by June 14, 1993. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if necessary, to allow all parties time to speak. There are no limits to the length of written comments that are provided to the Service, either at this hearing or by mail.

Authority for this action is the Endangered Species Act of 1973.

Author

The author of this notice is Dennis Christopherson, U.S. Fish and Wildlife Service (see FOR FURTHER INFORMATION CONTACT above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.
This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[D.A-91-011-A]

Milk for Manufacturing Purposes and Its Production and Processing; Requirements Recommended for Adoption by State Regulatory Agencies

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document changes the recommended manufacturing milk requirements (Recommended Requirements) by incorporating provisions for an expanded drug residue monitoring program. The changes provide State regulatory agencies and the dairy industry with guidance in carrying out sampling, testing and monitoring activities relating to drug residues in manufacturing grade milk. The changes include a provision for a State-sanctioned penalty to be imposed on a manufacturing grade milk producer who ships milk testing positive for drug residue. In addition, the changes provide guidelines for the storage and proper labeling of drugs used on the dairy farm.

The action to expand the drug residue monitoring program was initiated at the request of the National Association of State Departments of Agriculture (NASDA) and was developed in cooperation with NASDA, the Food and Drug Administration (FDA), dairy trade associations and producer groups.

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Duane R. Spomer, Chief, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750-S, P.O. Box 96456, Washington, DC 20090-6456. (202) 720-7473.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "non-major" under the criteria contained therein.

Under the authority of the Agricultural Marketing Act of 1946, the U.S. Department of Agriculture maintains a set of model regulations or requirements relating to quality and sanitation in the production and processing of manufacturing grade milk. These recommended requirements are available for adoption by the various States. The purpose of the model requirements is to promote, through State adoption and enforcement, uniformity in State dairy laws and regulations relating to manufacturing grade milk.

In July 1991, the Dairy Division of NASDA passed a resolution recommending that the manufacturing grade milk drug residue monitoring program be revised using the Grade A drug residue monitoring program as a prototype. The Grade A program is based on the requirement that the milk on every bulk milk pickup tanker be sampled and tested, prior to processing, for the presence of beta lactam drugs. In addition, the Grade A program provides for the temporary suspension of a producer's Grade A permit, or an equivalent penalty, in the case of a producer who ships milk testing positive for beta lactam drugs.

In order to establish an expanded manufacturing grade milk drug residue monitoring program, as requested by NASDA, this document makes the following changes to the Recommended Requirements:

1. Provide That all Marketed Manufacturing Grade Milk be Sampled and Tested for the Presence of Beta Lactam Drugs

Previously, the Recommended Requirements provided for the testing of milk for antibiotics at a minimum frequency of four times in 6 months. This change specifies that all manufacturing grade milk intended for processing be sampled by the defined methods and tested for beta lactam drugs.

2. Provide That the Testing of all Marketed Manufacturing Grade Milk be Completed Prior to Processing

Previously, the Recommended Requirements did not provide guidelines for the timely completion and reporting of antibiotic tests. This change specifies that testing be completed prior to processing the load of milk.

3. Define State Regulatory Agency and Industry Responsibilities for the Implementation of the Expanded Drug Residue Monitoring Program

The successful implementation of any regulatory program requires cooperation between State officials and industry personnel. In order for the State regulatory agency to adequately supervise and enforce the drug residue monitoring program, the dairy industry must maintain accurate records and follow uniform procedures. The revised model regulations define the responsibilities of each party in the execution of this program.

The adopted changes require the industry to notify the appropriate State regulatory agency of (a) each occurrence of a load sample testing positive for drug residue; (b) the identity of any producer whose milk causes a load sample to test positive for drug residue; and (c) the intended and final disposition of the load of milk represented in a sample testing positive for drug residue. Milk testing positive for beta lactams is to be disposed of in a manner that removes it from the human and animal food chain, unless reconditioned under FDA guidelines.

The changes also provide for the State regulatory agency to: (a) monitor the industry's sampling and testing methods for accuracy, consistency, and thoroughness; (b) perform comparison milk sample testing to evaluate the plant's recorded results; (c) review the industry's records of response to a positive drug residue test; and (d) sanction penalties on producers who have shipped milk testing positive for drug residue.

4. Provide for a State-sanctioned Penalty To Be Imposed on a Manufacturing Grade Milk Producer Who Ships Milk Testing Positive for Drug Residue

In order to emphasize the importance of utilizing milk production methods that prevent drug residues in milk, this change requires that there be a State-sanctioned penalty imposed on a producer for each occurrence of shipping milk testing positive for drug residue.
Additionally, following a third violation of shipping milk testing positive for drug residue within a 12-month period, the appropriate State agency will initiate administrative procedures to suspend the producer's milk shipping privileges, according to that State's policy.

5. Require a Producer Who Ships Milk Testing Positive To Participate in a Milk-quality Improvement Educational Program

After each occurrence of shipping milk testing positive for drug residue, a producer is required under this change to meet with a licensed veterinarian within 30 days to review the "Milk and Dairy Beef Quality Assurance Program." The "Quality Assurance Program" was developed by the Joint Liaison Committee of the American Veterinary Medical Association and the National Milk Producers Federation, with the cooperation and support of USDA, FDA, industry, and academia to help milk producers identify and eliminate the causes of drug residues in milk.

6. Provide Detailed Guidelines for the Labeling and Storage of Farm Chemicals and Animal Drugs

A central element of the "Milk and Dairy Beef Quality Assurance Program" is the proper labeling and storage of drugs located in the milk production areas. This change specifies that the labeling of animal drugs used on manufacturing grade farms shall conform to federal regulations and that the drugs be stored according to intended use.

7. Make Other Revisions and Editorial Changes in the Recommended Requirements To Reflect the Expansion of the Current Drug Residue Monitoring Program

These changes require dairy plants to: (a) test the milk of new and transfer producers for the presence of drug residues prior to acceptance of the milk at the plant; (b) retain drug residue test results for a minimum of 12 months; (c) include in a producer's records the results of drug residue tests for the preceding 12 months; and (d) provide field service assistance to farmers regarding drug residue issues.

8. Make Revisions in the Recommended Requirements to Update and Clarify Somatic Cell Testing Requirements

This change corrects the action level at which the Wisconsin Mastitis Test must be confirmed.

State regulatory agencies that are responsible for overseeing the sanitation requirements relating to the production and processing of farm-separated cream are strongly encouraged to include such cream in a drug residue monitoring program to sample and test for illegal levels of drug residue which could contaminate products made from this source of cream. The National Conference on Interstate Milk Shipments is developing a database intended to compile information concerning drug residue test results which are reflective of the national milk supply. The Department encourages participation in this voluntary program.

Public Comments

On July 27, 1992, the Department published a notice of intent to revise the Recommended Requirements [57 FR 33168]. The public comment period closed August 26, 1992. Comments were received from six commenters: two representing State regulatory agencies, one representing dairy producers, one representing dairy processors, one representing veterinarians, and one representing a dairy cooperative.

Discussion of Comments

1. One commenter was concerned that the proposal duplicated State drug residue monitoring programs and that it is not consistent with existing State requirements. The Department advocates nationally uniform regulations for monitoring drug residue in the milk supply and has worked closely with the Dairy Division of NASA to promote uniformity. During the development of the drug residue monitoring program, the Department consulted with NASDA representatives to provide a model program consistent with existing State laws. The Department revises the expanded drug residue monitoring program accomplishes this.

2. Two commenters requested that the minimum record retention time be reduced from 12 months to 6 months. These commenters felt the change would provide consistency with the Grade A milk program and reduce recordkeeping requirements. The Department believes that accurate records detailing a 12-month history of drug residue test results are necessary since three occurrences of positive drug residue tests within a 12-month period will require that administrative procedures be initiated to suspend the producer's milk shipping privileges. Provisions in the Grade A milk program require State regulatory agencies to maintain a history of drug residue test results. Similarly, the USDA recommended program has provided for many years that the dairy plant maintain these records and have them available for regulatory review.

3. One commenter suggested that State regulatory agencies not be required to monitor the industry's drug residue testing and sampling procedures nor collect samples for comparison drug residue testing. The commenter was concerned that these requirements were costly, time-consuming, and created an unofficial certification.

The Department believes that compliance with the provisions of the drug residue monitoring program can best be established through active participation by the State regulatory agency. The Department believes the requirements are necessary to ensure that proper procedures are being followed and that accurate drug residue test results are being obtained.

4. One commenter recommended immediate suspension of a producer's license or permit each time a violative level of drug residue is confirmed.

The Department believes that the revised provisions of the Recommended Requirements will preclude the further marketing of milk from producers who have violated the drug residue requirements until that producer's milk is individually sampled and found not to contain violative levels of drug residues. Individual States have the ability to develop more stringent requirements if they so choose.

5. Two commenters recommended an increase in the number of days allowed for a producer to review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian.

During the development of the expanded drug residue monitoring program, the Department provided as much consistency with the Grade A milk program as possible. When the notice of intent to amend the Recommended Requirements was published, 21 days was considered to be the timeframe allowed by the Grade A milk program. Since then, the Grade A program has established 30 days as the allowable timeframe. The Department concurs with this and has modified the Recommended Requirements accordingly.

6. There were several comments recommending changes outside the scope of the proposal. These comments suggested: changing the requirements for rejecting milk due to bacterial estimate, modifying the list of acceptable somatic cell tests, lowering the maximum allowable bacterial estimate, lowering the maximum allowable somatic cell limit, and using semi-guide discs to evaluate sediment content in milk.
Since the proposal did not request public comment concerning these topics, the Department elects not to make the requested changes at this time. These comments will be considered as future changes are proposed.

7. One commenter suggested limiting barn storage of drugs to those approved for dairy animals or those prescribed by a licensed veterinarian.

The adopted model regulations permit barn storage of drugs labeled for use in non-dairy animals only when these drugs are located in an area of the barn which is separate from the milking area. The Recommended Requirements disallow the storage of drugs labelled for use in non-dairy animals in the same storage unit used to store drugs approved for use in dairy animals. The Department believes that sufficient guidance is provided to safeguard against accidental contamination due to inadvertent use of improper drugs.

8. One commenter requested the deletion of the requirement that milk buyers obtain quality and drug residue test records for producers transferring milk shipments from another plant. Since 1972, the USDA Recommended Requirements have specified the transfer of producer quality records when a milk producer changes milk buyers. This action expands the requirement to include a history of drug residue test results.

The Department recognizes the difficulties which occur when a new buyer requests quality records for a transfer producer. However, a producer's quality and drug residue test history is essential in establishing test frequency and determining sanctions.

9. One commenter suggested modifying the proposal to clarify actions required of plants. The commenter cited instances where manufacturing operations or plants may not be purchasing milk directly from the producer and therefore are not able to fulfill certain provisions of the Recommended Requirements.

The buyer who purchases milk from the producer is usually responsible for ensuring that quality and drug residue tests are being conducted, records are being maintained, and follow-up actions have taken place. In many instances, this is the responsibility of the dairy plant to which the producer ships milk. In other instances, processing operations or plants may purchase milk and have little or no responsibility to the milk producer. The intent of the Recommended Requirements is that when a plant is used to indicate the party responsible for testing milk, maintaining quality and drug residue test records, and providing mandated follow-up actions with the milk producer, the responsible party may or may not be the manufacturing operation processing the milk. To clarify this, modifications in the proposal have been made accordingly.

For the reasons set forth in the preamble, the Recommended Requirements as published in the Federal Register on April 7, 1972 [37 FR 7046] and revised August 27, 1985 [50 FR 34726] are revised as follows:

1. In sec. B2., paragraphs (i), (j) and (p) are revised to read as follows:

Sec. B2. Terms Defined

(i) Producer. The person or persons who exercise control over the production of the milk delivered to a plant, and who receives payment for this product. A "new producer" is one who is initiating the shipment of milk from a farm. A "transfer producer" is one whose shipment of milk from a farm is shifted from one plant to another plant. A "producer/processor" is one who manufactures dairy products on the dairy farm entirely from his own milk, or from his own milk combined with milk from one or more other producers.

(j) Dairy farm or farm. A place or premise where one or more milking cows or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold, or offered for sale to a manufacturing plant.

(p) Rejected milk. Milk rejected from the market according to the provisions of sec. C5.

2. Sec. C1. is revised to read as follows:

Sec. C1. Basis

The quality classification of raw milk for manufacturing purposes from each producer shall be based on an organoleptic examination for appearance and odor, a drug residue test and quality control tests for sediment content, bacterial estimate and somatic cell count.

3. Sec. C5. is revised to read as follows:

Sec. C5. Rejected Milk

A plant shall reject specific milk from a producer if the milk fails to meet the requirements for appearance and odor (sec. C2.), if it is classified No. 4 for sediment content (sec. C3.), or if it tests positive for drug residue (sec. C12.).

4. Secs. C7. through C10. are revised to read as follows:

Sec. C7. Excluded Milk

A plant shall not accept milk from a producer if:

(a) The producer's initial milk shipment to a plant does not meet the requirements for acceptable milk (secs. C3. and C4.);

(b) The milk has been in a probational (No. 3) sediment content classification for more than 10 calendar days (sec. C3.);

(c) The milk has been classified "Undergrade" for bacterial estimate for more than 4 successive weeks (sec. C4.);

(d) Three of the last five milk samples have exceeded the maximum somatic cell count level of 1,000,000 per ml. (sec. C11.);

(e) The producer's milk shipments to either the Grade A or the manufacturing grade milk market currently are not permitted due to a positive drug residue test (sec. C12.); or

(f) The producer is delinquent in completing a review of the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian following an occurrence of shipping milk testing positive for drug residue (sec. C12.).

Sec. C8. Quality Testing of Milk From Producers.

(a) New producers.

(1) An examination and tests shall be made on the first shipment of milk from a new producer or from a producer resuming shipment after a period of non-shipment. The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(b) Transfer producers.

(1) An examination and tests shall be made by the new buyer on the first shipment of milk from a transfer producer. The milk shall meet the requirements for:

(i) "Acceptable milk" (secs. C2., C3., and C4.);

(ii) Somatic cell count (sec. C11.); and

(iii) Drug residue level (sec. C12.).

(2) Thereafter, each milk shipment shall meet the requirements of sec. C2., and shall be tested in accordance with the provisions of secs. C3., C4., C11., and C12.

(3) In addition, the new buyer shall determine from the producer's records that:

(i) The milk is currently classified "acceptable" for bacteria and sediment;
(ii) Three of the last five consecutive milk samples do not exceed the maximum somatic cell count level requirements;
(iii) The last shipment of milk received from the producer by the former plant did not test positive for drug residue; and
(iv) Milk shipments currently are not excluded from the market due to a positive drug residue test.

(4) When a producer discontinues milk delivery at one plant and begins delivery at another plant for any reason, the new buyer shall not accept the first milk delivery until he has requested from the previous buyer a copy of the record of:
(i) The producer's milk quality tests covering the preceding 90 days;
(ii) The producer's drug residue test results for the preceding 12-month period; and
(iii) A statement of the farm certification status and date of certification, if so provided under State regulations.

(5) The previous buyer shall furnish the new buyer with such information within 24 hours after receipt of the request. A new buyer may accept a transfer producer's milk after making the request for records, but before receiving them, if he first confirms the producer's records verbally from the previous buyer. If verbal communication is used to ascertain the status of quality records, the new buyer shall send to the previous buyer, as soon as possible, a written confirmation of the conversation.

(6) If the new buyer fails to receive the quality records from the previous buyer, he shall report this fact to the appropriate State regulatory agency. The new buyer may then, alternatively, obtain from the producer a copy of the test results for sediment content, bacterial estimate, and somatic cell count for the preceding 90-day period and a copy of the drug residue test results for the preceding 12-month period. A farm inspection shall then be made to confirm or establish certification of the transfer producer's farm.

Sec. C9. Record of Tests

Accurate records of the results of the milk quality and drug residue tests for each producer shall be kept on file for a period of not less than 12 months. The records shall be available for examination by the regulatory agency.

Sec. C10. Field Service

A representative of the plant shall arrange to promptly visit the farm of each producer whose milk tests positive for drug residue, exceeds the maximum somatic cell count level, or does not meet the requirements for acceptable milk. The purpose of the visit shall be to inspect the milking equipment and facilities and to offer assistance to improve the quality of the producer's milk and eliminate any potential causes of drug residues. A representative of the plant shall routinely visit each producer as often as necessary to assist and encourage the production of high quality milk.

Sec. C11. Somatic Cell Count

(a) A laboratory examination to determine the level of somatic cells shall be made on each producer's milk at least four times in each 6-month period at irregular intervals. Samples shall be analyzed at a laboratory approved by the State regulatory agency.

(b) A confirmatory test for somatic cells shall be done when a herd sample exceeds either of the following screening test results:

1. California Mastitis Test - Weak Positive (CMT 1).
2. Wisconsin Mastitis Test - WMT value of 18 nm.

(c) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

1. Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.
2. Electronic Somatic Cell Count.
3. Optical Somatic Cell Count.

(d) The results of the confirmatory test for somatic cells shall be the official result.

(e) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

1. The producer shall be notified with a warning of the excessive somatic cell count.
2. Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate regulatory authority shall be notified and a written warning notice given to the producer. The notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

(f) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (e)(2) of this section. If this sample also exceeds 1,000,000 per ml., subsequent milkings shall be excluded from the market until satisfactory compliance is obtained. Shipment may be resumed and a temporary status assigned to the producer by the appropriate State regulatory agency when an additional sample of herd milk is tested and found satisfactory. The producer shall be assigned a full reinstatement status when three out of four consecutive somatic cell count tests do not exceed 1,000,000 per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

New secs. C12., C13., C14., and C15. are added to read as follows:

Sec. C12. Drug Residue Level

(a) Industry responsibilities. (1) Sampling and testing program.

(i) All milk shipped for processing or intended to be processed on the farm where it was produced shall be sampled and tested, prior to processing, for beta lactam drug residue. Collection, handling and testing of samples shall be done according to procedures established by the appropriate State regulatory agency.

(ii) When so specified by the U.S. Food and Drug Administration (FDA), all milk shipped for processing, or intended to be processed on the farm where it was produced, shall be sampled and tested, prior to processing, for other drug residues under a random drug sampling program. The random drug sampling program shall include at least four samples collected in at least 4 separate months during any 6-month period.

(iii) When the Commissioner of the FDA determines that a potential problem exists with an animal drug residue or other contaminant in the milk supply, a sampling and testing program shall be conducted, as determined by the FDA. The testing shall continue until such time that the Commissioner of the FDA determines with reasonable assurance that the potential problem has been remedied.

(iv) The dairy industry shall analyze samples for beta lactams and other drug residues by methods evaluated by the Association of Official Analytical Chemists (AOAC) and accepted by the FDA as effective in determining compliance with established "safe levels" or tolerances. "Safe levels" and tolerances for particular drugs are established and amended by the FDA. The industry may employ on a temporary basis other test methods evaluated by the Virginia Polytechnic Institute and State University, or by other institutions using equivalent evaluation procedures, and determined to demonstrate accurate compliance results. These test methods may be used...
until they are evaluated by the AOAC and accepted or rejected by the FDA.  
(2) Individual producer sampling.  
(i) Bulk milk.  
A milk sample for beta lactam drug residue testing shall be taken at each farm and shall include milk from each farm bulk tank.  
(ii) Can milk.  
A milk sample for beta lactam drug residue testing shall be formed separately at the receiving plant for each can milk producer included in a delivery, and shall be representative of all milk received from the producer.  
(iii) Producer/processor.  
A milk sample for beta lactam drug residue testing shall be formed separately according to paragraphs (a)(2)(i) and (ii) of this section for milk produced or received by a producer/processor.  
(3) Load sampling and testing.  
(i) Bulk milk.  
A load sample shall be taken from the bulk milk pickup tanker after its arrival at the plant and prior to further commingling.  
(ii) Can milk.  
A load sample representing all of the milk received on a shipment shall be formed at the plant, using a sampling procedure that includes milk from every can on the vehicle.  
(iii) Producer/processor.  
A load sample shall be formed at the plant using a sampling procedure that includes all milk produced and received.  
(4) Sample and record retention.  
A load sample that tests positive for drug residue shall be retained according to guidelines established by the appropriate State regulatory agency. The records of all sample test results shall be retained for a period of not less than 12 months.  
(5) Industry follow-up.  
(i) When a load sample tests positive for drug residue, industry personnel shall notify the appropriate State regulatory agency immediately, according to State policy, of the positive test result and of the intended disposition of the shipment of milk containing the drug residue. All milk testing positive for drug residue shall be disposed of in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines.  
(ii) Each individual producer sample represented in the positive-testing load sample shall be singly tested as directed by the appropriate State regulatory agency to determine the producer of the milk sample testing positive for drug residue. Identification of the producer responsible for producing the milk testing positive for drug residue, and details of the final disposition of the shipment of milk containing the drug residue, shall be reported immediately to the appropriate agency, according to State policy.  
(iii) Milk shipment from the producer identified as the source of milk testing positive for drug residue shall cease immediately and may resume only after a sample from a subsequent milking does not test positive for drug residue.  
(b) Regulatory agency responsibilities.  
(1) Monitoring and surveillance.  
The appropriate State regulatory agency shall monitor the milk industry's drug residue program by conducting unannounced on-site inspections to observe testing and sampling procedures and to collect samples for comparison drug residue testing. In addition, the regulatory agency shall review industry records for compliance with State policy. The review shall seek to determine that:  
(i) Each producer is included in a routine, effective drug residue milk monitoring program utilizing AOAC-evaluated and FDA-approved methods to test samples for the presence of drug residue;  
(ii) The regulatory agency receives prompt notification from industry personnel of each occurrence of a sampling testing positive for drug residue, and of the identity of each producer identified as a source of milk testing positive for drug residue;  
(iii) The regulatory agency receives prompt notification from industry personnel of the intended and final disposition of milk testing positive for drug residue, and that disposal of the load is conducted in a manner that removes it from the human or animal food chain, except when acceptably reconditioned under FDA compliance policy guidelines; and  
(iv) Milk shipment from a producer identified as a source of milk testing positive for drug residue completely and immediately ceases until a milk sample taken from the dairy herd does not test positive for drug residue.  
(2) Enforcement.  
(i) A penalty sanctioned by the State regulatory agency of each producer for each occurrence of shipping milk testing positive for drug residue.  
(ii) The producer shall review the "Milk and Dairy Beef Quality Assurance Program" with a licensed veterinarian within 30 days after each occurrence of shipping milk testing positive for drug residue. A certificate confirming that the "Quality Assurance Program" has been reviewed shall be signed by the responsible producer and a licensed veterinarian. The appropriate State regulatory agency shall be notified after the program has been reviewed.  
(iii) If a producer ships milk testing positive for drug residue three times within a 12-month period, the appropriate State agency shall initiate administrative procedures to suspend the producer's milk shipping privileges, according to State policy.  
Sec. C13. Radionuclides  
Composite milk samples from selected areas in each State should be tested for biologically significant radionuclides at a frequency which the regulatory agency determines to be adequate to protect the consumer.  
Sec. C14. Pesticides and Herbicides  
Composite milk samples should be tested for pesticides and herbicides at a frequency which the regulatory agency determines is adequate to protect the consumer. The test results from the samples shall not exceed established FDA limits.  
Sec. C15. Added Water  
Milk samples from each producer should be tested for added water at a frequency which the regulatory agency determines is adequate to prevent the addition of water to the milk.  
Sec. D5. Milkhouse or Milkroom  
(e) The milkhouse or milkroom shall be kept clean and free of trash. Animals and fowl shall not be allowed access to the milkhouse or milkroom at any time.  
(f) Farm chemicals and animal drugs.  
(i) Chemicals and other drugs intended for treatment of animals, and insecticides approved for use in dairy operations, shall be clearly labeled and used in accordance with label instructions, and shall be stored in a manner which will prevent accidental contact with milk and milk contact surfaces.  
(2) Only drugs that are approved by the FDA or biologics approved by the USDA for use in dairy animals that are properly labeled and reconditioned according to FDA or USDA regulations shall be administered to such animals.  
(3) When drug storage is located in the milkroom, milkhouse, or milking area, the drugs shall be stored in a closed, tight-fitting storage unit. Such drugs shall further be segregated in such a way that drugs labeled for use in lactating dairy animals are separated from drugs labeled for use in non-lactating dairy animals.
(4) Drugs labeled for use in non-dairy animals shall not be stored with drugs labeled for use in dairy animals. When drugs labeled for use in non-dairy animals are stored in the barn, the drugs shall be located in an area of the barn separate from the milking area.

(5) Herbicides, fertilizers, pesticides, and insecticides that are not approved for use in dairy operations shall not be stored in the milkhouse, milkroom, or milking area.


L.P. Massaro,
Acting Administrator.

[FR Doc. 93–10725 Filed 5–5–93; 8:45 am]
BILLING CODE 3105–02–P

Forest Service

Exemption of Larry’s Salvage Blowdown From Appeal

AGENCY: Forest Service, Northern Region, USDA.

ACTION: Notification that a timber salvage and rehabilitation project designed to recover blown down timber is exempt from provisions of 36 CFR part 217.

SUMMARY: In October 1991, unusually strong winds in localized areas across the Rexford Ranger District produced areas of wind-thrown timber. The Rexford District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area.

The District Ranger has determined, through a Decision Memo and environmental analysis in the supporting project file, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber and reduce the risk of wildfire.

EFFECTIVE DATE: Effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT:
Drew Bellon; Rexford District Ranger; Kootenai National Forest; 1299 Highway 93 North; Eureka, MT 59917; 406–296–2536.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture, weakened conifer trees, and increased the fire danger. In August of 1992, a lightning-ignited fire burned 17,500 acres of National Forest between Hells Canyon and the community of Cuprum, about 26 miles northwest of the town of Council in southwest Idaho.

As part of the effort to recover and rehabilitate natural resources damaged by the wildfire, Council Ranger District personnel have developed a proposal to harvest burned timber and reforest damaged acres. The Forest Service has completed the Final Environmental Impact Statement (EIS) for the Steen Creek Timber Salvage project.

The analysis area for the Steen Creek Timber Salvage EIS is located 24 miles northwest of Council, Idaho. The Forest will salvage burned trees throughout the 6,650-acre project area and recover approximately 12.5 million board foot (MBF) of timber. The Steen Creek Salvage Project will harvest only dead and dying trees using helicopter and skyline logging systems. Cutting areas average 16 acres in size and will not exceed 81 acres. Regional Forester approval has been given to the Payette National Forest to exceed the Forest Plan cutting unit size limit due to the catastrophic condition of the timber stands.

Cutover areas greater than 5 acres will be replanted, and smaller areas may be replanted depending on accessibility. Approximately 1334 acres damaged by fire would be replanted with conifer seedlings. There is 10.3 miles of road construction and 12.6 miles of road reconstruction proposed for the salvage operations.

Management direction for the project area is established in the Payette National Forest Land and Resource Management Plan (Forest Plan) of 1988. The Forest Plan provides for the removal of salvage timber from lands

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent wildfire on the Steen Creek Timber Salvage project, Council Ranger District, Payette National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on May 6, 1993.

FOR FURTHER INFORMATION CONTACT:
Tracy Beck, Environmental Coordinator, Council Ranger District, Payette National Forest, P.O. Box 567, Council, ID 83612, telephone: 208–253–4215.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture, weakened conifer trees, and increased the fire danger. In August of 1992, a lightning-ignited fire burned 17,500 acres of National Forest between Hells Canyon and the community of Cuprum, about 26 miles northwest of the town of Council in southwest Idaho.

As part of the effort to recover and rehabilitate natural resources damaged by the wildfire, Council Ranger District personnel have developed a proposal to harvest burned timber and reforest damaged acres. The Forest Service has completed the Final Environmental Impact Statement (EIS) for the Steen Creek Timber Salvage project.

The analysis area for the Steen Creek Timber Salvage EIS is located 24 miles northwest of Council, Idaho. The Forest will salvage burned trees throughout the 6,650-acre project area and recover approximately 12.5 million board foot (MBF) of timber. The Steen Creek Salvage Project will harvest only dead and dying trees using helicopter and skyline logging systems. Cutting areas average 16 acres in size and will not exceed 81 acres. Regional Forester approval has been given to the Payette National Forest to exceed the Forest Plan cutting unit size limit due to the catastrophic condition of the timber stands.

Cutover areas greater than 5 acres will be replanted, and smaller areas may be replanted depending on accessibility. Approximately 1334 acres damaged by fire would be replanted with conifer seedlings. There is 10.3 miles of road construction and 12.6 miles of road reconstruction proposed for the salvage operations.

Management direction for the project area is established in the Payette National Forest Land and Resource Management Plan (Forest Plan) of 1988. The Forest Plan provides for the removal of salvage timber from lands
within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual quality, and other affected resources. The proposed action for Steen Creek Salvage is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

An interdisciplinary team of Forest Service rehabilitation specialists has studied the burned area and prescribed watershed stabilization measures. Payette Forest and Council District foresters have analyzed the burned area and found that a salvage timber sale to be an economical and practical means to rehabilitate the burned area. The salvage project will: (1) Recover valuable timber that would otherwise deteriorate, (2) clean up burned trees that would otherwise become flammable fuels in the future, and (3) reforest those areas that have been left with little or no tree cover as a result of the fire. It is extremely important to remove the dead and dying timber before it deteriorates and loses its economic value. Through the timber salvage operations, Knutson-Vandenburg (K-V) funds can be generated for use to restore forest resources that have been damaged by the wildfire.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is justification to expedite these projects.

The decision for the Steen Creek Salvage project may be implemented after publication of this notice in the Federal Register and after the decision document has been signed by the responsible official. If the project is delayed because of appeal, it is possible that the salvage harvest could not be implemented during the 1993 normal operating season. This would result in a loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and drying timber is $3,750,000. Of this, $937,500 (that's 25%) would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to two-thirds of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt Steen Creek Salvage Project, Council Ranger District, Payette National Forest, from appeal. The Final EIS addresses the effects and issues associated with the Steen Creek Salvage Project.


Robert C. Joslin  
Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–10662 Filed 5–5–93; 8:45 am]
BILLING CODE 3151–11–M

**Exemption of the Horsefly Fire Salvage Project, Salmon National Forest, ID**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of exemption from appeal.

**SUMMARY:** This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from the effects of catastrophic fire on the Horsefly Fire Salvage project area on the North Fork Ranger District, Salmon National Forest, are exempted from appeal in accordance with 36 CFR 217.4(a)(11).

**DATES:** Effective on May 6, 1993.

**FOR FURTHER INFORMATION CONTACT:** Rogers Thomas, District Ranger, North Fork Ranger District, Salmon National Forest, P.O. Box 180, North Fork, Idaho 83466, Telephone: 208–865–2383.

**SUPPLEMENTARY INFORMATION:** In early August 1992, the Horsefly Wildfire burned approximately 3,500 acres in the Boulder Creek, Spring Creek and McKay Creek drainages. Several years of drought in central Idaho contributed to extreme and rarely observed fire behavior. Immediately after the fire, an Interdisciplinary Team (IDT) of resource specialists, surveyed much of the burn area to identify emergency and long-term rehabilitation needs. From this preliminary analysis, it was found that in many places, the Horsefly fire burned hot enough to cause severe damage to forest and watershed resources. Damage to soils is of greatest concern because this damage will affect the length of time necessary to achieve revegetation, as well as the quantity and quality of water runoff from the area.

As part of the effort to recover and rehabilitate natural resources damaged by catastrophic fire, Forest personnel have developed a proposal to harvest fire-killed timber, and reforest suitable timberlands. Forest Service personnel have completed the Horsefly Fire Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the affects of implementing timber salvage and other rehabilitation activities.

The analysis area for the Horsefly Fire Salvage EA is located approximately seventeen (17) miles west of North Fork, Idaho, and one (1) mile north of Shoup. The Forest will harvest burned, dead and dying timber over an 800 acre project area and recover approximately 3 MMBF.

Of the 800 acres that would be harvested, roughly 532 acres are located within the Sheepeater Roadless Area. Impacts to this roadless area entail, harvesting dead and dying trees using helicopter and cable logging systems. There is no road construction or reconstruction proposed for the salvage operations. Four existing helicopter landing and one service landing from previous logging activity would be used. One additional landing is proposed within the Roadless Area. Lands suited for timber management would be replanted, where natural regeneration is not expected to be successful.

Management direction for the analysis area is established in the Salmon National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan describes standards which must be observed when harvesting timber to protect soil, water, wildlife, visuals, and other on site resources. The proposed action for the Horsefly Fire Salvage project is consistent with standards, objectives, and direction contained in the Forest Plan.

Emergency rehabilitation measures initiated during fall 1992 included: grass seeding for soil stabilization and silt fence construction above anomalous fisheries. These actions were needed immediately to mitigate fire effects and reduce potential for soil movement. This proposal would further contribute to area recovery by: (1) Capturing the economic value of fire-killed timber that would otherwise deteriorate, (2) reforesting suitable timberlands to restore past to timber production prior to disadvantageous brush competition, and (3) rehabilitating fire damaged watersheds to protect water quality and long-term soil productivity.

It is important to remove the salvageable timber prior to deterioration and subsequent value losses. Delays in implementing the activities necessary to restore these damaged lands will result in unacceptable degradation of the physical and biological resources of National Forest System land. Through timber salvage operation, commercial product value of the fire-killed trees can be recovered, and a portion of the receipts from this sale will provide funding for other restoration activities through collection of Knutson-Vandenburg (K-V) and Salvage Sale Funds.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is good cause to expedite this project.
The decision for the Horsefly Fire Salvage project may be implemented after publication of this notice in the Federal Register and after the decision document has been signed by the responsible official. If the project is delayed because of an appeal (delays up to 150 days are possible), it is likely the salvage harvest could not be implemented until early summer 1993. This would result in a loss of value and the cost ofJPEGimage deterioration. The total estimated value of the merchantable dead and dying timber is $500,000. Of this, approximately $125,000 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Horsefly Fire Salvage Project, North Fork Ranger District, Salmon National Forest, from appeal. The environmental assessment disclosed the effects of the proposed actions on the environment and addresses the issues resulting from the proposal.


Robert C. Joslin,
Deputy Regional Forester, Intermountain Region, USDA Forest Service.

FR Doc. 93-10663 Filed 5-5-93; 8:45 am
BILLING CODE 3105-11-M

Exemption from Appeal for Fir Fly Salvage Timber Sale, Salmon National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest, pheromone baiting/trapping, and reforestation activities to recover and rehabilitate natural resources from the effects of an ongoing district wide insect infestation in the Fir Fly Salvage project area on the Cobalt Ranger District, Salmon National Forest, are exempted from appeal in accordance with 36 CFR 217.4(a)(11).

EFFECTIVE DATE: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Clinton Groll, District Ranger, Cobalt Ranger District, Salmon National Forest, P.O. Box 729, Salmon, Idaho, 83477, Telephone: 208-756-2240.

SUPPLEMENTARY INFORMATION: The Cobalt Ranger District of the Salmon National Forest has been under a district wide Douglas-fir and mountain pine beetle infestation for the last 3 years. The insect populations are presently at endemic levels in most areas but are approaching epidemic levels in some drainages. An interdisciplinary Team (IDT) of resource specialists surveyed the proposed analysis area to identify emergency and long-term rehabilitation needs. From this preliminary analysis, it was found that prompt salvage and rehabilitation efforts could protect resources from catastrophic damage.

As part of the effort to recover and rehabilitate natural resources damaged by insect infestations, Forest personnel have developed a proposal to harvest insect-killed timber and reforest suitable timberlands. Forest Service personnel have completed the Fir Fly Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other rehabilitation activities.

The 26,780 acres analysis area for the Fir Fly Salvage EA is located approximately thirty four (34) miles southwest of Salmon, Idaho. The forest will harvest dead and dying timber over an 1,120 acre project area and recover approximately 3-5 MBBF.

The 26,780 acres analysis area comprised of portions of four roadless areas. 10,240 acres is roadless with 287 of these acres being impacted by the proposed salvage project or approximately 25% of the harvest occurring in roadless areas. Impacts to these roadless areas include harvesting dead and dying trees using a helicopter system and construction of approximately 12.5 acres of temporary landings. There is no road construction or reconstruction proposed for the salvage operation. Lands suited for timber management would be replanted where natural regeneration is not expected to be successful. A pheromone baiting/trapping program would be implemented in high risk areas to prevent endemic populations from reaching epidemic proportions.

Management direction for the analysis area is established in the Salmon National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan describes standards which must be observed when harvesting timber to protect soil, water, wildlife, visuals, and other on site resources. The proposed action for the Fir Fly Salvage project is consistent with standards, objectives, and direction contained in the Forest Plan.

This proposal would further contribute to area recovery by:

(1) Capturing the economic value of insect-killed timber that would otherwise deteriorate, (2) Revegetating suitable timberlands to restore sites to timber production prior to brush competition, and (3) Preventing the spread of current insect populations in areas presently unaffected.

It is important to remove the salvageable timber prior to deterioration and subsequent value loss. Delays in implementing the activities necessary to restore these damaged lands will result in unacceptable degradation of the physical and biological resources of National Forest System land. Through timber salvage operation, commercial product value of the insect-killed trees can be recovered, and a portion of the receipts from this sale will provide funding for other restoration activities through collection of Knutsen-Vanderburg (K-V) and Salvage Sale Funds.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is good cause to expedite this project.

The decision for the Fir Fly Salvage project will be implemented after publication of this notice in the Federal Register. If the project is delayed because of an appeal (delays up to 150 days are possible), it is likely the salvage harvest could not be implemented until early spring of 1994. This would result in a need to remark the sale so as to harvest new trees infested during the 1993 flight of the insect. It would also result in the loss of volume from dead trees that are currently merchantable but will lose their value by remaining on the stump for another year. Delays resulting from appeals could cause the loss of up to half of the value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Fir Fly Salvage Project, Cobalt Ranger District, Salmon National Forest, from appeal. The environmental assessment disclosed the effects of the proposed actions on the environment and addresses the issues resulting from the proposal.


Robert C. Joslin,
Deputy Regional Forester, Intermountain Region, USDA Forest Service.
COMMISSION ON CIVIL RIGHTS

Hearing on Racial and Ethnic Tensions in American Communities, Poverty, Inequality, and Discrimination—Los Angeles

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Public Law 98–183, 97 Stat. 1301, as amended, that a three-day public hearing will commence on June 15, 1993, beginning at 8 a.m. at the Sheraton Grande Hotel, 333 S. Figuera Street, Los Angeles, California 90071.

The purpose of the hearing will be to collect information within the jurisdiction of the Commission, in order to examine the underlying causes of racial and ethnic tensions in the United States.

The Commission is an independent, bipartisan fact-finding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105, TDD 202–376–8116, at least five (5) working days before the scheduled date of the meeting.


Arthur A. Fletcher,
Chairman.

[FR Doc. 93–10765 Filed 5–5–93; 8:45 am]

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Case No. 88–67

Order

The Office of Antidumping Compliance, Bureau of Export Administration, U.S. Department of Commerce (“Department”), having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991, suppl. 1992, and Pub. L. 103–10, March 27, 1993)) (the “Act”), and part 786 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1992)) (the “Regulations”), against Applied Medical Systems, Inc. (“AMS”), resident in the United States, based on allegations set forth in the Proposed Charging Letter, dated March 9, 1993, incorporated herein by this reference, that between April 1987 and December 1987, AMS violated part 769 of the Regulations, promulgated to implement the Act, in that AMS, a United States person as defined in the Regulations, with respect to its activities in the interstate or foreign commerce of the United States, with intent to comply with, further or support an unsanctioned foreign boycott: (1) In one instance, knowingly agreed to refuse to do business with or in a boycotted country; (2) knowingly agreed to refuse to do business with six persons known or believed to be restricted from having any business relationship with or in a boycotting country pursuant to a requirement of, or a request from, or on behalf of, a boycotting country; (3) furnished one item of information about its business relationships with or in a boycotting country; and (4) furnished six items of information about its business relationship with persons known or believed to be restricted from having any business relationships with or in a boycotting country, activities prohibited by §§769.2(a) and 769.2(d) of the Regulations, and not excepted; and

The Department and AMS having entered into a Consent Agreement whereby AMS has agreed to settle this matter by the imposition by the Department of a civil penalty in the amount of $70,000 and by accepting a one year denial of its export privileges to Kuwait, Saudi Arabia, Bahrain, Iraq, Jordan, Lebanon, Oman, Qatar, the United Arab Emirates, Syria, the Yemen Arab Republic and the People’s Democratic Republic of Yemen; and

The Assistant Secretary for Export Enforcement having approved the terms of the Consent Agreement:

It is therefore ordered that, First, a civil penalty in the amount of $70,000 is assessed against AMS.

Second, AMS shall pay the Department the sum $10,000 within 20 business days of its receipt of this Order. The remaining $60,000 of the civil penalty imposed shall be suspended for a period of two years from the date of the signing of this Order. The Department will waive payment of the remaining $60,000 civil penalty at the end of the two year period provided that AMS is in compliance with the Regulations and this Order. Payment shall be made in the manner specified in the attached instructions. Failure to pay the civil penalty in a timely manner constitutes a violation of this Order;

Third, all outstanding individual validated licenses to the countries referred to above in which AMS appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of AMS’ privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to distribution licenses, to the countries referred to above are hereby revoked.

Fourth, for a period ending one year from the date of the entry of this Order, AMS is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States, in whole or part, and subject to the Regulations, to the countries referred to above. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation, directly or indirectly in any manner or capacity:

(a) As a party of representative of a party to any export license application submitted to the Department;

(b) In the preparation of filing with the Department of any export license application or request for reexport authorization, or of any document to be submitted therewith;

(c) In obtaining from the Department of using any validated or general export license, reexport authorization or other export control document;

(d) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, to be exported from the United States and subject to the Regulations; and

(e) In the financing, forwarding, transporting, or other servicing of such commodities or technical data;

Fifth, for reasons of human health and safety, such denial shall not apply to, and have no effect whatsoever on, the export of replacement parts and consumable materials for medical systems sold and installed prior to the date of this Order, nor shall this Order apply to, or have any effect on, the conduct of service or maintenance of
medical systems sold and installed prior to the date of this Order;
Sixth, as provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper’s Export Declaration, bill of lading, or other export control document relating to any export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.
Seventh, the Proposed Charging Larter, the Consent Agreement and this Order shall be made available to the public.
Eighth, a copy of this Order shall be served on AMS. This order shall be published in the Federal Register.
Entered this 15th day of April, 1993. This Order is effective immediately.
Judy R. Reinke,
Acting Assistant Secretary for Export Enforcement.
[FR Doc. 93-10742 Filed 5–6–93; 8:45 am]
BILLING CODE 3510-D9-P

Foreign-Trade Zones Board

[Notice 15–93]

Foreign-Trade Zone 89—Clark County, NV; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Nevada Development Authority (NDA), grantee of FTZ 89, requesting authority to expand its zone in Clark County, Nevada, within the Las Vegas Customs Port of Entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 20, 1993.

FTZ 89 was approved on November 7, 1983 (Board Order 227, 48 FR 51665; 11/10/83), and expanded on December 4, 1989 (Board Order 452, 54 FR 50787; 12/11/89). It currently consists of six sites in Clark County, Nevada: Site 1 (23 acres)—Las Vegas Convention Center, Clark County; Site 2 (10,000 sq. ft.)—Cashed Field Convention Center, Las Vegas; Site 3 (two parcels [317 acres and 120,000 sq. ft.])—within the Hughes Airport Center industrial park, adjacent to McCarron International Airport; Site 4 (37 acres)—North Las Vegas Business Center, North Las Vegas; Site 5 (526 acres)—AMPAC Development Company Business Park, Clark County; and Site 6 (10 acres)—within the 160-acre Las Vegas International Air Cargo Center (LVIAAC) at McCarron International Airport, Clark County (A–40–91, 1/13/92).

NDA is now requesting authority to expand its general-purpose zone Site 6 to include the entire 160-acre LVIAAC. The center is owned by the county and the Nevada International Trade Corporation is the designated zone operator at this site. The proposal also includes a request to restore zone status to a parcel (10 acres) that was deleted from the AMPAC site (Site 5) in 1992.

No manufacturing requests are being made at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board’s regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board’s Executive Secretary at the address below. The closing period for their receipt is July 6, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 20, 1993).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:
Office of the Port Director, U.S. Customs Service, International Arrivals Building, P.O. Box 11049, Las Vegas, Nevada 89111
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 21, 1993.
John J. De Ponte, Jr.
Executive Secretary.

[FR Doc. 93-10742 Filed 5–6–93; 8:45 am]
BILLING CODE 3510-D9-P

[Notice 16–93]

Foreign-Trade Zone 41—Milwaukee, WI; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to expand its zone in the Milwaukee, Wisconsin, area, within the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 22, 1993.

FTZ 41 was approved in 1978 (Board Order 136, 43 FR 46887; 10/11/78), and expanded in 1981 (Board Order 178, 46 FR 40718; 8/11/81) and in 1985 (Board Order 315, 50 FR 43749, 10/29/85). The zone project currently consists of 4 sites (200 acres): Site 1 (76,000 sq. ft.)—within the Ace World Wide Industrial Park, Milwaukee; Site 2 (120 acres)—West Allis Industrial Center, West Allis; Site 3 (50 acres)—Northwestern Industrial Park, Milwaukee; and, Site 4 (30 acres)—at Milwaukee’s Mitchell International Airport. An application is currently pending with the Board requesting authority to delete Sites 3 and 4, to relocate Site 1 to a warehouse facility (210,500 sq. ft.) located at 1925 East Kelly Lane, Cudahy, Wisconsin, and to add a site (300 acres) at the Port of Milwaukee (FTZ Doc. 69–91, 56 FR 5751, 57 FR 45606, 58 FR 4147). The applicant is now requesting authority to further expand the general-purpose zone to include an additional site (proposed new Site 4)—Milwaukee County Research Park (165 acres). The park is located at U.S. Highway 45 and Watertown Plank Road, Wauwatosa (Milwaukee County), Wisconsin, some 10 miles west of downtown Milwaukee. The park is owned by Milwaukee County and operated by the Milwaukee County Research Park Corporation, a non-profit corporation affiliated with the County.

In accordance with the Board’s regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties.
Submissions (original and 3 copies) shall be addressed to the Board’s Executive Secretary at the address below. The closing period for their receipt is July 6, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 20, 1993.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 517 East Wisconsin Avenue, Room 606, Milwaukee, Wisconsin 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 21, 1993.

John J. Da Ponte, Jr., Executive Secretary.

[FR Doc. 93–10741 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–05–P

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**International Trade Administration**

**Initiation of Antidumping and Countervailing Duty Administrative Reviews**

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of initiation of antidumping and countervailing duty administrative reviews.

**SUMMARY:** The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements with March anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

**EFFECTIVE DATE:** May 6, 1993.


**SUPPLEMENTARY INFORMATION:**

**Background**

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a) and 353.22(a) of the Department’s regulations, from interested parties as defined in §§ 353.2(k) and 355.2(i) of the Department’s regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with March anniversary dates.

**Initiation of Reviews**

In accordance with §§ 353.22(c) and 353.22(c) of the Department’s regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than March 31, 1994.

<table>
<thead>
<tr>
<th>Antidumping duty proceedings and firms</th>
<th>Period to be reviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh:</td>
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<tr>
<td>Shop Towels:</td>
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<tr>
<td>A-538–802</td>
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<tr>
<td>Sonar Cotton Mills (Bangladesh) Ltd.</td>
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<tr>
<td>Eagle Star Mills Ltd., Greyfab (Bangladesh) Ltd., Shabnam Textiles, Hashem Int</td>
<td>9/12/91–2/28/93</td>
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<tr>
<td>Germany:</td>
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<td>Brass Sheet and Strip:</td>
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<td>Wieland–Werke AG</td>
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<tr>
<td>Japan:</td>
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<tr>
<td>Stainless Steel Butt Weld Pipe Fittings:</td>
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<tr>
<td>A-588–702</td>
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<tr>
<td>Banken Corporation</td>
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<tr>
<td>Thailand:</td>
<td></td>
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<tr>
<td>Circular Welded Pipes and Tubes:</td>
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<td>A-549–502</td>
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<tr>
<td>Saha Thai Steel Pipe Co.</td>
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<td>3/1/92–2/28/93</td>
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<tr>
<td>Canada:</td>
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<td>Iron Construction Castings:</td>
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<td>A–122–503</td>
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**Countervailing duty proceedings**

<table>
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<td>Brazil:</td>
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<tr>
<td>Certain Castor Oil Products C–351–029</td>
<td>1/1/92–12/31/92</td>
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<tr>
<td>Cotton Yarn C–351–037</td>
<td>1/1/92–12/31/92</td>
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<td>Mexico:</td>
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<tr>
<td>Certain Textile Mill Products C–201–405</td>
<td>1/1/92–12/31/92</td>
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<tr>
<td>Netherlands:</td>
<td></td>
</tr>
<tr>
<td>Standard Chrysanthemums C–421–601</td>
<td>1/1/92–12/31/92</td>
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<tr>
<td>Pakistan:</td>
<td></td>
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<tr>
<td>Cotton Shop Towels C–535–001</td>
<td>1/1/92–12/31/92</td>
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<tr>
<td>South Africa:</td>
<td></td>
</tr>
<tr>
<td>Ferrochrome C–791–001</td>
<td>1/1/92–12/31/92</td>
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</tbody>
</table>

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 353.34(b) of the Department’s regulations.

These initiations and this notice are in accordance with 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1992).


Holly A. Kuge,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–10739 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–05–M

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[A–570–820]

**Preliminary Determination of Critical Circumstances: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People’s Republic of China**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 6, 1993.

**FOR FURTHER INFORMATION CONTACT:** Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482–4929.

**Preliminary Determination**

The Department of Commerce (the Department) preliminarily determines that critical circumstances exist in the investigation of certain compact ductile iron waterworks (CDIW) fittings and accessories thereof from the People’s Republic of China (PRC) sold in the...
United States, as provided in section 733(e) of the Tariff Act of 1930, as amended (the Act).

Case History

Since our affirmative preliminary determination of sales at less than fair value, on February 3, 1993, (58 FR 8930, February 18, 1993), the following events have occurred. On February 24, 1993, the U.S. Waterworks Fittings Producer’s Council and its individual members (Clow Water Systems, Tyler Pipe Industries, Inc., and Union Foundry Company), petitioners, requested a public hearing. On February 23, 1993 the Department extended the deadline for the final determination in this investigation until June 18, 1993 (58 FR 12220, March 3, 1993).

On March 3, 1993, the Department presented China National Metals Products Import and Export Corporation (CMP), a Chinese exporter which accounted for a significant portion of exports from the PRC to the United States, with a verification outline and scheduled the following verifications:

1. From April 6 through April 8, 1993, CMP’s exporter’s sales price (ESP) responses at the offices of CMP’s related importer, Sigma Corporation, in Cream Ridge, New Jersey, and (2) from April 22 through May 3, 1993, in Beijing, PRC of CMP’s factors of production and separate rates responses.

On March 19, 1993, petitioners submitted scope clarification comments to the Department concerning gaskets and T-head bolts. On March 30, 1993, CMP submitted supplemental information on the Chinese CDIW industry and a list of Chinese CDIW exporters and quantities exported annually with regard to the issue of separate rates.

On March 31, 1993, petitioners alleged that critical circumstances exist with regard to CMP’s exports. On April 2, 1993, the Department requested information on CMP’s exports with regard to petitioners’ allegation of critical circumstances. On April 14, 1993, CMP submitted a revised Section 205 computer tape to the Department correcting errors in its reporting of cash disbursements. On April 16, 1993, CMP submitted its response to our request for monthly export data to evaluate petitioners’ critical circumstances complaint.

Scope of Investigation

The products covered by this investigation are (1) certain compact ductile iron waterworks fittings of 3 to 16 inches nominal diameter regardless of shape, including bends, tees, crosses, wyes, reducers, adapters, and other shapes, whether or not cement line, and whether or not covered with bitumen or similar substance, conforming to AWWA/ANSI specification C153/A21.53, and rated for working pressure of 350 PSI; and (2) certain CDIW fittings accessories which typically consist of a standard ductile iron gland, a styrene butadiene rubber (SBR) gasket, the requisite number of Cor-Ten steel or ductile iron T-head bolts, and hexagonal nuts, for fittings in sizes 3 to 16 inches, in conformity to American Water Works Association/American National Standards Institute (AWWA/ANSI) specification C111/A21.11, and rated for water working pressure of 350 PSI. Gaskets, bolts and nuts are only included if they are imported as an accessory pack with a gland. However, glands imported separately are included in the scope of investigation.

The types of CDIW fittings covered by this investigation are compact ductile iron mechanical joint waterworks fittings and compact ductile iron push-on joint waterworks fittings, both of which are used for the same applications. CDIW fittings are used to join water main pressure pipes, valves, or hydrants in straight lines, and change, divert, divide, or direct the flow of raw and/or treated water in piping systems. CDIW fittings attach to the pipe, valve, or hydrant at a joint and are used principally for municipal water distribution systems.

CDIW fittings accessories are used to join mechanical joint CDIW fittings to pipes. The accessories ensure the completeness of the seal between the CDIW fitting and pipe. Mechanical joint fittings must be used with CDIW accessories. Push-on fittings do not require CDIW accessories other than a SBR gasket.

CDIW fittings with nominal diameters greater than 16 inches, and the accessories used with CDIW fittings with nominal diameters greater than 16 inches, are specifically excluded from the scope of the investigation. Nonmalleable cast iron fittings (also called gray iron fittings) and full-bodied ductile fittings are also specifically excluded from the scope of this investigation. Nonmalleable cast iron fittings have little ductility and are generally rated only 150 to 250 PSI. Full-bodied ductile fittings have a longer body design than a compact fitting because in the compact design the straight section of the body is omitted to provide a more compact and less heavy fitting without reducing strength or flow characteristics. In addition, the full-bodied ductile fittings are thicker walled than the compact fittings. Full-bodied fittings are made of either gray iron or ductile iron, in sizes of 3 to 48 inches, conform to AWWA/ANSI specification C110/C21.10, and are rated to a maximum of only 250 PSI. In addition, compact ductile iron flanged fittings are excluded from the scope of this investigation, as they have significantly different characteristics and uses than CDIW fittings.

CDIW fittings are classifiable under subheading 7307.19.30.00, of the Harmonized Tariff Schedule of the United States (HTSUS). Standard ductile iron glands are classifiable under HTSUS subheading 7325.90.10.00, styrene butadiene rubber gaskets are classifiable under HTSUS subheading 4016.93.00.90, T-Head bolts of steel or ductile iron are classifiable under HTSUS subheading 7318.15.20.90, and hexagonal nuts are classifiable under HTSUS subheading 7318.16.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Critical Circumstances

On March 31, 1993, petitioners alleged that “critical circumstances” exist with respect to imports of the subject merchandise from the PRC. Section 733(e)(1) of the Act provides that the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and,

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding requisite (A)(i) above, we normally consider whether there has been an antidumping order in the United States or elsewhere on the subject merchandise in determining whether there is a history of dumping. Regarding requisite (A)(ii) above, we normally consider margins of 25 percent or more for purchase price comparisons and 15 percent or more for exporter’s sales price comparisons as sufficient to impute knowledge of dumping. Since the preliminary estimated dumping margin for all exporters of CDIW fittings and accessories from the PRC is in excess of 25 percent, we can impute
knowledge of dumping under section 733(e)1(A)(ii) of the Act.

For purposes of determining whether there have been massive imports over a relatively short period of time, the Department did not consider the company specific data submitted by CMP on April 16, 1993, because CMP has not demonstrated that it qualifies for a separate rate (58 FR 8930, February 18, 1993). The Department lacked monthly, country-wide shipment data, due to the PRC government's failure to provide an adequate consolidated questionnaire response on behalf of all PRC producers and exporters. As a result, the Department was forced to assume, as best information available (BIA), that there have been massive imports over a relatively short period of time. Accordingly, we preliminarily find that critical circumstances do exist in this investigation.

We will announce the final determination of critical circumstances along with the final antidumping determination in this investigation on June 18, 1993.

Suspension of Liquidation

In accordance with sections 733(d)(1) and 733(d)(2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of CDIW fittings and accessories thereof from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after November 20, 1992, the date which is 90 days prior to date of publication of the affirmative preliminary determination in this proceeding.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

Public Comment

In accordance with 19 CFR 353.38, written comments regarding this preliminary critical circumstances determination, if any, should be included in the case briefs, which must be submitted to the Assistant Secretary for Import Administration no later than June 1, 1993, and rebuttal briefs which are due no later than June 8, 1993. In addition, five copies of a public version of case or rebuttal briefs should be submitted by the appropriate date if the submission contains business proprietary information. In accordance with 19 CFR 353.38(b), we will hold a public hearing, which has been requested by interested parties to afford an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held at 9:30 a.m. on June 10, 1993, at the U.S. Department of Commerce, room 1412, 14th Street and Constitution Avenue NW, Washington DC, 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673(b)(f) and 19 CFR 353.16(b).


Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 93-10740 Filed 5-5-93; 8:45 am]

BILLING CODE 3510-05-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in China

April 30, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.


FOR FURTHER INFORMATION CONTACT:
Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6703. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:


The current limits for Categories 611 and 835 are being increased for the increases. A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 62304, published on December 30, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 30, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on April 30, 1993, you are directed to amend further the directive dated December 23, 1993 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

<table>
<thead>
<tr>
<th>Category</th>
<th>Adjusted twelve-month limit</th>
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<tbody>
<tr>
<td>Levels not in a group</td>
<td>18,162,532 square meters of which not more than 3,560,468 square meters shall be in Category 326.</td>
</tr>
<tr>
<td>317/326</td>
<td>118,599 dozen.</td>
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<tr>
<td>611</td>
<td>5,190,606 square meters.</td>
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<tr>
<td>835</td>
<td>118,599 dozen.</td>
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</table>

1 The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-10618 Filed 5-6-93; 8:45 am]

BILLING CODE 3510-DA-P
DEPARTMENT OF DEFENSE
Office of the Secretary
Public Hearing Schedule; Defense Base Closure and Realignment Commission
AGENCY: Defense Base Closure and Realignment Commission.
ACTION: Notice.
SUMMARY: Pursuant to Public Law 101-510, as amended, the Defense Base Closure and Realignment Commission publicly announces additions to the public hearing schedule.

The Commission will hold open, public hearings on May 21 and May 22 to deliberate and vote on possible additional bases for consideration for closure and realignment. These hearings will be held in the Washington, DC area at a location and time to be determined. The May 22 hearing will be held only if all deliberations and votes could not be accomplished on May 21st.

The Commission may also deliberate and/or vote on one or more additional bases for consideration at any of the previously announced upcoming regional hearings at which there is a quorum.

FOR FURTHER INFORMATION: Mr. Tom Houston, Director of Communications at (703) 696-0504. Please contact the Commission to confirm any last-minute changes in dates, times and locations of all upcoming hearings.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10678 Filed 5-5-93; 8:45 am]
BILLING CODE 5000-04-M

Defense Science Board Task Force on Tactical Aircraft Review
ACTION: Notice of Advisory Committee Meetings.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review and critique outputs generated by the USD(A) Bottoms-Up Tactical Aircraft Review, and provide advice, on an as-needed basis, to the USD(A) in the conduct of the overall Bottoms-Up Review.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10676 Filed 5-5-93; 8:45 am]
BILLING CODE 5000-04-M

Defense Science Board Task Force on Joint Precision Interdiction (JPI)
ACTION: Notice of advisory committee meetings.
SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on May 20, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10677 Filed 5-5-93; 8:45 am]
BILLING CODE 5000-04-M

Department of Defense Wage Committee; Closed Meetings
Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 1, 1993; Tuesday, June 8, 1993; Tuesday, June 15, 1993; Tuesday, June 22, 1993; and Tuesday, June 29, 1993, at 2 p.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-463. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b."

Two of the matters so listed are those "related solely to the internal personnel rules and practices of
an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)). According to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the policies (5 U.S.C. 552b(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing to the Chairman, Department of Defense Wage Committee, room 3D254, The Pentagon, Washington, DC 20310.


L.M. Bynum, Alternate OSD Federal Register Liaison Officer, Department of Defense.

Per Diem, Travel and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem Rates, Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 168. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government Civilian Employees.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAI, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

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<tr>
<th>Locality</th>
<th>Maximum lodging amount (A)</th>
<th>M&amp;IE rate (B)</th>
<th>Maximum per diem rate (C)</th>
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MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

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Footnotes:
1. Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.
2. Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.
3. On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Golea APT and King Slomon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.
4. On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.
5. On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.
6. The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanoff APT, Fort Yukon RRL, Indian Min RRL, Sparrrevoeh RRL, Tatalina RRL, Tin City RRL, Bartel Island AFS, Point Barrow AFS, Point Lay AFS and Oladok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

Daily rate
DOD Personnel .................. $13
Non-DOD Personnel ................. 30


L.M. Byman,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 93-10674 Filed 5-5-93; 8:45 am]
BILLING CODE 6001-04-M

Government-Owned Invention; Availability for Licensing

AGENCY: Department of the Navy, DOD.
ACTION: Notice of availability of invention for licensing.

SUMMARY: An undivided interest in the invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

Request for copies of the patent application should be directed to the Office of Naval Research (Code OOCIP), Ballston Tower 1, 800 North Quincy Street, Arlington, Virginia 22217-5660 and must include the application serial number.

DATES: May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R.L. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCIP), 800 North Quincy Street, Arlington, Virginia 22217-5660, telephone (703) 696-4001.

Federal Register / Vol. 58, No. 86 / Thursday, May 6, 1993 / Notices 26967


Michael P. Rummel,
LCOR, JAGC, USN, Federal Register Liaison Officer.
[FR Doc. 93-10613 Filed 5-5-93; 8:45 am]
BILLING CODE 3810-AE-4

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force, will meet May 20-21, 1993, from 9 a.m. to 5 p.m., at Headquarters of U.S. Pacific Fleet Training Command, Point Loma, California, and the Navy Training Center/Recruit Training Command, San Diego, California.

The purpose of this meeting is to continue efforts to examine trends for future training of naval personnel, particularly in terms of managing the diversity of the future naval force. The agenda of the meeting will consist of visits to training centers in San Diego and discussions with key personnel in the training chain of command.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, Ford Avenue, room 601, Alexandria, VA 22302-0268, Telephone (703) 756-1205.


Michael P. Rummel
LCOR, JAGC, USN, Federal Register Liaison Officer.
[FR Doc. 93-10617 Filed 5-5-93; 8:45 am]
BILLING CODE 3810-AE-F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel National Security Task Force, will meet May 25-26, 1993, from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia.

The purpose of this meeting is to provide framework for the place of Naval Forces in U.S. national security in the future. The entire agenda for the meeting will consist of discussion of key issues regarding the future threat assessment.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel; 4401 Ford Avenue, suite 601, Alexandria, VA 22302-0268, Telephone (703) 756-1205.

Naval Research Advisory Committee; Partially Closed Meeting

Notice was published April 20, 1993, at 58 FR 21297 that the Naval Research Advisory Committee on Defense Conversion will meet on May 6-7, 1993, at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia. The meeting has been canceled.


Saundra K. Melancon,
Alternate Federal Register Liaison Officer.
[FR Doc. 93-10842 Filed 5-5-93; 8:45 am]
BILLING CODE 3810-AE-F

DEPARTMENT OF ENERGY

Federal Assistance Award to Air Products and Chemicals, Inc.

AGENCY: Department of Energy.
ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, is announcing its intention to enter into a cooperative agreement with Barles8 Associates for transfer of newly developed sensor technologies to the pulp and paper industry.


SUPPLEMENTARY INFORMATION: Over the last 12 years DOE’s Office of Industrial Processes (OIP) and the Small Business Innovative Research (SBIR) programs have funded sensor and control development projects specific to the pulp and paper industry. Unfortunately, many are not being utilized or are underutilized by the paper industry. In most cases the principal reason for underutilization is that mill operators are unaware of potential improvements offered by the sensors. A demonstration program led by a recognized authority on sensors in the paper industry will gain the attention of the potential users.

The participant will select sensors, seek out users willing and able to undertake demonstration projects at their plant, monitor the demonstrations, note and correct any problems encountered in achieving meaningful evaluations, assist in documenting the demonstrations, and make results known to the broader user community.

The total project is estimated to cost $1,000,000 over a one year project period.

Issued in Chicago, Illinois, on April 19, 1993.

Johnnie D. Greenwood,
Director, Contracts Division.
[FR Doc. 93-10737 Filed 5-5-93; 8:45 am]
BILLING CODE 0450-01-M

Federal Assistance Award to Barles8 Associates

AGENCY: Department of Energy.
ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14, is announcing its intention to provide assistance to AP to transfer newly developed sensor technologies to the pulp and paper industry.


SUPPLEMENTARY INFORMATION: Over the last 12 years DOE’s Office of Industrial Processes (OIP) and the Small Business Innovative Research (SBIR) programs have funded sensor and control development projects specific to the pulp and paper industry. Unfortunately, many are not being utilized or are underutilized by the paper industry. In most cases the principal reason for underutilization is that mill operators are unaware of potential improvements offered by the sensors. A demonstration program led by a recognized authority on sensors in the paper industry will gain the attention of the potential users.

The participant will select sensors, seek out users willing and able to undertake demonstration projects at their plant, monitor the demonstrations, note and correct any problems encountered in achieving meaningful evaluations, assist in documenting the demonstrations, and make results known to the broader user community.

The total project is estimated to cost $1,000,000 of which $150,000 will be provided by DOE and $850,000 will be provided by sensor manufacturers, pulp and paper companies, and suppliers of equipment to the paper industry.
Orders directed federal agencies to increase the participation of HBCUs in federally-funded programs and to strengthen their capabilities to provide quality education. This award represents an effort to strengthen the HBCU community. The program proposed in the application is considered meritorious, and the activities to be carried out under this award would not be eligible for financial assistance under any recent, current, or planned solicitation. Based on documentation presented and appropriate evaluation, it is determined to be in the best interest of DOE to award a grant to Benedict College.

Issued in Aiken, South Carolina, on April 27, 1993.


Federal Assistance Award to University of Florida

AGENCY: Department of Energy.

ACTION: Notice of financial assistance award in response to an unsolicited financial assistance application.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(f), is announcing its intention to enter into a cooperative agreement with the University of Florida for development of on-line viscometers for kraft black liquor in paper mills.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cuba Blvd., Golden, Colorado 80401, Attention: M. A. Barron, Contract Specialist. The Contracting Officer is Paul K. Kears.

SUPPLEMENTARY INFORMATION: The project is aimed at improving the efficiency of recovery boilers which burn black liquor from the Kraft pulping process in paper making. The boilers recover chemicals and produce process steam or power for use in the plant. The University of Florida will be working with viscometer manufacturers, equipment manufacturers, and the paper industry to develop on-line viscometers and associated controls. The goal is to sufficiently improve system accuracy and reliability to allow recovery boiler operators to increase solids concentrations in the black liquor without danger of fouling the concentrator, evaporator, and boiler equipment. Success in the endeavor will allow an increase in the flow of black liquor through the recovery system and allow the boiler to deliver more heat and/or power to the mill.

The total project is estimated to cost $1,165,000 of which $315,000 will be provided by the participant and the paper industry, and $850,000 will be provided by DOE.

Issued in Chicago, Illinois, on April 19, 1993.

Johnnie D. Greenwood, Director, Contracts Division.

ACTION: Notice of acceptance of an unsolicited application.

SUMMARY: The Department of Energy (DOE), DOE Chicago Operations Office, announces that pursuant to the DOE Financial Assistance Rule, 10 CFR 600.14(f), it intends to award a grant based on the acceptance of an unsolicited application to the University of Maryland at College Park. The objective of the work provided by this grant is to quantify the potential Electrohydrodynamic (EHD) technique for heat transfer enhancement of in-tube condensation and in-tube evaporation processes of selected ozone-safe refrigerants and refrigerant mixtures.


SUPPLEMENTARY INFORMATION: The University of Maryland at College Park has the necessary personnel, facilities, and other resources to fully perform the work set forth in the grant. Currently, this university is the only known group that has ongoing research specifically in the EHD augmentation of heat transfers in heat exchanger. Within the last six years the university has maintained a comprehensive computer search of EHD-enhancement technology worldwide on the state-of-the-art equipment for use in EHD and Chlorofluorocarbons (CFC) substitute research. This University also developed a unique and innovative theoretical computer models to analyze the effects of new EHD configuration and effects. This application is meritorious based on the general evaluation that it will support a
DOE mission for the research and development of highly efficient alternatives to, and substitutes for, environmentally harmful CFC and CFC-dependent equipment used in refrigeration application and that it is relevant to the general public purpose of the Department of Energy, Kansas City, DE-FG47-93R701312.

SUMMARY: This document announces the Notice of availability of funding. DOE plans to provide funding in the amount of $115,000.00 for this project period.


Johnnie D. Greenwood, Director, Contracts Division.

ACTION: Notice of availability of funding.

AGENCY: Department of Energy. A Notice of availability of funding.

SUMMARY: This document announces the issuance of a Program Solicitation No. DE-FC47-93R701312 by the Department of Energy, Kansas City Support Office (KCSO). The solicitation invites grant application from State WAP grantees located in Federal Region VII (Iowa, Kansas, Missouri & Nebraska) for funding of a project in support of the WAP.

ADDRESS: Department of Energy, Kansas City Support Office, 911 Walnut, 14th Floor, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Cynthia A. King, Grants Management Division, (816) 426-3815; Patrick G. Langle, Grants Management Division, (816) 426-3815.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Energy—Kansas City Support Office (KCSO) is making funds available as part of its Weatherization Assistance Program (WAT) Training and Technical Assistance (T&TA) Program.

The area for which the KCSO is seeking a grant proposal is the Region VII Technical Working Group project.

II. Eligible Grantees

Eligible grantees are the WAP state grantees located in the area serviced by the DOE-KCSO (Iowa, Kansas, Missouri & Nebraska).

III. Eligible Activities

The grant issued pursuant to this Notice is limited to the Technical Working Group Project.

Application Procedures

The Program Solicitation and Grant Applications have been provided to each state WAP grantee in the KCSO area and must be received no later than May 15, 1993. Application content and evaluation criteria are set forth in the Program Solicitation.

It is anticipated that the grant award will be issued by July 1, 1993.

Issued in Chicago, IL on April 26, 1993.

Timothy S. Crawford, Assistant Manager for Administration.

FOR FURTHER INFORMATION CONTACT:

Michael Dees at (202) 219-2807.

Lois D. Cashell, Secretary.

Federal Energy Regulatory Commission


Wisconsin Valley Improvement Co., et al.; Intent to Prepare an Environmental Impact Statement

April 30, 1993.


The Federal Energy Regulatory Commission (FERC) has received applications for new license for the Wisconsin Valley Project No. 2113, Rothschild Project No. 2212, Kings Dam Project No. 2238, Centrailia Project No. 2235, Wisconsin Rapids Project No. 2256, Port Edwards Project No. 2291, Nekoosa Project No. 2292, Jersey Project No. 2476, and Wisconsin River Division Project No. 2590 located on the Wisconsin River and its tributaries in Vilas, Wood, Oneida, Forest, Portage, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan.

The FERC staff has determined that issuing new licenses for these projects 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 hydroelectric projects in accordance with the National Environmental Policy Act. The staff's EIS will objectively consider both site specific and cumulative environmental effects of the projects 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 staff and considered in a final EIS. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decisions. Public and agency scoping meetings will be held at a future date to be announced.

For further information, please contact Michael Dees at (202) 219-2807.

Lois D. Cashell, Secretary.

[FR Doc. 93–10630 Filed 5–5–93; 8:45 am] BILTING CODE 0717–01–M

[DOcket No. RP92–45–004]

ANR Pipeline Co.; Report of Refunds

April 30, 1993.


Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on the file with the Commission and are available for public inspection.

Lois D. Cashell, Secretary.

[FR Doc. 93–10652 Filed 5–5–93; 8:45 am] BILTING CODE 0717–01–M
ANR Pipeline Co.; Compliance Filing
April 30, 1993.

Take notice that on April 27, 1993, ANR Pipeline Company ("ANR") tendered for filing the following revised tariff sheets, to be effective April 1, 1993, to ANR's FERC Gas Tariff, First Revised Volume No. 1:

- Second Revised Sheet No. 7
- Second Revised Sheet No. 8
- Second Revised Sheet No. 9
- Second Revised Sheet No. 10
- Second Revised Sheet No. 11
- Second Revised Sheet No. 12
- Second Revised Sheet No. 13
- Second Revised Sheet No. 14
- Second Revised Sheet No. 15

ANR states that the above-referenced tariff sheets are being submitted in compliance with the Commission's order on September 30, 1992, to show the monthly billing applicable to each eligible customer's allocable percentages of total effective transportation and sales entitlements, resulting from the Dakota Gasification Company capacity costs from ANR firm transportation and sales customers. ANR states that the revised tariff sheets reflect the percentages based on such entitlements in effect as of April 1, 1993.

ANR states that copies of the filing have been served to all parties in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations.

All such motions or protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell, Secretary.

[Docket No. TM93-5-48-000]

Docket No. CP93-316-000
Arka Energy Resources, a Division of Arka, Inc.; Request Under Blanket Authorization
April 30, 1993.

Take notice that on April 26, 1993, Arka Energy Resources (AER), a division of Arka, Inc. (Arka), Post Office Box 21734, Stretevport, Louisiana 71151, filed a prior notice request with the Commission in Docket No. CP93-316-000 pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate two sales taps and related facilities for the delivery of natural gas to Arkansas Louisiana Gas Company (ALG), under AER's blanket certificates issued in Docket Nos. CP82-384-000 and CP82-384-001, as all as more fully set forth in the application which is open to public inspection.

AER proposes to construct and operate a two-inch sales tap in Logan County, Arkansas, and a one-inch sales tap in Pope County, Arkansas, for initial service to six ALG domestic customers. AER would deliver up to 6 Mscf of natural gas per peak day and 505 Mscf annually for ALG's account via these taps. AER would reimburse AER for the taps' estimated $5,700 construction costs.

AER states that it has adequate system gas supplies to provide the proposed service for ALG.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to §157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Lois D. Cashell, Secretary.

[Docket No. CP93-306-000]

Caprock Pipeline Co.; Application
April 30, 1993.

Take notice that on April 20, 1993, Caprock Pipeline Company (Caprock), 333 Clay Street, Suite 2000, Houston, Texas 77002-9817, filed in Docket No. CP93-306-000, an application requesting permission and approval to abandon certain facilities and services necessary to effectuate ultimate delivery of gas to Pioneer Natural Gas Company (Pioneer) and El Paso Natural Gas Company (El Paso), to construct and operate certain facilities necessary for the delivery of gas to Pioneer and El Paso, and to operate various NGPA section 311 facilities as NGA section 7(c) facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Caprock proposes to abandon certain facilities, including 4.2 miles of 3 and 4-inch pipeline and a compressor station, and specific transportation services in the Texas counties of Terry, Carson, Moore, Gaines, and Yoakum. Caprock indicates that the services have either ceased or the facilities used for the services are no longer required as the reason for abandoning these facilities and services.

Caprock also requests authorization to construct and operate approximately 240 feet of 10-inch pipeline and to install a tap and meter station on the western end of its system that connects with the facilities of El Paso. Caprock indicates that this construction is necessary to permit the reverse flow of gas from El Paso to the American Gas Storage, L.P. storage field.

Caprock also requests authorization to operate the Beckham-Wheeler pipeline facility originally constructed under section 311(a)(1) of the NGPA in order to offer future services under Order No. 636.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission
April 30, 1993.

Take notice that April 28, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of May 1, 1993:

Forty-Third Revised Sheet No. 8
Forty-Third Revised Sheet No. 9

Carnegie states that pursuant to § 154.308 of the Commission's regulations and sections 23 and 26 of the General Terms and Conditions of its FERC Gas Tariff, it is filing a combined Out-of-Cycle Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") to reflect updated projections affecting the average commodity cost of purchased gas to be incurred by Carnegie for May 1993. Carnegie states that this filing was necessitated by a substantial and unanticipated increase in the price of spot gas supplies available during May 1993, as compared to the projected cost of purchased gas reflected in Carnegie's most recent PGA filed in Docket No. TQ93–6–63–000 on March 30, 1993. Carnegie states that the above revised tariff sheets reflect a commodity rate increase of $0.5102 per Dth under Rate Schedules CDS, LVWS, and SEGSS, as compared to the rates filed in Carnegie's last fully-supported PGA in Docket No. TQ93–6–63–000, in March 30, 1993, reflecting an increase in Carnegie's average commodity cost of purchased gas from $2.2303 per Dth to $2.7405 per Dth. The revised tariff sheets also reflect a decrease in the TCA charge of $0.0421 per Dth, from $0.2033 per Dth to $0.1612 per Dth, as measured against Carnegie's last TCA in Docket No. TM93–6–63–000, filed on March 30, 1993.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 7, 1993. 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.

Billings Code 6717–01–M

[Docket Nos. TQ93–7–63–000, TM93–7–63–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that on April 28, 1993, Carnegie Natural Gas Company (Carnegie) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of May 1, 1993:

Forty-Third Revised Sheet No. 8
Forty-Third Revised Sheet No. 9

Carnegie states that pursuant to § 154.308 of the Commission's regulations and sections 23 and 26 of the General Terms and Conditions of its FERC Gas Tariff, it is filing a combined Out-of-Cycle Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") to reflect updated projections affecting the average commodity cost of purchased gas to be incurred by Carnegie for May 1993. Carnegie states that this filing was necessitated by a substantial and unanticipated increase in the price of spot gas supplies available during May 1993, as compared to the projected cost of purchased gas reflected in Carnegie's most recent PGA filed in Docket No. TQ93–6–63–000 on March 30, 1993. Carnegie states that the above revised tariff sheets reflect a commodity rate increase of $0.5102 per Dth under Rate Schedules CDS, LVWS, and SEGSS, as compared to the rates filed in Carnegie's last fully-supported PGA in Docket No. TQ93–6–63–000, in March 30, 1993, reflecting an increase in Carnegie's average commodity cost of purchased gas from $2.2303 per Dth to $2.7405 per Dth. The revised tariff sheets also reflect a decrease in the TCA charge of $0.0421 per Dth, from $0.2033 per Dth to $0.1612 per Dth, as measured against Carnegie's last TCA in Docket No. TM93–6–63–000, filed on March 30, 1993.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 7, 1993. 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.

Billings Code 6717–01–M

[Docket No. TQ93–7–23–000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 30, 1993.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 28, 1993 certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective May 1, 1993.

ESNG states that the tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and sections 21.2 and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. The increased gas costs in this instant filing are a result of higher prices being paid to producers/suppliers under ESNG's market-responsive gas supply contracts.

The sales rates set forth in the above referenced tariff sheets reflect an increase of $0.7413 per Dth in the commodity rate.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such motions or protests should be filed on or before May 7, 1993. 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.

Billings Code 6717–01–M

[Docket No. RP93–105–000]

National Fuel Gas Supply Corp.; Petition for Waiver of Certain Part 260 Reporting Requirements

April 30, 1993.

Take notice that on April 28, 1993, National Fuel Gas Supply Corporation ("National") filed a Petition For Waiver of Certain part 260 Reporting Requirements. National seeks a waiver of the requirement to file Forms 15 and 16 on an annual basis. National submits that, following the unbundling of pipeline services pursuant to Order No. 636, the information required by these forms will no longer be necessary.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211 and 385.214). All such motions or protests should be filed on or before May 7, 1993. 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.

Billings Code 6717–01–M
file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 93-10638 Filed 5-5-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP81-53-009]
Panhandle Eastern Pipe Line Co.; Report of Refunds

April 30, 1993.


Panhandle states that a Commission letter order dated June 11, 1992, permitted it to delay paying a refund due Columbia Gas Transmission Corporation (Columbia), until the effectiveness of the Settlement with respect to Columbia was confirmed by the Bankruptcy Court overseeing Columbia’s Chapter 11 reorganization. Panhandle notes that on January 6, 1993, the Bankruptcy Court issued an order which established a Restricted Investment Account for refunds related to pre-petition periods.

Panhandle states that on April 14, 1993, it paid Columbia $17,194,033.68, which represents the amount which was not paid to Columbia on December 16, 1991 of $15,742,272.82 plus interest through April 14, 1993 calculated in accordance with §154.67 of the Commission’s regulations.

Panhandle states that copies of the letter have been sent to Columbia.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission’s Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestors parties to the proceeding.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 93-10643 Filed 5-5-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP92-204-000]
South Georgia Natural Gas Co.; Technical Conference

April 30, 1993.

In the Commission’s letter order issued on August 14, 1992, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Tuesday, May 18, 1993, at 11 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

The matters to be addressed at this conference include the following:
1. Explanation of the mechanics of the monthly tracking mechanism for fuel proposed by South Georgia.
2. Any proposed alternatives, such as a tracker, for changes in fuel/line loss reimbursement.
3. Discussion of the relationship between the tariffs of South Georgia and Southern Natural Gas Company related to penalties and fuel use.
4. Any considerations of a balancing agreement between South Georgia and Southern Natural to ameliorate potential for penalties.

All interested persons and Staff are permitted to attend. Any questions concerning this matter should be addressed to Harris Wood, (202) 208-0696.

Lois D. Cashell,
Secretary.

[FR Doc. 93-10650 Filed 5-5-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP92-164-007]
Tarpon Transmission Co.; Compliance Tariff Filing

April 30, 1993.

Take notice that on April 7, 1993, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, Tenth Revised Sheet No. 2A and Original Sheet No. 2E, proposed to be effective on November 1, 1992.

Tarpon states that these tariff sheets are filed in compliance with the Commission’s order of February 4, 1993 (Tarpon Transmission Co., 62 FERC ¶ 61,114 (1993)), approving an uncontested Offer of Settlement filed by Tarpon on November 3, 1992. Tenth Revised Sheet No. 2A sets forth the settlement rates for Tarpon’s Part 284 “open access” interruptible transportation service and Original Sheet No. 2E sets forth the settlement rates for Tarpon’s Part 284 “open access” firm transportation service.

Tarpon has requested that the Commission waive its Regulations to the extent necessary to permit this compliance tariff filing to be come effective on November 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission’s Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 7, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestors parties to the proceeding.

Copies of this filing are on file with the
Commission and are available for public inspection.
Lois D. Cashell,
Secretary.
[FR Doc. 93-10642 Filed 5-5-93; 8:45 am]
BILLING CODE 6117-01-M

[Docket No. RP92-164-006]
Tarpon Transmission Co.; Report of Refunds
April 30, 1993.
Tarpon states that it has made refunds (with interest) to its customers of the difference between Tarpon’s filed rate of 14.81 cents per Mcf and the settlement rate of 11.84 cents per Mcf, (both exclusive of the ACA charge) as approved by the Commission in the above-referenced order for the period from November 1, 1992 through December 31, 1992.
Any person desiring to protest said refund filing should file a protest with the Commission in the above-referenced order for the period from November 1, 1992 through December 31, 1992.

[Docket No. CP93-319-000]
Tennessee Gas Pipeline Co.; Application
April 30, 1993.
Take notice that on April 28, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93-319-000 an application pursuant to section 7(b) of the Natural Gas Act for Authorization to abandon a certificated transportation service for Columbia Gas Transmission Company (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.
Tennessee seeks authorization to abandon a certificated transportation service for Columbia Gas currently on file as Tennessee’s Rate Schedule T-71. Tennessee states that the service was authorized by order issued August 3, 1978, in Docket No. CP76-197 and provided that Tennessee transport gas attributable to Columbia Gas for redelivery to the system of Columbia Gulf Transmission Company at an existing point of interconnect with Tennessee’s system near Chakley, Cameron Parish, Louisiana. Tennessee indicates that Columbia Gas has requested that the service under Rate Schedule T-71 be terminated. No abandonment of facilities is proposed.

[Docket No. RP93-104-000]
Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff
April 30, 1993.
Take notice that Texas Gas Transmission Corporation (Texas Gas), on April 27, 1993, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 2-A:
First Revised Sheet No. 104
Original Sheet No. 104-A
Texas Gas states that these proposed revised tariff sheets provide its Customers with an additional option, both during the term of a transportation agreement and at the termination of a transportation agreement, to eliminate transportation imbalances by electing to “trade” imbalances with another Customer. Such imbalance “trades” would be negotiated between Customers and would allow Customers having positive imbalances to trade their imbalances with a Customer having a negative imbalance.
Texas Gas submits that this additional option for alleviating imbalances will assist Texas Gas and its Customers in eliminating current transportation imbalances before the initiation of restuctured services on its system under Order No. 638. Texas Gas requests a proposed effective date of June 1, 1993.
Texas Gas states that copies of the filing are being mailed to all Texas Gas’s jurisdictional sales and transportation customers.
Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 411 of the Commission’s Rules of Practice and Procedure, 18 CFR 385.214 and 385.211, and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Texas Gas requests a proposed effective date of June 1, 1993.
Texas Gas states that copies of the filing are being mailed to all Texas Gas’s jurisdictional sales and transportation customers.
Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§385.214 and 385.211 of the Commission’s Rules and Regulations. All such protests or motions should be filed on or before May 7, 1993. 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 in any hearing therein must file a motion to intervene in accordance with the Commission’s Rules.
inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 93–10641 Filed 5–5–93; 8:45 am]
BILLING CODE 6171–01–M


United Gas Pipe Line Co.; Technical Conference

April 30, 1993.

On October 22, 1991, the Commission issued an order approving modifications to United Gas Pipe Line's proposed settlement in this proceeding. The Settlement provides that United shall meet with the Commission staff and any other interested persons at a series of four conferences to evaluate United's experimental Market Responsive Storage and Delivery Service (MRSDS) in Docket No. CP91–1671–000.

Take notice that the fourth technical conference will be held on Thursday, May 13, 1993, at 10 a.m. to discuss United's MRSDS. The conference will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 93–10648 Filed 5–5–93; 8:45 am]
BILLING CODE 6171–01–M

Office of Fossil Energy

[FE Docket No. 93–38–NG]

Pan-Alberta Gas (U.S.) Inc.; 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 Pan-Alberta Gas (U.S.) Inc. (PAG-US) blanket authorization to import up to 730 Bcf per day of natural gas over a two-year term beginning on the date of first delivery after July 3, 1993.

The 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, April 30, 1993.

Clifford P. Tomaszewski,
Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–10736 Filed 5–5–93; 8:45 am]
BILLING CODE 0460–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4652–4]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with 40 CFR 2.301(h)(2) EPA has determined that IOCAD Engineering Services requires access, on a need-to-know basis, to CBI materials submitted to EPA under title II, section 208, of the Clean Air Act (CAA). This access is necessary to this contractor's performance under EPA Contract Number 3A–0226–YASA.

DATES: The transfer of data to this EPA contractor will occur no sooner than May 12, 1993.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/ Freedom of Information Act Officer, Certification Division, Ann Arbor, MI, 48105, telephone (313) 668–4310.

SUPPLEMENTARY INFORMATION: Title II of the Clean Air Act (CAA) requires that manufacturers of light-duty vehicles, light-duty truck, heavy-duty engines, and motorcycles meet applicable exhaust emission standards. Section 208 of the CAA requires these manufacturers to provide such information as the Administrator may reasonably require. Because this information is collected under Section 208 of the Act, EPA possesses the authority to disclose said information to its authorized representatives. EPA provides a recommended application format identifying the information needed to support their assertions their vehicles/engines comply with the applicable emission standards. Each manufacturer is required to submit an application for certification for a certificate of conformity to the applicable regulations. These data include vehicle descriptions, engine/vehicle descriptions, emission control system descriptions and calibrations, and sales information. EPA is required to provide information to sources both internally and externally by means of memoranda and letters.

Under Contract Number 3A–0226–YASA, IOCAD Engineering Services will provide word processing services for the Certification Division. This service includes mail handling, distribution of incoming mail, and typing letters in response to materials received. Much of the information and data will be classified as confidential by the submitters. Therefore, in order to perform the required clerical
Arsenic Acid; Receipt of Request to Cancel; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice, issued pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces EPA's receipt of voluntary requests from Elif Atotech North America, Inc. (Atotech) and Voluntary Purchasing Groups, Inc. (VPG) to cancel their registrations for products containing arsenic acid for use on cotton and to provide for existing stocks. EPA grants this voluntary cancellation effective May 6, 1993. Existing stocks will be permitted to be sold until October 31, 1993. Growers will be permitted to use existing stocks until December 31, 1993. Registrants will buy back any remaining product from customers stocks remaining after the 1993 use season.

DATE: The cancellation order shall become effective May 6, 1993.


SUPPLEMENTARY INFORMATION: This Notice announces the receipt of a request for cancellation of arsenic acid used on cotton and the Agency's decision.

I. Request for Voluntary Cancellation

Arsenic acid is used as a desiccant on cotton in certain areas of Texas and Oklahoma to facilitate harvest by mechanical cotton strippers. EPA initiated a Rebuttable Presumption against Reregistration (now called a Special Review) on this chemical and other inorganic arsenicals on October 18, 1978 (43 FR 48267). That Notice was based on a determination that use of the inorganic arsenicals met or exceeded the risk criteria for carcinogenicity, teratogenicity, and mutagenicity under 40 CFR 162.11 (now 40 CFR 154.7). EPA issued a Notice of Preliminary Determination to Cancel Registration (PD 2/3) on October 7, 1991 (56 FR 50576), for arsenic acid registered for use as a desiccant on cotton. In the PD 2/3 EPA proposed to cancel all uses of arsenic acid with no provisions for the distribution, sale or use of existing arsenic acid stocks since arsenic acid is classified as a known human (Group A) carcinogen, and the cancer risks to workers outweighed the localized benefit. The comment period was extended until June 6, 1992, at the request of several grower groups and the registrants (57 FR 3755).

After the close of the comment period, the registrants initiated discussions with EPA regarding regulatory options for arsenic acid, including a voluntary cancellation conditioned upon provision for existing stocks through the 1993 use season. During the course of this discussion, the textile industry expressed concern about the costs incurred by the industry to dispose of arsenic acid contaminated waste. For this reason, the textile industry opposed permitting use of existing stocks for one more year. EPA considered these comments, determined that the textile industry's estimates of costs were not consistent with the relatively small percentage of the cotton crop treated with arsenic acid, and decided to continue the discussions with the registrants regarding voluntary cancellation. Copies of documents relating to the discussions with the registrants and the textile industry may be found in the public docket.

Atotech, in a letter dated January 8, 1993, and VPG, in letters dated February 19 and February 25, 1993, requested voluntary cancellation with the following conditions:

1. Existing stocks may be sold until October 31, 1993, and growers may use existing stocks until December 31, 1993.
2. "Existing stocks" include stocks already in the U.S., packaged, labeled, and released for shipment as of August 26, 1992, (Atotech) and October 31, 1992 (VPG).
3. Stocks remaining after the 1993 use season may be sold to the wood preservative industry for reclamation or repackaging into registered wood preservative products, or lawfully disposed.
4. Both registrants waived the 90-day comment period allowed by FIFRA Section 6(f). In addition to these conditions, each registrant described its buy back program. Atotech will buy back leftover product until March 31, 1994. VPG will notify customers by February 1, 1994, that they can return leftover product to VPG within 45 days for a refund. Both registrants agreed that repurchased stocks will be sold to the wood preservative industry for reclamation or repackaging into registered wood preservative products, or lawfully disposed.

II. Existing Stocks Determination

For purposes of this order, existing stocks are defined as those stocks of a previously existing arsenic acid cotton desiccant product which were in the U.S. and were packaged, labeled, and released for shipment prior to October 31, 1992. EPA determined that the date of October 31, 1992, would accommodate the dates specified by both registrants.

EPA grants Atotech's and VPG's requests to distribute and sell their existing stocks of arsenic acid for use on cotton through October 31, 1993. Retailers and distributors also may sell and distribute the product until October 31, 1993. After October 31, 1993, all sale and distribution of existing stocks will be prohibited unless such stocks are being sold or distributed as part of the registrants' buy back program for purposes of disposal or relabeling for wood preservative use. Existing stocks may be used on cotton until December 31, 1993, provided they are used in accordance with the products' existing EPA-approved labeling.

The registrants will buy back any stocks remaining after the 1993 use season in accordance with the plans they have filed with the Agency and which are described above. By April 30, 1994, the registrants will report to the contact listed in unit IV.D.1 how much recovered product was retrieved and the
amount converted to the wood preservative use. Due to the limited region where arsenic acid is used, EPA will not require the registrants to add stickers to remaining stocks, but will allow the National Cotton Council to work with Atochem to inform affected users of the existing stocks provisions. III. EPA's Decision on Request for Voluntary Cancellation and Cancellation Order

EPA hereby grants Atochem and VPG's requests that the registration of their products Desiccant L-10 (EPA #4581-231) and Arsenic Acid, (EPA #7401-184, 7401-195, and 7401-200), respectively, all of which contain the active ingredient arsenic acid, be voluntarily canceled. Concurrently, EPA issues a Cancellation Order for arsenic acid registered for use as a desiccant on cotton.

Under section 6(f)(1) of FIFRA, a registrant may request at any time that EPA cancel any of its pesticide registrations. EPA must publish in the Federal Register a notice of receipt of the request and allow public comment before granting the request unless either the registrant requests a waiver of the comment period or the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment. Both Atochem and VPG requested waiver of the comment period in their letters requesting voluntary cancellation. For this reason, this Cancellation Order shall become effective on May 6, 1993. Accordingly, as of May 6, 1993, no person may distribute or sell arsenic acid for use as a pesticide, except existing stocks of the product as permitted in the Existing Stocks Provision of this Order. Any distribution, sale or use of existing stocks of the product that is not consistent with the terms of the Existing Stocks Provision of this Order will be considered a violation of FIFRA section 12(a)(2)(K) and if distribution or sale, section 12(a)(1)(A).

EPA notes that the voluntary cancellation will affect the reregistration of arsenic acid that was underway when the registrants initiated discussions of voluntary cancellation of arsenic acid. As a result of this cancellation order, arsenic acid will be removed from List A in the Reregistration process. Once an active ingredient is removed from List A, any person wishing to bring the pesticide back on the market must apply to EPA for a "new chemical" registration. However, it is unlikely such registration would be approved because of the chemical's carcinogenic potential.

IV. Required Notification of Possession of Canceled Products

Pursuant to FIFRA section 6(g), any producer or exporter, registrant, applicant for a registration, applicant or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any stocks of the pesticide products identified above (hereafter referred to as "affected persons"), which includes affected individuals, partnerships, associations, corporations, or any organized group of person whether incorporated or not, must notify the EPA and appropriate State and local officials of (1) Such possession; (2) the quantity of canceled arsenic acid pesticide product possessed; and (3) the place at which the canceled arsenic acid pesticide product is stored. Notification by affected persons to EPA and designated State and local officials pursuant to FIFRA section 6(g) shall be in accordance with the procedures, timeframes, and requirements set out in this Unit. End-users, except commercial applicators, are not required to report their stocks of canceled arsenic acid products.

A. Pesticides Required to be Reported

Affected persons must report, pursuant to FIFRA section 6(g), the information described below for canceled arsenic acid pesticide products which are in the physical possession of that person in locations that the person owns, leases, or operates in the United States, regardless of the ownership of that canceled arsenic acid pesticide product.Canceled arsenic acid product which is owned by one affected person, but in the physical possession of another affected person, who is subject to section 6(g) reporting is to be reported by the person in physical possession of the pesticide.

Registrants and other affected persons are not to include in the FIFRA section 6(g) report the quantity of stocks already reported to the Agency.

The Office of Management and Budget (OMB) has given interim approval for the collection of information under FIFRA section 6(g) and has assigned the OMB control number 2070-0109.

B. Information Which Must be Included in the Submission

To be in compliance with FIFRA section 6(g), affected persons must submit to the designated EPA and State and local officials the following information certified by a responsible company official as true and correct:

1. The identity and address of the affected person (company).
2. Name and phone number of a contact person (in the company).
3. Indication that the FIFRA section 6(g) information is being submitted for canceled pesticide products containing arsenic acid.
4. The relationship of the affected person (company) to the canceled arsenic acid pesticide products being reported under FIFRA section 6(g) (i.e., exporter, producer, registrant, applicant for registration, applicant or holder of an experimental use permit, commercial applicator, distributor, retailer, etc.).
5. The street address of each location owned/leased or operated in the United States by the submitter where the canceled arsenic acid pesticide product is held.

6. For each location listed, the total quantity (pounds, gallons, or other appropriate measure) of canceled arsenic acid pesticide product, and the quantity of canceled arsenic acid pesticide product listed by the number of units of each size container (pounds, gallons, or other appropriate measure) and by EPA registration number (e.g., x units of 5 gallon containers of EPA registration number _______).

C. When to Report

Affected persons are required to submit FIFRA section 6(g) information according to the following schedule:

2. Producers, exporters, applicants for a registration, applicants or holder of an experimental use permit, dealers, distributors, and retailers must report by June 21, 1993.
4. Other end-users are not required to report their possession of canceled products containing arsenic acid.

D. Where to Submit Section 6(g) Information

The FIFRA section 6(g) information is to be sent to each of the following three locations:

1. EPA, Director, Compliance Division, Office of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460.
2. State Chief Pesticide Regulatory Official, of the agency in the State government which enforces the State pesticide laws which the canceled arsenic acid pesticide product is stored.
3. Envelopes must be marked: "Attention: FIFRA Section 6(g) Information.

Information on the appropriate officials to receive the FIFRA section
6(g) information in Texas and Oklahoma follows:

Oklahoma Department of Agriculture, Plant Industry Division, 2800 N. Lincoln Boulevard, Oklahoma City, OK 73105.

Texas Department of Agriculture, Pesticide Regulation Division, P.O. Box 12847, Austin, TX 78711.

Information for other States is available from the information contact listed at the beginning of this notice.

3. Local. Chair of the Local Emergency Planning Committee (LEPC), for the location where the canceled arsenic acid pesticide is stored. Envelopes should be marked, "Attention: Notification of Possession of Canceled Pesticides." To identify the name and address of the chair of the LEPC contact the State Emergency Response Commission or call the Emergency Planning and Community Right-to-Know (EPCRA) Information Hotline at 1-800-535-0202.

E. Confidentiality of FIFRA Section 6(g) Information

EPA does not consider FIFRA section 6(g) information to be confidential business information (CBI) under the provisions of FIFRA section 10. Such information may be made available by EPA to the public without further notice.

F. Enforcement

Failure to submit complete and accurate FIFRA section 6(g) information, and/or failure to submit accurate section 6(g) information in the required timeframe is a violation of FIFRA section 12(e)(2)(K) and violators may be subject to civil penalties up to $5,000 per offense. Affected persons who possess canceled pesticide in multiple locations may be fined up to $5,000 per offense for each location for which the FIFRA section 6(g) information is not submitted, or is submitted late, incomplete, or inaccurate. Persons who knowingly submit false section 6(g) reports are in violation of FIFRA section 12(e)(2)(M) and may also be subject to civil penalties up to $5,000 per offense. Knowing violations of the requirements of FIFRA section 6(g) may also result in criminal penalties under section 14(b) of FIFRA, or 18 U.S.C. 1001.

V. Availability of the Public Docket

Copies of documents referred to in this Notice are available in the Public Docket, located in CM #2, Rm. 1128, 1921 Jefferson Davis Highway, Arlington, VA 22202. Hours are from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.


Douglas D. Campt,
Director, Office of Pesticide Programs.
[FR Doc. 93-10714 Filed 5-5-93; 8:45 am]
BILLING CODE 6560-50-F

[FRL-4652-5]

Public Water System Supervision Program Revision for the State of Illinois

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR). The State of Illinois is revising its Public Water System Supervision (PWSS) primary program. The Illinois Environmental Protection Agency (IEPA), has adopted: (1) Drinking water regulations for public notification that correspond to the NPDWR for public notification promulgated by the U.S. Environmental Protection Agency (U.S. EPA) on October 28, 1987, (52 FR 41534-41550), (2) drinking water regulations for total coliform that correspond to the NPDWR for total coliform promulgated by the U.S. EPA on June 29, 1989, (54 FR 27544-27568) and (3) drinking water regulations for the treatment of surface water that correspond to the NPDWR for surface water treatment promulgated by the U.S. EPA on June 29, 1989, (54 FR 27486-27541). The U.S. EPA has completed its review of Illinois' PWSS primary program revision.

The U.S. EPA has determined that the Illinois Public Notification, Total Coliform and Surface Water Treatment rule revisions meet the requirements of the Federal rule. Therefore, the U.S. EPA is proposing to approve the Public Notification, Total Coliform and Surface Water Treatment rule revisions.

All interested parties are invited to submit written comments on these proposed determinations, and may request a public hearing on or before June 7, 1993. If a public hearing is requested and granted, the corresponding determination shall not become effective until such time, following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Rosemarie Karas (WD-17), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, these determinations shall become effective June 7, 1993.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the Federal Register and in newspapers of general circulation in the State of Illinois. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Illinois. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, these determinations shall become effective on June 7, 1993.

Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents relating to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices:


FEDERAL COMMUNICATIONS COMMISSION

Encryption Technology for Satellite Cable Programming

AGENCY: Federal Communications Commission.

ACTION: Notice; Report.

SUMMARY: This report presents the findings of the Commission's inquiry into encryption technology for satellite cable programming. The Report examines the attempted by Titan Corporation to enter the market for decoders used in C-band home satellite dish systems and finds that programmers have failed to accept its product. Moreover, General Instrument Corporation (GIC), the primary patent holder and manufacturer of such decoders, has raised some legitimate questions about the difficulties of coexistence between its system and that of Titan. The Report finds that competition to the GIC encryption system might come from separate systems such as the DBS services scheduled for launch in early 1994. Additionally, the Report finds that access to the GIC Direct Broadcast Satellite (DBS) Center for authorization of decoders from a rival manufacturer is not an insurmountable barrier to entry. With respect to other technological issues, the Report notes that, while most of the industry supports the concept of a standard decoder interface, there is little support for a mandatory standard. The Report also finds that the transition from analog to digital transmissions is likely to be gradual.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Office of Plans and Policy, (202) 418-6539.

SUPPLEMENTARY INFORMATION: The Commission initiated this examination of encryption technology in response to a Congressional request to: (1) Review efforts to develop an alternative source for decoder modules compatible with the industry standard for C-band use and (2) examine the feasibility of authorizing legal and compatible modules, regardless of manufacturer, through the GIC DBS Center. The inquiry also addressed related technological issues, such as the feasibility and utility of a standard decoder interface that would permit a single integrated receiver descrambler or I RD (a satellite receiver with a built-in decoder) to function with multiple encryption systems and the implications for encryption technology of the apparent trend toward digital transmission of video.


With respect to competition in producing compatible decoders, the Report notes that GIC owns patents on the industry standard Videocipher technology and has developed several generations of decoder. The original was known as Videocipher I and the latest is known as Videocipher II. The potential rival source, has rights to the basic Videocipher PI patents. The Report finds that programmers, those in the first instance are the consumers of encryption technology, have failed to accept the Titan product. GIC and Titan disagree about the Titan system's security, cost, and ability to coexist smoothly with the GIC system. The Report concludes that GIC raised legitimate questions concerning the impact of "sharing" with Titan on GIC's ability to respond to security breaches and to maintain the reliability and integrity of scrambling equipment at programmer uplink sites. The Report notes that Titan recently suspended its efforts to enter the consumer market. The complexity of the technical considerations involved prevented the Commission from coming to any definitive general conclusion about the prospects for competition in producing compatible Videocipher modules.

Although GIC asserted that the presence of Channel Master as a second source of Videocipher modules means that there is competition in module supply, the Report finds that any such competition is limited by the requirement that Channel Master Purchase key proprietary chips from GIC. The Report notes that competition to the GIC Videocipher encryption system might come from completely separate systems such as the DBS services scheduled for launch in early 1994. Recent agreements for DBS carriage of Home Box Office and Showtime and other Viacom services lend credibility to the idea that delivery systems other than C-band will have comparable cable programming and hence that, for example, DBS, could exert competitive pressure on C-band equipment costs.

The Report finds that lack of access to the GIC DBS Center for authorizing Titan modules is not an insurmountable barrier to entry. Others have built or plan to build their own authorization centers for various other encryption systems. Moreover, GIC has constructed its own center and has concluded that business considerations make it undesirable to utilize an authorization center operated by a competitor. The Report also notes GIC's uncontested legal analysis suggesting that mandatory access to its DBS Center could not be required because the Center is not an essential facility.

With respect to other technological issues, most commenters support the concept of a standard decoder interface, but generally agree that it should not be mandated by the government. The transition from analog to digital transmissions is expected to be gradual, with simulcasting of digital signals and C-band analog signals for the next nine to 12 years and the development of "hybrid" decoders having both analog and digital capacity.

The complete text of this Report is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., at 1919 M Street, NW., room 246, Washington, DC 20554 (telephone: (202) 857-3800).
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:

Club Med Sales, Inc., Services et Transports Cruise Lines and United Distillers Group, 40 West 57th Street, New York, NY 10019.


Vessel: Club Med 1.

Joseph C. Polking,
Secretary.

FEDERAL Reserve System

Delegation of Authority Concerning Margins on Stock Index Futures and Options on Stock Index Futures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has delegated its authority under the Futures Trading Practices Act of 1992 concerning margins on stock index futures and options thereon to the Commodity Futures Trading Commission.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452-3625), Legal Division; or Patrick Parkinson, Assistant Director (202/452-3526), Division of Research and Statistics, Board of Governors of the Federal Reserve System.

The hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3644), Board of Governors of the Federal Reserve System, 20th and C Street, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: By letter dated March 22, 1993, the Board has delegated its authority under Section 2(a)(1)(B)(vi)(II) and (II) of the Commodity Exchange Act concerning margins on stock index futures and options thereon to the Commodity Futures Trading Commission. The following is the text of the Board’s letter delegating its authority and the Commission’s letter of response.

March 22, 1993
Mr. William P. Albrecht
Acting Chairman
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Dear Mr. Chairman:

Section 501 of the Futures Trading Practices Act of 1992 ("FTPA") amended section 2(a)(1)(B) of the Commodity Exchange Act to require any contract market in a stock index future contract (or option thereon) to file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for these futures contracts or options. The Board may at any time request any contract market to set margin levels on these futures contracts or options at such levels as the Board, in its judgment, determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request. Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this provision to the Commission.

The Board believes that levels of initial and maintenance margin set by contract markets generally are but one component of sophisticated risk control systems that may include frequent marking-to-market of customer and clearing member positions, participant criteria, standby liquidity arrangements, participant audits, market surveillance and active risk management, including the ability to raise levels of margins on short notice and to call for increased margin from specific customers or participants. Further, with the relatively rapid growth of stock index futures options at some contract markets, the determination of margins on such contracts has become an increasingly important issue.

The procedures for determining levels of margins on portfolios of stock index contracts are complex. The Board believes, furthermore, that the appropriateness of particular levels of initial and maintenance margin for meeting the criteria established by Section 501 of the FTPA for preserving the financial integrity of contract markets or their clearing systems or preventing systemic risk can be evaluated only in the context of other credit and liquidity safeguards that are integral components of the overall risk control systems for these contract markets.

Under Section 5a of the Commodity Exchange Act, contract markets must submit rules, other than those relating to levels of margins, to the Commission for approval.

Consequently, the Commission is both most familiar with the overall risk control systems of these contract markets and has the most comprehensive authority over these systems. This leads the Board to conclude that the Commission is the most appropriate entity to exercise the functions assigned to the Board under Section 501 of the FTPA.

Accordingly, under Section 2(a)(1)(B)(vi)(III) of the Commodity Exchange Act as added by Section 501 of the FTPA, the Board hereby delegates its authority under Section 2(a)(1)(B)(vi)(II) and (II) of the Commodity Exchange Act to the Commodity Futures Trading Commission until further notice from the Board.

The Board would expect that, in reviewing such rules establishing or changing levels of margins (initial and maintenance) for stock index futures contracts (or options thereon), the Commission would consider the appropriateness of the margin levels in the context of the overall risk control system employed by the relevant exchange and its clearing system. Particular attention should be paid to the procedures used for determining margin levels on portfolios including futures options, and the ability of the exchange and its clearing system to cover any losses and meet financial obligations in a timely manner in the event of a default by a large participant. The Board expects the Commission to report to the Board annually on its experience in reviewing rules establishing or changing levels of initial and maintenance margins.

Very truly yours,

William W. Wiles
Secretary of the Board
to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting includes discussions of issues in the Exposure Drafts on Financial Reporting Objectives and Accounting for Direct Loans and Loan Guarantees, and the project on Accounting for Liabilities and Future Claims.

Other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT:
Ronald S. Young, Staff Director, 750 First Street NE., Suite 1001, Washington, DC 20002, or call (202) 512-7350.


Jimmie D. Brown,
Deputy Director.

[FR Doc. 93-10726 Filed 5-5-93; 8:45 am]
BILLING CODE 6210-01-M

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GENERAL SERVICES ADMINISTRATION

Performance Review Boards for Small Client Agencies Serviced by the General Services Administration, Names of Members

Section 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive. The Performance Review Board shall also make recommendations as to whether the career executive should be, conditionally recertified, or not recertified. As provided under section 601 of the Economy Act of 1992, amended 31 U.S.C. 1525, the General Services Administration through its External Services Staff, Personnel Division provides various personnel management services to a number of diverse Presidential commissions, committees, boards, and other agencies through reimbursable administrative support agreements. This notice is processed on behalf of the client agencies, and it supersedes all other notices in the Federal Register on this subject.

Because of their small size, a Performance Review Board register has been established in which SES members from the client agencies participate. The Board is composed of SES members from various agencies. From this register of names, the head of each client agency will appoint executives to a specific board to serve a particular client agency.

The members whose names appear on the Performance Review Board standing roster to serve client agencies are:

Administrative Conference of the U.S.
William J. Olmstead, Executive Director
Gary J. Edles, General Counsel
Jeffrey S. Lubbers, Research Director

Arctic Research Commission
Philip L. Johnson, Executive Director

Barry M. Goldwater Scholarship and Excellence in Education Foundation
Gerald J. Smith, Executive Secretary

Board for International Broadcasting
Mark G. Pomar, Executive Director
Bruce D. Porter, Deputy Executive Director

Director, General Counsel
Patricia H. Schlueter, Director of Confidential and Congressional Affairs

Committee for Purchase From People Who Are Blind or Severely Disabled
Beverly L. Milkman, Executive Director

Defense Nuclear Facilities Safety Board
Kenneth M. Pusateri, General Manager
Joseph R. Neubeiser, Deputy General Manager

Robert M. Andersen, General Counsel
Richard A. Azzaro, Deputy General Counsel for Policy and Litigation

George W. Cunningham, General Engineer

Joyce P. Davis, Chief, Health Physics Branch

Harry S. Truman Scholarship Foundation
Louis H. Blair, Executive Secretary

Japan-United States Friendship Commission
Eric J. Gangloff, Executive Director

Office of Navajo and Hopi Indian Relocation
Christopher J. Bavasi, Executive Director
Michael J. McAlister, Deputy Executive Director

For further information contact:
Robert A. Miller, Chief, External Affairs
Abuse and Neglect, Administration for Children and Families, Washington, DC, 20407.


Lenor Reese,
Acting Regional Personnel Officer.

[FR Doc. 93-10639 Filed 5-5-93; 8:45 am]
BILLING CODE 4205-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

U.S. Advisory Board on Child Abuse and Neglect; Meeting

AGENCY: U.S. Advisory Board on Child Abuse and Neglect, Administration for Children and Families, ACF, Department of Health and Human Services, DHHS.

ACTION: Notice of the fourteenth meeting of the U.S. Advisory Board on Child Abuse and Neglect in McLean, Virginia from 9 a.m., May 25, 1993 to 3:30 p.m., May 27, 1993.

SUMMARY: The U.S. Advisory Board on Child Abuse and Neglect will hold a meeting in McLean, Virginia from 9 a.m., May 25, 1993 through 3:30 p.m., May 27, 1993. This meeting is open to the public.

ADDRESSES: The meeting will be held at: Ritz Carlton Hotel, 1700 Tyson Boulevard, McLean, Virginia 22102.

FOR FURTHER INFORMATION CONTACT: Joan M. Williams, Special Projects Specialist, U.S. Advisory Board on Child Abuse and Neglect, Room 303D, Humphrey Building, Washington, DC 20201, (202) 690-8178.

SUPPLEMENTARY INFORMATION: During this meeting, the Advisory Board will: receive a presentation on confidentiality; receive an update on developments relevant to the Board within the National Center on Child Abuse and Neglect; and hold a mini hearing on religious exemption.


Preston Bruce,
Acting Executive Director, U.S. Advisory Board on Child Abuse and Neglect.

[FR Doc. 93-10639 Filed 5-5-93; 8:45 am]
BILLING CODE 4264-01-M

Agency for Health Care Policy and Research

Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (title 5, U.S.C., appendix 2) announcement is made of the following advisory committees scheduled to meet during the month of June 1993:

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: June 9–11, 1993, 8 a.m.

Place: Hyatt Regency—Bethesda, One Metro Center, Conference Room TBA, Bethesda, Maryland 20814.

Open June 10, 1 p.m. to 2 p.m.

Closed for remainder of meeting.

Purpose

The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda

The open session of the meeting on June 10 from 1 p.m. to 2 p.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed session, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C. 552(b)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Alan E. Mayers, Ph.D., Agency for Health Care Policy and Research, Suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Name: Health Services Research Review Subcommittee.

Date and Time: June 17–18, 1993, 8:30 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Tenley Town I, Washington, DC 20019.

Open June 17, 8:30 a.m. to 9:15 a.m.

Closed for remainder of meeting.

Purpose

The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by AHCPR.

Agenda

The open session of the meeting on June 17 from 8:30 a.m. to 9:15 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C. 552(b)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D.,
Agency for Health Care Policy and Research, suite 602, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852. Telephone (301) 227-8449.

Name: Health Services Research Dissemination Study Section.

Date and Time: June 24-25, 1993, 8:30 a.m.

Place: Marriott Residence Inn, 7235 Wisconsin Avenue, Calvert Room, Bethesda, Maryland 20814.

Open June 24, 8:30-9:15 a.m.

Closed for remainder of meeting.

Purpose

The Study Section is charged with the review of and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and AHCPR liaison with health care policy makers, providers, and consumers.

Agenda

The open session of the meeting on June 24 from 8:30 a.m. to 9:15 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Deputy Administrator, AHCPR. During the closed portions of the meeting, the Study Section will be reviewing grant applications related to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S.C., appendix 2 and title 5, U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 227-8449.

Agenda items for all meetings are subject to change as priorities dictate.


J. Jarrett Clinton, Administrator.

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPII): Subcommittee on Developing Partnerships for HIV Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Developing Partnerships for HIV Prevention.

Time and Date: 8 a.m.-5 p.m., May 21, 1993.

Place: Marriott City Center, 30 South Seventh Street, Minneapolis, Minnesota, 55402.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this meeting is for the subcommittee to review the type, extent, and quality of partnerships between CDC and nongovernmental organizations in the planning and implementation of a comprehensive HIV prevention program.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Conni Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE, Mailstop E-40, Atlanta, Georgia 30333, telephone 404/639-2918.


Elvin Hilyer, Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

BILLING CODE 4160-16-M

Food and Drug Administration

[Docket No. 93N-0046]

Westmar Oceanside, Inc.; Opportunity for Hearing on Proposal to Revoke U.S. License No. 828

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 828) and the product license issued to Westmar Oceanside, Inc., 1024 South Hill St., Oceanside, CA 92054, for the manufacture of Source Plasma.

FDA has determined that Westmar Oceanside, Inc., has failed to conform to the biologics regulations applicable to the manufacture of Source Plasma in 21 CFR parts 600 through 640 and the applicable standards in its license. This failure indicates serious noncompliance with those standards designed to assure the safety, purity, identity, and quality of Source Plasma, as well as the standards for donor protection, which are intended to assure a continuous and healthy donor population.

FDA conducted an inspection of Westmar Oceanside, Inc., from August 14 through September 20, 1991. This inspection and a concurrent investigation documented serious deviations from the Federal regulations. Deviations identified during the inspection included, but were not limited to, the following: (1) Failure to assure the phlebotomy site was prepared by a method that gave maximum assurance of sterility; (2) failure to provide donors with all required information regarding the plasmapheresis process, in that the hazards of the procedure were not explained to donors; and (3) failure to adequately explain acquired immunodeficiency educational materials to donors. In addition, FDA's investigation documented that deviations routinely occurred in areas of the plasmapheresis operation, such as determination of donor suitability and maintenance of Whole Blood weight logs. It was determined that on several occasions employees of the firm had: (1) Abbreviated or omitted donor screening procedures, such as questioning of donors regarding their medical history; (2) abbreviated or omitted predonation examinations, such as blood pressure and pulse; and (3) completed donor records with fabricated data when required screening procedures were not conducted to give the appearance that proper screening had been conducted.

Also, evidence obtained in our investigation suggested that during busy
times, blood bags were not weighed and fictitious weights were written into the Whole Blood weight log. Based on the deviations noted, FDA concluded that personnel employed at the firm were inadequately trained and/or supervised to effectively and properly perform their assigned duties.

FDA determined that these deviations from Federal regulations constituted a danger to public health. In a letter to Westmar Oceanside, Inc., dated October 7, 1991, FDA suspended the firm’s licenses pursuant to 21 CFR 601.6(a). In a letter to FDA dated October 16, 1991, the firm requested that revocation be held in abeyance based on FDA’s findings of the seriousness and willfulness of the deviations outlined above and the firm’s inadequate response to those findings. In the same letter, FDA issued the firm notice of its intent to revoke its U.S. License No. 828 and announced its intent to offer an opportunity for a hearing pursuant to 21 CFR 601.5(b). In a letter to the legal representative of the firm dated September 25, 1992, FDA indicated that the firm had not responded to the December 11, 1991, letter, and the revocation process was still pending. In conversations with the legal representative of the firm on December 13, 1991, and October 20, 1992, no official response was given regarding the firm’s intended action on this matter.

Accordingly, FDA is issuing a notice of opportunity for a hearing pursuant to 21 CFR 12.21(b) on a proposal to revoke the licenses for Westmar Oceanside, Inc.

FDA has placed copies of documents supporting the proposed license revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document. Such submissions, except for information prohibited from public disclosure under 21 CFR 10.20(j)(2)(ii), 21 U.S.C. 331(j), or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m. Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351 [42 U.S.C. 262]) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 701 [21 U.S.C. 321, 351, 352, 355, 371]) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.67).

Kathryn C. Zoon, Director, Center for Biologics Evaluation and Research.
[FR Doc. 93-10608 Filed 5-5-93; 8:45 am]
participation in its review of the application. To meet this requirement, the agency is providing notice that Allergan, Inc., 2525 Dupont Dr., Irvine, CA 92715, has filed an application requesting approval for the export of the biological product, Botulinum Toxin Type A (BOTOX®), to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The Botulinum Toxin Type A (BOTOX®) is indicated for the treatment of strabismus and blepharospasm associated with dystonia, including benign essential blepharospasm or VII nerve disorders and spasmodic torticollis in patients 12 years of age and above. The application was received and filed in the Center for Biologics Evaluation and Research on March 23, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 17, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802[21 U.S.C. 392]) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: April 21, 1993.
Thomas S. Bozzo,
Director, Office of Compliance, Center for Biologics Evaluation and Research.
[FR Doc. 93-10671 Filed 5-5-93; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Fair Housing and Equal Opportunity

[Docket No. N-93-3558; FR-3426-N-05]

Task Force on Occupancy Standards in Public and Assisted Housing

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of location of subcommittee meetings.

SUMMARY: The Task Force on Occupancy Standards in Public and Assisted Housing was established on December 31, 1992 in accordance with the provisions of section 643 of the Housing and Community Development Act of 1992 (Pub. L. 102-550) and the Federal Advisory Committee Act (FACE) (5 U.S.C. app 2). The Task Force’s charter was published in the Federal Register on January 7, 1993 at 58 FR 3039. The Task Force was created to review all rules, policy statements, handbooks, and technical assistance memoranda issued by the Department on the standards and obligations governing residency in public and assisted housing and to make recommendations to the Secretary for the establishment of reasonable criteria for occupancy. The Task Force has established an Executive Committee and three additional subcommittees—Admissions, Occupancy and Evictions. This is a notice announcing the location of meetings for the subcommittees of the Task Force.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Office of Fair Housing and Equal Opportunity, room 5226, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-3727, (TDD) (202) 708-0113 (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice of Task Force Subcommittee meetings on May 12-14, 1993 was published in the Federal Register on February 25, 1993 at 58 FR 11415. These meetings will take place as follows:

Wednesday, May 12, 9 a.m. to 5 p.m., Occupancy.
Thursday, May 13, 9 a.m. to 5 p.m., Admissions.
Friday, May 14, 9 a.m. to 12 noon, Evictions.
Friday, May 14, 1 p.m. to 5 p.m., Executive.

These meetings will be held at the Georgetown University Law Center, 600 New Jersey Avenue, NW., Washington, DC, room 140 (Wednesday and Thursday) and room 106 (Friday).

Please note that the starting time for Wednesday’s meeting has been changed to 9 a.m. and that the Occupancy and Admissions Subcommittees will reverse meeting dates from those originally announced.

Agenda: The Admissions, Occupancy and Evictions Subcommittee meetings will consider drafts prepared by their members regarding the Department’s occupancy standards in public and assisted housing, and develop proposals to be considered by the full Task Force, circulated to the public and considered at public hearings. The Executive Committee will recommend the time, place and logistics for the public hearings and make such other recommendations to the full Task Force as may be appropriate.

Public Participation: These are open meetings. The public is also invited to submit written comments on any aspect of the Task Force’s mandate or activities to Ms. Bonnie Milstein, the Chair of the Task Force, at 1101 Fifteenth Street, NW., suite 1212, Washington, DC 20005-2765.

Bonnie Milstein,
Chair, Task Force on Occupancy Standards in Public and Assisted Housing.
Leonora L. Guarraia,
General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.
[FR Doc. 93-10610 Filed 5-5-93; 8:45 am]
BILLING CODE 4210-26-M

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

[CA-065-03-4191-03]

Notice of Intent; Proposed Rand Project, Kern County, CA; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.
ACTION: Notice of extension of comment period.

SUMMARY: Notice is hereby given that the Bureau of Land Management is extending the period for the notice of intent published on April 6, 1993 (58 FR 17905) to receive written comments until May 17, 1993. Written comments should be sent to the address below.

FOR FURTHER INFORMATION CONTACT: Dave Taylor, Project Manager, Bureau of Land Management, 300 S. Richmond
The supplemental plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., April 27, 1993.

The supplemental plat prepared to correct certain lots in the SW¼ of section 33, Township 29 North, Range 8 East, Boise Meridian, Idaho, was accepted April 20, 1993.

The supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americas Terrace, Boise, Idaho, 83706.


Duane E. Olsen,
Chief, Cadastral Surveyor for Idaho.

National Park Service

Proposed Construction and Operation of a Stadium in Washington, DC; Supplemental Notice of Intent To Prepare an Environmental Impact Statement

In a Notice of Intent published in the Federal Register on March 15, 1993 (58 FR 13796), the National Park Service and the District of Columbia advised that they were conducting an Environmental Assessment for the proposed construction and operation of a new stadium in Anacostia Park in Washington, DC. The Notice stated that if it became apparent, either through the screening process or during the analysis and documentation of environmental impacts, that an Environmental Impact Statement was the appropriate environmental document, a Supplemental Notice would be issued. As a result of public scoping meetings held on April 12 and April 16, 1993, as well as written comments received on the scoping issues, and pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500-1508), and the District of Columbia Environmental Policy Act of 1989, the National Park Service and the District of Columbia Government now announce their intent to prepare an Environmental Impact Statement.

As indicated in the March 15, 1993 Notice, all comments and responses on the scope of alternatives and potential impacts received in response to that Notice as well as those received during the scoping process and by letters postmarked no later than April 19, 1993, will be considered in the EIS. The public is encouraged to provide additional comments once the Draft EIS is released.

A public meeting to present the significant issues related to the project and to solicit public comment on the findings of the Draft EIS will be held on Monday, June 14, 1993, at 6 p.m. at the D.C. Armory, 2001 East Capitol Street, Washington, DC 20003. Adequate signs will be posted to direct meeting participants. A short formal presentation will precede the request for public comments. National Park Service and District of Columbia representatives will be available to receive comments and questions from the public regarding issues of concern. It is important that Federal, regional and local agencies, and interested individuals and groups take this opportunity to comment on the environmental analysis contained in the Draft EIS. In the interest of available time, each speaker will be asked to limit oral comments to five minutes.

As indicated in the original Notice (and unchanged now), the proposed stadium would seat approximately 78,600 persons and would be located north of Robert F. Kennedy Stadium within an area currently designated as parking lot 6. Existing vehicular parking spaces would be reconfigured within the limits of the approximately 190-acre site area. Although previous proposals for a new stadium in this area sought to utilize portions of Langston Golf Course and Children's Island for parking, these properties are not included within the site of the current proposal. The proposed stadium is scheduled to be completed in time for the 1995 football season.

The site area can generally be defined by Oklahoma Avenue and Benning Road to the north; 21st Street, Constitution Avenue, and 19th Street on the west; the D.C. Armory, Independence Avenue, D.C. General Hospital, and the approximate extension of E Street, SE., to the south, and by Kingman Lake and the Anacostia River to the east.

The EIS will analyze impacts and mitigation options. In addition, the EIS will consider alternative actions. At present, those alternatives may include: (1) Construction of a new stadium substantially in parking lot 6; (2) the renovation and expansion of RFK Stadium; and (3) a No Action alternative, which would result in no new construction and would involve the continued use of RFK Stadium in its current configuration and capacity.

Topics for environmental analysis may include short-term construction-related impacts; long-term changes in traffic, parking, socio-economic impacts, land use, and physical/biological conditions within the project area; historic and natural resource protection; and site operations and maintenance.

The responsible officials are: Mr. Robert Stanton, Regional Director, National Capital Region, National Park Service and Mr. George Brown, Assistant City Administrator for Economic Development.


Robert Stanton,
Regional Director, National Capital Region.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32248]

Hanson Natural Resources Co.—Non-Common Carrier Status—Petition for a Declaratory Order


By decision served March 1, 1993 (58 FR 12052, March 2, 1993), the Commission sought public comment by March 22, 1993, on a petition for declaratory order filed by Hanson Natural Resources Company (HNRC) that HNRC will not, upon consummation of certain anticipated transactions, become a common carrier by railroad. By subsequent decisions, the latest served April 23, 1993 (58 FR 25848, April 28, 1993), the Commission extended the comment due date to April 30, 1993.

By motion filed April 29, 1993, HNRC requests the proceeding be held in abeyance pending further developments in discussions among interested persons concerning the certain nonrail-related effects of the proposed transaction. HNRC also requests the Commission condition approval of the abeyance request on allowing interested persons to comment if and when the proposed transaction is ready to go forward. The requests will be granted.

It is ordered:
DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

1. The title of the form/collection;
2. The agency form number, if any, and the applicable component of the Department sponsoring the collection;
3. How often the form must be filled out or the information is collected;
4. Who is asked or required to respond, as well as a brief abstract;
5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
6. An estimate of the total public burden (in hours) associated with the collection; and,
7. An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395-7340 and to the Department of Justice’s Clearance Officer, Mr. Don Wolfrey on (202) 514-4115 or facsimile: (202) 514-1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

New Collection

1. Guidelines on producing master exhibits for asylum applications.
2. Immigration and Naturalization Service.
3. As Requested.
4. Non-profit institutions. The Immigration and Naturalization Service will use master exhibits as one means by which credible information on country conditions related to asylum applications are made available to Asylum and Immigration Officers for use in adjudicating cases.
5. 20 annual responses at 80 hours per response.
6. 1,700 annual burden hours.
7. Not applicable under 3504(h).

Public comment on these items is encouraged.


Don Wolfrey,
Department Clearance Officer, Department of Justice.

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in United States v. Leith, Inc., d/b/a Leith Jeep-Eagle, Inc., Civil Action No. 92-314-CIV-5-BR, was lodged on April 26, 1993 with the United States District Court for the Eastern District of North Carolina (Raleigh Division).

The Consent Decree resolves the United States' civil claims against Leith, Inc., for violations of the Clean Air Act's automobile tampering provisions, 42 U.S.C. 7522(a)(3)(A), committed by its dealership, Leith Jeep-Eagle, located in Raleigh, North Carolina. The proposed consent decree requires that Leith pay the United States $15,000 in civil penalties for tampering with the emissions control equipment of three motor vehicles. The proposed consent decree also provides for injunctive relief by requiring Leith to recall and, if necessary, repair certain vehicles that it previously serviced.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to United States v. Leith, Inc., d/b/a Leith Jeep-Eagle, Inc., DOJ Ref. #92-5-2-1-1658.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27601-1461 and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. If requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,
Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in United States v. Purolator Products Company, Civil Action No. 93-CV6184T, was lodged with the United States District Court for the Western District of New York on April 26, 1993. The Consent Decree addresses the hazardous waste contamination at the Facet Enterprises, Inc. Superfund Site located in the Town of Horseheads, Chemung County, New York ("the Facet Site"). The Consent Decree requires the defendant to implement the remedial action selected and cleanup standards set forth in the Record of Decision and Scope of Work for the Facet Site. Additionally, the defendant is required to reimburse the United States for $625,174.05, plus interest, for the past costs which the United Environmental Protection Agency ("EPA") has incurred at the Facet Site.

The Department of Justice will receive for thirty (30) days from the date of
publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530 and should refer to United States v. Purolator Products Company, D.O.J. Ref. No. 90-11-2-862.

The Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; or by mail from the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $26.50 (25 cents per page reproduction charge) payable to the Consent Decree Library. Myles E. Fliat, Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93-10696 Filed 5-5-93; 8:45 am] BILLING CODE 4410-01-M

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Meeting

AGENCY: The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing announces the forthcoming meeting of the Commission.

DATES: May 19–21, 1993, 9 a.m. to 5 p.m.

ADDRESS: OMNI Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008, (202) 234-0770.

FOR FURTHER INFORMATION CONTACT: Lois V. Toliver, Administrative Officer, (202) 275-0045.

SUPPLEMENTARY INFORMATION

TYPE OF MEETING: Open.

AGENDA: Call to Order.
Roll Call.
Chairman’s Message.
Update of Commission Activities.
Committee Reports.

Commission Strategy Session on:
1. Native American Finance Authority.
2. Discussion on Programmatic Changes to Indian Housing Programs.
Lois V. Toliver, Administrative Officer.

[FR Doc. 93-10701 Filed 5-5-93; 8:45 am] BILLING CODE 6620-07-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (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: 10 CFR part 31—General Domestic Licenses for Byproduct Material.
3. The form number if applicable: Not applicable.
4. How often the collection is required: Reports are submitted as events occur. Registration certificates may be submitted at any time. Changes to the information on the Registration Certificate are submitted as they occur.
5. Who will be required or asked to report: Persons desiring to own byproduct material and persons desiring to possess and use byproduct material in certain items.
6. An estimate of the number of annual responses: 276.
7. An estimate of the total number of hours needed annually to complete the requirement or request: 3,159. (An average of 0.58 hours per response and 0.25 hours per recordkeeper).
8. An indication of whether section 350(h), Public Law 96-511 applies: Not applicable.
9. Abstract: 10 CFR part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material.

General licenses are required to keep records and submit reports identified in part 31 in order to permit NRC to determine with reasonable assurance that devices are operated safely and without radiological hazard to users or the public. The revision reflects an increase in burden primarily because of an increase in the number of general licensees.

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.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0016), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 28th day of April 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,
Designated Senior Official.

[FR Doc. 93-10683 Filed 5-5-93; 8:45 am] BILLING CODE 7590-01-M

Correction to Biweekly Notice

Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On April 28, 1993 (58 FR 25851), the Federal Register published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 25872, bottom of column 3, the notice entitled “Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania,” and ending in the middle of column 2, page 25873 “at the local public document rooms for the particular facilities involved” should be moved to the bottom of column 2 of page 25867.

Dated at Rockville, Maryland, this 29th day of April 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,
Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10691 Filed 5–5–93; 8:45 am] BILLING CODE 7590–01–M
Cooper Nuclear Station; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: General notice; correction.

SUMMARY: This document corrects a general notice appearing in the Federal Register on April 30, 1993 (58 FR 26174), which considers issuance of an amendment to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District, for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: Michael T. Less, Chief, Rules Review Section, Division of Freedom of Information and Publication Services, Office of Administration. For the Nuclear Regulatory Commission.

Michael T. Less, Chief, Rules Review Section, Divisions of Freedom of Information and Publication Services, Office of Administration. [FR Doc. 93-10682 Filed 5-5-93; 8:45 am]

BILLING CODE 7590-01-M

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 3 located in New London, Connecticut.

The licensee has requested that technical specifications be changed to extend the interval for surveillance testing of 42 instrumentation and control items presently required to be tested by June 13, 1993, or later, until the next refueling outage, but no later than September 30, 1993.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission’s regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission’s regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not involve a change in the safety limits, setpoints, or design margins. Also, the proposed changes do not significantly affect the consequences of an accident or any of the protective boundary systems associated with the instruments and thereby a resultant small increase in the core damage frequency (CDF). Where quantifications were made, the maximum increase in CDF was found to be of the order of 10^-7yr or less, which is below the level of concern. Furthermore, the small increase is a one-time change and not a permanent increase. Where qualitative assessments were made, a combination of one or more factors, such as: (a) Diverse signals; (b) redundant paths; (c) proven low failure rates based on plant-specific data; (d) relatively low risk significance of the function in core damage prevention/mitigation; and (e) other more frequent tests, were used to justify de minimus low risk increases. In addition, daily channel check and analog channel operational tests will continue to be performed at the frequencies required by technical specifications. These surveillances will continue to assure that the instrument reliability assumed in the basis of technical specifications for the plant.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

There are no physical design changes in plant operating procedures. Therefore, there can be no impact on plant response to the point where a different accident is created.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not involve the memorandum to the licensee and the public, pending completion of the Commission’s review. The Commission may issue the license amendment before the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely manner would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment request involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission make this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Public Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 7, 1993, the licensee may file a request for a hearing with respect to
issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding, who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission’s “Rules of Practice for Domestic Licensing Proceedings” in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission’s Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must explain the reasons why intervention should be permitted with particular reference to the following factors:

1. The nature of the matter of the petition or the proceeding; and
2. The nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and
3. The possible effect of any order which may be entered in the proceeding on the petitioner’s interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be such that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide whether or not the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission’s Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 248–5100 (in Missouri 1-800) 342–6700. The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. John F. Stolz: petitioner’s name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a) (1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 30, 1993, as supplemented April 20 and April 27, 1993, which is available for public inspection at the Commission’s Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut.

Dated at Rockville, Maryland, this 29th day of April 1993.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,
Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–10684 Filed 5–5–93; 8:45 am]
BILLING CODE 7590–51–M

[Docket No. 50–62; Facility Operating License No. R–66; Amendment No. 20]

University of Virginia (University of Virginia Pool Reactor); Order Modifying License

The University of Virginia (the licensee or UVA) is the holder of Facility Operating License R–66 issued on June 24, 1960, and subsequently renewed on November 4, 1971, by the
reactor at a power level up to 2

Government funding for conversion is

Director of the Office of Nuclear Reactor

authorized to possess and to use

among other things, requires each

that reactor in accordance with a

fuel acceptable to the Commission for

fuel in its possession with available

that acquisition, and (2) replace all LEU

(1)

such theft or diversion.

adverse consequences to public health

used in non-power reactors and the

defense and security by reducing the

is intended to promote the common

reactor has a unique purpose. The rule

on March 27, 1986, requires that each

licensee of a non-power reactor replace

HEU fuel at its facility with low-

enriched uranium (LEU) fuel acceptable

to the Commission. This conversion,

which is contingent on Federal

Government funding for conversion-

related costs, is required unless the

Commission has determined that the

reactor has a unique purpose. The rule

is intended to promote the common

defense and security by reducing the

risk of theft and diversion of HEU fuel

used in non-power reactors and the

adverse consequences to public health

and safety and the environment from

such theft or diversion.

Sections 50.64(b)(2)(i) and (ii) require

that a licensee of a non-power reactor

(1) not initiate acquisition of additional

HEU fuel, if LEU fuel that is acceptable

to the Commission for that reactor is

available when the licensee proposes

that acquisition, and (2) replace all HEU

fuel in its possession with available LEU

fuel acceptable to the Commission for

that reactor in accordance with a

schedule determined pursuant to 10

CFR 50.64(c)(2).

Section 50.64(c)(2)(i) of the rule, among other things, requires each

licensee of a non-power reactor,

authorized to possess and to use HEU

fuel, to develop and to submit to the

Director of the Office of Nuclear Reactor

Regulation (Director) by March 27, 1987,

and at 12-month intervals thereafter, a

written proposal (proposals) for meeting the rule requirements.

Section 50.64(c)(2)(i) also requires the

licensee to include the following in its

proposal: (1) A certification that Federal

Government funding for conversion is

available through the U.S. Department of Energy (DOE) or other appropriate

Federal agency and (2) a schedule for

conversion, based on availability of

replacement fuel acceptable to the

Commission for that reactor and upon

consideration of other factors such as the

availability of shipping casks,

implementation of arrangements for the

available financial support, and reactor

usage.

Section 50.64(c)(2)(iii) requires the

licensee to include in its proposal, to

the extent required to effect conversion,

all necessary changes to the license, to

the facility, and to licensee procedures

(all three types of changes hereafter
called modifications). This paragraph

also requires the licensee to submit

supporting safety analyses and issue an appropriate

Enforcement Order directing both the

conversion and any necessary

modifications to the extent consistent with protection of the public health

and safety. In the Federal Register notice of

the final rule, the Commission

explained that in most cases, if not all,

the Enforcement Order would be an

Order to modify the license.

Section 2.202, the current authority

for issuing safety analyses

Orders to modify licenses, provides,

among other things, that the

Commission may modify a license by

serving an Order on the licensee. The

licensee may demand a hearing

within 20 days from

serving an Order on the licensee. The

Commission may modify a license by

issuing Orders of all types including

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Order to modify the license.
CFR 2.714 the manner in which their interest is adversely affected by this Order. If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing is whether this Order should be sustained.

This Order shall become effective on the later date of either the receipt of the replacement core of the LEU fuel elements by the licensee or 30 days following the date of publication of this Order in the Federal Register or, if a hearing is requested, on the date specified in an Order after further proceedings on this Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 29th day of April 1993.

Thomas E. Murley,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93-10685 Filed 5-5-93; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Priority Foreign Countries

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of identification of Brazil, India, and Thailand as priority foreign countries pursuant to section 182(a) of the Trade Act of 1974, as amended (Trade Act).

SUMMARY: Pursuant to section 182(a) of the Trade Act (19 U.S.C. 2242), the USTR has identified Brazil, India, and Thailand as priority foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to persons relying on intellectual property rights. The USTR must decide no later than May 30, 1993, whether to initiate an investigation, pursuant to section 302(b)(2)(A) of the Trade Act, of the acts, policies and practices that led to the identification of these countries.

EFFECTIVE DATE: The USTR's identification was made on April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Jon Huenemann, Director for Southern Cone Affairs (Brazil) (202) 395-5190, Nancy Adams, Deputy Assistant USTR for Asia and the Pacific (India) (202) 395-4755, Robert Godec, Director for Southeast Asian Affairs (Thailand) (202) 395-6813, Gilbert Donahue, Director for Intellectual Property (202) 395-6864, or Catherine Field, Associate General Counsel (202) 395-3432.

SUPPLEMENTARY INFORMATION: Section 182(a) of the Trade Act requires the USTR to identify foreign countries that deny adequate and effective protection of intellectual property rights or that deny fair and equitable market access for persons that rely on intellectual property protection. The USTR must then identify as priority foreign countries, Those trading partners that have the most egregious acts, policies and practices, that have the greatest adverse impact (actual or potential) on relevant U.S. products. Countries are not to be identified as priority foreign countries if they are engaged in good faith negotiations, or making significant progress in multilateral or bilateral negotiations to provide adequate and effective protection or enforcement of intellectual property rights. The USTR has identified Brazil, India and Thailand as priority foreign countries.

The Brazilian patent law is deficient in several areas including the scope of patentable subject matter, inclusion of overly broad compulsory licensing provisions and working requirements, and a short term of protection. Brazil is one of only a few countries that does not provide either product or process patent protection for chemical compounds, foodstuffs, or chemical/pharmaceutical substances. Product patent protection is not available for metal alloys or for new uses of products, including species of microorganisms. Brazil requires a patent owner to "work" (i.e., locally produce) the patented invention in that country. A third party may request a compulsory license if a patent owner has failed to work the patent within three years of issuance, or if exploitation has been discontinued for more than one year, unless working is prevented by force majeure. The patent term is only 15 years from the date of filing an application.

With respect to copyright protection, computer software is not protected as a literary work, the term of protection for software it too short (only 25 years) and penalties for copyright infringement are insufficient to deter piracy. Brazil does not provide adequate protection for trade secrets and provides no protection for semi-conductor mask works. Finally, there are high levels of copyright piracy and trademark counterfeiting which require improved enforcement efforts.

India also has a patent law with numerous deficiencies, including the failure to provide product patent protection for a wide range of products, an inadequate term of protection, and overly broad involuntary licensing provisions. India's Patent Act prohibits grant of patents for any invention claiming substances intended for use or capable of being used as a food, medicine or drug or relating to substances prepared or produced by chemical processes.

Processes for making such substances are patentable subject matter but the patent term for these processes is limited to the shorter of five years from patent grant or seven years from patent application filing. This is usually less than the time needed to obtain regulatory approval to market the product. Where available, product patents expire 14 years from the date of patent filing. Stringent compulsory licensing provisions have the potential to render patent protection virtually meaningless. There are broad "licenses of right" that automatically apply to patents for food and drugs. Copyright enforcement, which is the responsibility of the state governments, is ineffective. Piracy of copyrighted materials (particularly popular fiction works and certain textbooks) is a significant problem for U.S. and Indian producers. Video, record and tape piracy are also widespread.

In Thailand, serious problems exist with respect to enforcement of copyrights. Although the Thai Government has recently conducted raids and taken other steps that have had a dramatic effect on the availability of pirated goods on the market, prosecution of pirates of U.S. works in the Thai courts has not yet been successful. Although cases have been filed, some of those cases have been pending for nearly 2 years with little result. Evidentiary requirements, limits on raids and other problems make enforcement difficult.

The Thai copyright law does not provide adequate and effective protection. Computer software is not expressly protected and problems exist with respect to unauthorized public performances, limitations on the translation right, inadequate penalties and other areas.

Although Thailand passed a Patent law in February 1992, that law contains extremely broad authority to issue compulsory licenses and the law establishes a Pharmaceutical Patent Board with unique and extraordinarily broad authority to require owners of pharmaceutical patents to provide sensitive cost and pricing information and draconian fines for failure to provide such information. In addition,
the law does not allow importation to satisfy the “working” requirement, and does not provide any pipeline protection for pharmaceuticals.

Ira S. Shapiro, 
General Counsel.

[FR Doc. 93–10727 Filed 5–93; 8:45 am]
BILLING CODE 3100–01–M

SECURITIES AND EXCHANGE
COMMISSION


Self-Regulatory Organizations;
American Stock Exchange, Inc.

April 29, 1993.

In the matter of Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to a Proposed Rule Change by the American Stock Exchange, Inc. relating to the Listing of Options on the Amex Retail Index and Long-Term Options on a Reduced-Value Retail Index.

1 I. Introduction

On August 27, 1992, the American Stock Exchange, Inc. (“Amex” or “Exchange”) submitted to the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) and Rule 19b–4 thereunder, a proposed rule change to provide for the listing and trading of Index options on the Amex Retail Index (“Retail Index” or “Index”). This order approves the Exchange’s proposal.

The proposed rule change was published for comment in Securities Exchange Act Release No. 13255, 57 FR 46205 (October 7, 1992). No comment letters were received on the proposed rule change.

II. Description of Proposal

A. General

The Amex proposes to trade options on the retail Index, a new stock Index developed by the Amex based on retail industry stocks or American Depositary receipts thereon (“ADRs”) which are traded on the Amex, the New York Stock Exchange, Inc. (“NYSE”), or are national market system securities traded through the facilities of the National Association of Securities Dealers Automated Quotation System (“NASDAQ–NMS”). The Amex also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Retail Index (“Retail LEAPS”). Retail LEAPS will trade independent of and in addition to regular Retail Index options traded on the Exchange.

B. Composition of the Index

The Index contains securities of highly-capitalized companies in the retail industry. The retail industry includes companies whose primary business involves merchandising. The Index will include companies which own and/or operate department stores, apparel retail outlets, specialty stores (e.g., toy stores, electronic stores, retail building supply stores, etc.), general merchandise chain, drugstores, and discount retail outlets. The Exchange will use an “equal” dollar-weighted method to calculate the Index.

2 As of July 31, 1992, the Index was at 210.95. As of July 31, 1992, the capitalization of the individual stocks in the Index ranged from a high of $64.29 billion to a low of $1.43 million, with the mean and median being $11.11 billion and $7.39 million, respectively. The market capitalization of all the stocks in the Index was $166.5 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.15 billion shares to a low of 69.82 million shares. The average price per share of the stocks in the Index, for a six-month period between February and July 1992, ranged from a high of $65.66 to a low of $17.78. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of $25 component stocks may not include 5. The Amex submitted a letter to the staff clarifying that if the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the Amex will submit a rule filing with the Commission pursuant to section 19(b) of the Act.

D. Eligibility Standards for the Inclusion of Component Stocks in the Index

Exchange Rule 901C specifies criteria for the inclusion of stocks in an index on which options will be traded on the Exchange. Specifically, Rule 901C states that an index must have a minimum of five stocks, and any index with less than 25 component stocks may not include stocks traded on the Amex. In addition, the Exchange will require, as reflected in amended Commentary .01 to Exchange Rule 901C, that at least 90% of the Index’s numerical value, after the Index’s quarterly rebalancing, be

Accordingly, the Retail Index as currently constituted does not include Amex-traded stocks. The Amex, however, has submitted a proposal that, among other things, revises Amex Rule 901C to remove the limitation on the number of Amex stocks that can be included in an index which underlies a stock index option traded on the Exchange. Specifically, the proposal would allow, among other things, Amex-listed stocks to be included in Amex-traded index options that are comprised of less than 25 stocks. See Securities Exchange Act Release No. 30356 (February 10, 1992), 57 FR 5497.
accounted for by stocks that meet the Exchange's options listing standards. In choosing among retail industry stocks that meet the minimum criteria set forth in Rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of Rule 901C) or traded through NASDAQ-NMS. In addition, the proposal requires that the stocks included in the Index have an average monthly trading volume of not less than 500,000 (or ADRs) in the U.S. market over the previous six-month period. Further, the Exchange intends, as an additional listing criteria standard, to focus on stocks that have a minimum market value (in U.S. dollars) of at least $75 million. Although the stocks currently selected for inclusion in the Index meet or surpass the above additional listing criteria standard, the Exchange intends for this standard to be used as a guideline only and reserves the right to include stocks in the Index that may not meet this guideline, but, nevertheless, meet the minimum requirements set forth in Amex Rule 901C.8

E. Calculation of the Index

The Index will be calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. The Exchange believes that this method of calculation is important since even among the largest companies in the retail industry there is a great disparity in size. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the retail industry, Wal-Mart Stores, Inc. currently represent over 35% of the aggregate market value of the Index. In addition, while currently there is not as much disparity in the prices of the stocks included in the Index, using a price-weighted method to calculate the Index's value is not the Exchange's preferred method since the prices of such stocks can fluctuate significantly as a result of a corporate action (e.g., a stock split or distribution), rather than as a result of stock performance, causing the relative weightings of the stocks within the Index to fluctuate significantly. In calculating the "equal dollar weighting" of component stocks, the Amex, using closing prices on July 17, 1992, calculated the number of shares that would represent an investment of $10,000 in each of the stocks contained in the Index (to the nearest whole share). The value of the Index equals the current market value (i.e., based on U.S. primary market prices) of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. The Index divisor is calculated to yield a benchmark value of $200.00 at the close of trading on July 17, 1992. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio is adjusted by changing the number of shares of each component stock so that each company is again represented in $10,000 "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly reviews except in the event of certain types of corporate actions, such as the payment of a dividend, other than an ordinary cash dividend, stock distributions, stock splits, reverse stock splits, rights offerings, or a distribution, reorganization, recapitalization, or some such similar event with respect to an Index component stock. When the Index is adjusted between quarterly reviews, the number of shares of the relevant security in the portfolio will be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the new component stock to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated on a real-time basis to market information vendors via the Options Price Reporting Authority.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration: In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the Amex will wait until the end of the trading day on expiration Friday.9

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.10 Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply to the contracts. Under Amex Rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three month intervals in the January cycle. The Exchange also intends to list long-term options series, having up to thirty-six months to expiration, on either the full-value Retail Index or on a reduced-value Retail Index. Strike price interval, bid/ask differential and price continuity rules will not apply to the trading of Retail LEAPS until their time to expiration is less than twelve months.11

The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Since options on the Index will settle based upon the opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full Value or Reduced Value Retail Index

The proposal provides that the Exchange may list long-term index options that expire from 12 to 36

7 See Amendment No. 1, supra note 5
8 Id.
9 For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the Amex will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.
10 A European-style option can be exercised only during a specified period before the option expires.
months from listing on the full-value Retail Index or a reduced-value Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Retail LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.48 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced value Index LEAPS will be no less than $2.50 instead of $5.00.

In addition, the proposal provides that full-value or reduced-value Retail LEAPS will be issued at no less than six month intervals and that new strike prices will either be near or bracketing the current Index value.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Rule 900Cb(i), the proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to all of the options on the Index. Specifically, Exchange rules governing margin requirements, position and exercise limits, and trading halts procedures that are applicable to the trading of narrow-based index options will apply to all the options traded on the Index. The proposal further provides that positions in full-value and reduced-value Index options will be aggregated for position and exercise limit purposes. Specifically, under the proposal, ten reduced-value contracts will equal one full-value contract.

The trading of options on the Retail Index and on a reduced-value Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Retail Index and reduced-value Retail Index are narrow-based indices. The Retail Index is comprised of only fifteen stocks, all of which are within one industry—the retail industry. In addition, the basic character of the reduced-value Retail, which is comprised of the same component securities as the Retail Index and calculated by dividing the Retail Index value by ten, is essentially identical to the Retail Index. Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the Index options.

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 603,100 and 410,500 shares, respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $64.29 billion to a low of $1.43 million as of July 31, 1992, with the mean and median being $11.11 billion and $7.39 million, respectively. Third, although the Index is only comprised of fifteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 6.99% of the Index's total value and the percentage weighting of the three largest issues in the Index accounts for 20.64% of the Index's value. Fourth, all of the component

| 21 Pursuant to Amex Rule 462(d)(2)(D)(iv) the margin requirements for the Index options will be: (1) for each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value; less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.
| 22 Pursuant to Amex Rule 904C and 905C, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 904C and 905C, that a lower limit is warranted.
| 23 Pursuant to Amex Rule 918C, the trading of Index options will be halted or suspended whenever trading securities whose weighted value represents more than 20% of the Index value are halted or suspended.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full value and reduced value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Internarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission finds that the trading Retail Index options, including full value and reduced value Retail LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the retail industry.

The Commission also provides that

| 18 Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest and is not inconsistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).
| 19 Pursuant to section 6(b) (5) of the Act, the Commission must find that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).
stocks in the Index currently are eligible for options trading. Fifth, the Amex, prior to increasing the number of component stocks to more than twenty or decreasing that number to less than ten, will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before effecting such change. This will help protect against material changes in the composition and design of the Index that might adversely affect the Amex’s obligations to protect investors and to maintain fair and orderly markets in Retail Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Retail Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is equal dollar-weighted instead of market-weighted or price-weighted results in the Index being readily susceptible to manipulation. Because the use of an equal dollar-weighting method could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalized weighting or price weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The Amex, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, after each quarterly rebalancing, the Amex proposal requires that 90% of the weighting of the Index be accounted for by stocks that are eligible for standardized options trading. The requirement will ensure that the Index is narrow-based, the Amex represents that it will make every effort to add new stocks to the Index that are representative of the retail sector and will take into account a stock’s capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Retail Index options including full-value and reduced-value Retail LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Retail Index options and Index LEAPS.

The Commission also has some concern that the quarterly rebalancing of the Index could result in investor confusion because the number of stocks of each issuer in the Index could fluctuate each quarter. Such fluctuation, among other things, could make it difficult for investors to maintain any corresponding cash positions in the stocks underlying the Index. The Commission does not believe that the quarterly rebalancing will result in dramatic changes in the weightings of the component securities. Moreover, the Commission believes the benefits to be derived from using a quarterly rebalancing will more than offset the potential confusion for investors. Specifically, the Commission believes that quarterly rebalancing will ensure that no stock or group of stocks will have a disproportionate impact on the Index.

Finally, the Amex has developed procedures to ensure that investors are accurately notified of any change due to the quarterly rebalancing of the Index. In particular, the Amex represents that it will send informational circulars to its members notifying them of any changes to the Index as a result of the quarterly rebalancing. In addition, the Amex has stated that it will include a description of the equal dollar weighting methodology in all of its promotional and marketing materials for the Index. The Commission believes these procedures should help to avoid any investor confusion, while providing important information about the special characteristics of the Index.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the NYSE, which currently is the primary market for all of the Index’s component stocks, is a member of the Intermarket Surveillance Group (“ISG”), which...
provides for the exchange of all necessary surveillance information.\textsuperscript{25}  

\textbf{D. Market Impact}  

The Commission believes that the listing and trading of Retail Index options, including full value and reduced value Index LEAPS on the Amex will not adversely impact the underlying securities markets. First, as described above, due to the "equal-dollar" weighting method, no one stock or group of stocks dominates the Index. Second, because 90\% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Retail Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.\textsuperscript{26}

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the \textit{Federal Register}. Amendment No. 1 provides for a requirement to the proposal that stocks comprising the Index must have an average trading volume in the U.S. markets over the period six month period of at least 500,000 shares. Amendment No. 1 also reduces the minimum market value (in U.S. dollars) requirement for stocks comprising the Index from $100 million to $75 million. The Commission believes that the new trading volume requirement strengthens the integrity of the Index and does not raise new issues. Although Amendment No. 1 reduced the necessary market capitalization for stocks comprising the Index from the originally proposed level, the $75 million requirement is an adequately high level to protect investor and market concerns. Moreover, the Commission finds that both modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 1 to the Amex's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

\textit{It is therefore ordered. Pursuant to section 19(b)(2) of the Act,\textsuperscript{27} that the proposed rule change (SR-Amex--92-30), as amended, is approved.  

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.\textsuperscript{28}  

Jonathan G. Katz, Secretary.}  

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\textbf{\textsuperscript{25} See supra note 15. Although the Index curve does not contain ADRs, the proposal provides that the Index could contain ADRs representing retail industry stocks. If the Amex were to change the composition of the Index so that greater than 20\% of the Index was represented by ADRs whose underlying securities were not subject to an effective surveillance sharing arrangement with the Amex, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index.}  

\textbf{\textsuperscript{26} Securities Exchange Act Release No. 30944, 57 FR 33376 (July 28, 1992).}  


\textbf{\textsuperscript{28} 17 CFR 200.30-3(a)(12) (1993).}  

\textbf{Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.}  

April 29, 1993.  

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the CBOE Environmental Index and Long-Term Options on a Reduced-Value Environmental Index.

\textbf{I. Introduction}  

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\textsuperscript{1} and Rule 19b-4 thereunder,\textsuperscript{2} a proposed rule change to provide for the listing and trading of index options on the CBOE Environmental Index ("Environmental Index" or "Index").

Notice of the proposal, as amended through November 9, 1992,\textsuperscript{3} appeared in the \textit{Federal Register} on December 23, 1992.\textsuperscript{4} No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, the proposed maintenance listing standards.\textsuperscript{5} This order approves the proposal as amended.

\textbf{II. Description of Proposal}  

\textbf{A. General}  

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-
settled, European-style stock index options on an industry index, the Environmental Index. The CBOE also proposes to amend Exchange Rule 24.9 to provide for the listing of long-term, reduced-value index options that will be computed at one-tenth of the value of the Environmental Index ("Environmental LEAPS").7 Environment LEAPS will trade independent of and in addition to regular Environmental Index options traded on the Exchange.8

B. Composition of the Index

The Index is based on 15 stocks in the environmental industry sector that trade on the American Stock Exchange, Inc. (“Amex”) or the New York Stock Exchange, Inc. (“NYSE”), or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities (“NASDAQ/NMS”).9 Currently, 10 of the stocks are listed on the NYSE, three trade on the NASDAQ/NMS and the remaining one is listed on the Amex. The Index is price-weighted 10 and will be calculated real time using last sales prices. As of August 31, 1992, the Index was at 160.99.

As of September 16, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $17.6 billion to a low of $59 million, with the mean and median being $2.3 billion and $663 million, respectively. The market capitalization of all the stocks in the Index was $34.8 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 495.5 million shares to a low of 7.9 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992 ranged from a high of $37.12 to a low of $6.31. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.1 million shares per day to a low of 22,000 shares per day, with the mean and median being 219,067 and 107,000 shares, respectively. Lastly, no one stock comprised more than 15.73% of the Index’s total value and the percentage weighting of the five largest issues in the Index accounted for 53.13% of the Index’s value. The percentage weighting of the lowest weighted stock was 2.12% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 16.38% of the Index’s value.11

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time to reflect the conditions in the environmental industry. If it becomes necessary to replace a stock in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the environmental industry and that will take into account a stock’s capitalization, liquidity, volatility, and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the proposal provides that the CBOE will submit a rule filing with the Commission pursuant to section 19(b) of the Act.12 In addition, in choosing replacement stocks for the Index, the CBOE will be required to ensure that at least 90% of the weight of the Index continues to be made up of stocks that are eligible for standardized options trading.13

1. The six highest weighted securities in the Index, as of September 16, 1992, were: Waste Management, Inc.; Whelkabur Technologies, Inc.; Safety Kleen Corp.; Browning-Ferris Industries, Inc.; Mid-American Waste Systems, Inc.; and Groundwater Technology, Inc. (the last two companies each represent 6.65% of the value of the Index). The five least weighted securities in the Index were: Allwaste, Inc.; Chambers Development Co., Inc.; Clean Harbors, Inc.; Laidlaw Inc.; and Rollins Environmental Services, Inc.

2. See Amendment No. 3, supra note 5.

3. See Amendment No. 3, supra note 5. The CBOE’s options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The Public float must be at least 7,000,000; (2) there must be a minimum of 2,000 shareholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this order, the rules in chapter XXIV of the CBOE Rules will be applicable to Environmental Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow based index options.

In addition, the CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT-SE (U.K.) 100, and the FT-SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the term "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the Environmental Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4.A.

E. Calculation of the Index

The Index will be calculated continuously and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE or a designated agent of the CBOE, based on the latest prices of the component stocks. Those prices, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.14

The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. Specifically, the Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include, but are not limited to, stock splits and dividends, spin-offs,
certain rights issuances, and mergers and acquisitions.

The Index value for the purpose of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the settlement value for the options. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for the purpose of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday. 16

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options. Standard index options trading hours (8:30 a.m. to 3:15 p.m. Central Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration. In addition, pursuant to CBOE Rule 24.9, there will be five expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several additional reduced-value long-term options series with up to three years to expiration ("LEAPS").

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to last business day before expiration (normally a Thursday).

G. Listing of Options on a Reduced-Value Environmental Index

The proposal further provides for the listing of long-term index options that expire from 12 to 36 months from listing, on a reduced-value Environmental Index that will be computed at one-tenth the value of the Index. The current and closing index value for reduced-value Environment LEAPS will be computed by dividing the Index value by ten and rounding the resulting figure to the nearest one-hundredth. For example, an Environmental Index value of 185.46 would be 18.55 for reduced-value LEAPS and 185.43 would become 18.54. Other than the reduced value, all other specifications and calculations for reduced-value Environment LEAPS will remain the same. 18 Pursuant to Exchange Rule 24.3, the reduced-value Index will be continuously calculated and disseminated.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value Standard & Poor's 500 and Dow Jones Industrial Average ("OEX" and "SPX," respectively) 19 will be applicable to the trading of reduced-value Environment LEAPS. For example, Environment LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Specifically, the proposal provides that reduced-value Environment LEAPS may be issued at six month intervals and that new strike prices will be either near or bracketing the current Index value. Strike price interval, bid/ask differential, and continuity rules will not apply to the trading of reduced-value Environment LEAPS (or long-term, full-value Index options) until their time to expiration is less than 12 months. The strike price interval for reduced-value Environment LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional long-term options series may be added when the value to the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value DEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Environmental Index options and Environment LEAPS. Specifically, Exchange rules governing margin requirements, 20 position and exercise limits, 21 and trading halt procedures 22 that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in Environment LEAPS complies with applicable position and exercise limits, positions in reduced-value Environment LEAPS will be aggregated with positions in the Index options. Under the proposal, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement") is dated July 14, 1983, as amended on January 29, 1990, and will be applicable to the trading of options on the Index. 23

16 The last trading day prior to expiration is the third Friday of the expiration month. For a more detailed discussion of the trading days for the Index options, see infra section II, F.
18 See supra note 14.
20 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount, with a minimum requirement of the options premium amount.
21 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.
22 Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.
23 ISG was formed on July 14, 1983, i.e., among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement. which incorporates the original agreement and all amendments made thereafter, was adopted by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.
III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission finds that the trading of Environmental Index options, including full-value and reduced-value LEAPS options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the Environmental industry. The trading of options on the Environmental Index and LEAPS on a reduced-value Environmental Index, however, raises several concerns, namely issues related to index design, customer production, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Index and the reduced-value Index are narrow-based because the Environmental Index is only comprised of 15 stocks, all of which are within one industry—the Environmental industry. Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options and reduced-value Environment LEAPS. The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index’s component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 621,867 and 471,000 shares respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $21.7 billion to a low of $122 million, with the mean and median being $2.7 billion and $7.5 million, respectively. Third, no particular stock dominates the Index, in that no one stock comprises more than 18.0% of the Index’s total value. Although the percentage weighting of the three largest issues in the Index accounts for 37% of the Index’s value, this is not unreasonable given the nature of the environmental industry, the limited number of stocks in the Index, and the large capitalization active trading market for the three stocks. Fourth, fourteen of the fifteen component stocks in the Index currently are eligible for options trading. Fifth, if the CBOE increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval, pursuant to section 19(b)(2) of the Act, listing new strike prices or expiration months for the Options on the Environmental Index. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE’s obligations to protect investors and to maintain fair and orderly markets in Environmental Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Environmental Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

In addition, the Commission does not believe that the fact that the Index is price-weighted instead of market-weighted results in the Index being readily susceptible to manipulation. Because the use of price-weighting could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization-weighted, the Commission believes that this capitalization method could make the Index more readily susceptible to manipulation. The CBOE, however, has developed several composition and maintenance criteria for the Index that will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or smaller floats. The CBOE proposal requires that at least 90% of the weighting of the Index be comprised of stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the CBOE represents that it will make every effort to add new stocks to the Index that are representative of the environmental industry sector and will take into account a stock’s capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Environmental Index options and Environment LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only
investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Environment LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Environmental Index options and Environment LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market.32 Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, the NYSE, and the NASD are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.33

D. Market Impact

The Commission believes that the listing and trading of Environmental Index options and Environment LEAPS on the CBOE will not adversely impact the underlying securities markets.34 First, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Second, existing CBOE stock index options rules and surveillance procedures will apply to the Index options and Environment Leaps. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraprence non-performance will be minimized because the Index options and Environment LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Environmental Index options and reduced-value Environment LEAPS based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.35

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the listing of reduced-value Environment LEAPS. Because the index underlying Environment LEAPS is identical to the Index and Environment LEAPS will be subject to the same rules that apply to other index LEAPS traded on the Exchange, the Commission believes the CBOE's Environment LEAPS proposal raises no new regulatory issues. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.


33 See supra note 23.

34 In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary system capacity to support those new series of index options that would result from the introduction of Index options and reduced-value Environment LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1992 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.


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 were filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,36 that the proposed rule change (SR-92-29), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.37

Jonathan G. Katz, Secretary.

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Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

April 29, 1993.

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options on the CBOE Computer Software Index and Long-Term Options on a Reduced-Value Computer Software Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")1 and Rule 19b-4 thereunder,2 a proposed rule change to provide for the listing and trading of index options on the CBOE Computer Software Index and Long-Term Options on a Reduced-Value Computer Software Index.


Computer Software Index ("Computer Software Index" or "Index").

Notice of the proposal, as amended through November 9, 1992, appeared in the Federal Register on December 23, 1992. No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify, among other things, the proposed maintenance listing standards. This order approves the proposal as amended.

II. Description of Proposal

A. General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style stock index options on an industry index, the Computer Software Index. The CBOE also proposes to amend Exchange Rule 24.9 to provide for the listing of long-term, reduced-value index options that will be computed at one-tenth of the value of the Computer Software Index ("Computer LEAPS"). The Computer LEAPS will trade independent of and in addition to regular Computer Software Index options traded on the Exchange.

B. Composition of the Index

The Index is based on 15 stocks in the computer software sector that trade on the New York Stock Exchange, Inc. ("NYSE") or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system

...
E. Calculation of the Index

The Index will be calculated continuously and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE, having designated OPRA as its agent. The calculation is based on the last-sale prices of the component stocks. OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.14

The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. Specifically, the Index value is calculated by dividing the sum of the last-sale prices of the component stocks and then dividing this sum by a divisor that is equal to the number of stocks in the Index. This divisor serves to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor changes include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration.15 In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the settlement value for the options. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for the purpose of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.16

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options. Standard index options trading hours (8:30 a.m. to 3:15 p.m. Central Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.17 In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several additional reduced-value long-term options series with up to three years to expiration ("LEAPS").

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Options on a Reduced-Value Computer Software Index

The proposal further provides for the listing of long-term index options that expire from 12 to 36 months from listing, on a reduced-value Computer Software Index that will be computed at one-tenth the value of the Index. The current and closing value for reduced-value Computer Software Index will be computed by dividing the Index value by ten and rounding the resulting figure to the nearest one-hundredth. For example, a Computer Software Index value of 185.46 would be 18.55 for the reduced-value LEAPS.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value Standard & Poor's 100 and 500 Indexes ("OEX" and "SPX," respectively)18 will be applicable to the trading of reduced-value Computer LEAPS. For example, Computer LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Specifically, the proposal provides that reduced-value Computer LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of reduced-value Computer LEAPS (or long-term, full-value Index options) until their time to expiration is less than 12 months. The strike price interval for reduced-value Computer LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional long-term options series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-values OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Computer Software Index options and Computer LEAPS. Specifically, Exchange rules governing margin requirements, position and exercise limits, trading halt procedures that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for the purpose of determining whether a given position in Computer LEAPS complies

15 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate index value, less any outstanding amount, with a minimum requirement of the options premium plus 10% of the underlying index value; and (2) for long options positions, 100% of the options premium paid.
16 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.
17 For a discussion of the strike price intervals for reduced-value Index options and long-term Index options, see infra section II, C.
18 See discussion following section H, for position and exercise limit adjustments for reduced-value Computer Leaps.
with applicable position and exercise limits, positions in reduced-value Computer LEAPS will be aggregated with positions in the Index options. Under the proposal, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement"), dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.23

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).24 Specifically, the Commission finds that the trading of Computer Software Index options, including full-value and reduced-value LEAPS on the Index,25 will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the computer software industry.26 The

23 ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and aggregative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.


25 See supra note 8.

26 Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any derivative instrument is subject to, among other things, coordinate more effectively surveillance and aggregative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

27 See supra note 13.

28 In addition, for the six-month period between March and August 1992, the Commission might question whether it can be traded as an index product.

29 For a description of the options listing standards, see supra note 13.
actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the CBOE represents that it will make every effort to add new stocks to the Index that are representative of the computer software sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Computer Software Index options and Computer LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Computer LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Computer Software Index options and Computer LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, the NYSE, and the NASD are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.

D. Market Impact

The Commission believes that the listing and trading of Computer Software Index options and Computer LEAPS on the Exchange will not adversely impact the underlying securities markets. First, because 90% of the numerical value of the Index must be accounted for by stocks that meet the listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Second, existing CBOE stock index options rules and surveillance procedures will apply to the Index options and Computer LEAPS. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the Index options and Computer LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States. Lastly, the Commission believes that setting expiring Computer Software Index options and reduced-value Computer LEAPS based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the listing of reduced-value Computer LEAPS. Because the Index underlying Computer LEAPS is identical to the Index and Computer LEAPS will be subject to the same rules that apply to other index LEAPS traded on the Exchange, the Commission believes the CBOE's Computer LEAPS proposal raises no new regulatory issues. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(3) of the Act if the number of component securities in the Index changes to either less than 10 or more than 20. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore, ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-92-30), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

33 In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and reduced-value Computer LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawrence, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1992 and memorandum from Joe Carrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.
35 See supra note 23.
Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations: Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Options and Long-Term Options on the S&P Chemicals Index and Long-Term Options on a Reduced-Value Chemicals Index.

1. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Chemicals Index ("Chemicals Index" or "Index"). Notice of the proposal, as amended through September 9, 1992, appeared in the Federal Register on November 20, 1992. No comment letters were received on the proposed rule change.

Thereafter, the CBOE amended the proposal to clarify, among other things, several proposal listing and maintenance standards. This order

3 On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Chemicals Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR-CBOE-92–27, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR-CBOE-92–27 (CBOE Biotech Index, approved September 26, 1992) and SR-CBOE-92–32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR-CBOE-92–27, Amendment No. 2. See infra note 5.
5 More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than twenty-nine stocks or decreases to less than fifteen stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for listed for trading unless and until the Commission approves a rule filing pursuant to Section 19(b) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by two and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR-CBOE-92–27, Amendment No. 3.
6 LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.9(b)(1).
7 According to the CBOE, the S&P Chemicals Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE believes that Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measurement and an objective guide for passively or actively managed chemicals industry funds, as well as a means of hedging the risks of investing in the chemicals industry.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Chemicals Index options. Those rules address, among other things, the

$101.499 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 672,242 million shares to a low of 19,676 million shares. The average price per share of the stocks in the Index, for a six-month period prior to March and August 1992, ranged from a high of $61.66 to a low of $8.04. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 760,546 shares per day to a low of 22,848 shares per day, with the mean and median being 226,411 and 154,558 shares, respectively. Lastly, no one stock comprised more than 32.68% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 65.06% of the Index's value. The percentage weighting of the lowest weighted stock was 17% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 3.57% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Chemicals Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Chemicals Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another chemicals industry, the replacement stock may or may not be in the chemicals industry. As a result, the number of stocks in the S&P Chemicals Index may increase or decrease due to changes in the composition of the S&P 500.

III. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Chemicals Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Chemicals Index ("Chemicals LEAPS" or "Index LEAPS"). Chemicals LEAPS will trade independent of and in addition to regular Chemicals Index options traded on the Exchange. 7
applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT-SE (U.K.) 100, and the FT-SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Chemicals Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Chemicals Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation. The Index value for purposes of setting outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing price of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday. 10

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options. Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 270M. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration. 12 In addition, pursuant to CBOE Rule 24.9 there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycles plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Chemicals Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Chemicals Index or a reduced-value Chemicals Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Chemicals LEAPS will be computed by dividing the value of the Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced value LEAPS will have a European-style exercise and will be subject to the same provisions that govern the trading of all the Exchange's index options including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 500 and 500 Indexes ("OEX" and "SPX", respectively) 13 will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value.

Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAP series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on broad-based indexes will apply to the trading of Chemicals Index options and reduced-value Chemicals Index options. Specifically, Exchange rules governing margin requirements, 14 position and exercise limits, 15 and trading halt

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10 See supra note 9.
11 A European-style option can be exercised only during a specified period before the option expires.
12 For a description of the strike price intervals for reduced-value index options and long-term Index options, see Section C, Index.
13 See supra note 9.
14 Pursuant to CBOE Rule 24A.1, the margin requirements for the Index options will be: (1) for short options positions, 100% of the current market value of the options contract, plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.
15 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the
procedures that are applicable to the trading of narrow-based index options will apply to options on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

The trading of options on the Chemicals Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, was amended on January 29, 1990, will be applicable to the trading of options on the Index.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5).

Specifically, the Commission finds that the trading of Chemicals Index options, including full-value and reduced-value Chemicals LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the chemicals industry.

Index options will be 4,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value exceeds 20% of the Index value are halted or suspended.

ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Chemicals Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must be at least 2.6 million, over the preceding twelve months; and (4) the market price must be at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.
evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to protect investors in Chemicals Index options and Chemicals Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index option and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, both the CBOE and NYSE are members of the Intermarket Surveillance Group (“ISG”), which provides for the exchange of all necessary surveillance information.

D. Market Impact

The Commission believes that the listing and trading of Chemicals Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets. First, as described above, for the most part, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 4,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Chemicals Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index’s numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than twenty-nine or fewer than fifteen. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE’s proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-92-27), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. Jonathan G. Katz, Secretary.

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[Release No. 34-32236; File No. SR-CBOE-92-22]

Self-Regulatory Organizations;
Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Transportation Index and Long-Term Options on a Reduced-Value Transportation Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission...
The CBOE proposes to list and trade options on the Transportation Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Transportation Index. The CBOE LEAPS will trade independent of and in addition to regular Transportation Index options traded on the Exchange.

B. Composition of the Index

The Index is based on fifteen airline, railroad, trucking, and miscellaneous transportation industry stocks that are included in the S&P 500 Index. Thirteen of those stocks currently trade on the New York Stock Exchange ("NYSE") and two are national market systems ("NMS") securities in the Index currently trade through the facilities of the NASDAQ National Association of Securities Dealers Automated Quotations System ("NASDAQ-NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 313.21. As of August 31, 1992, the market capitalization of the individual stocks in the Index ranged from a high of $10.5 billion to a low of $447 million, with the mean and median being $3.3 billion and $2.5 billion, respectively. The market capitalization of all the stocks in the Index was $49.743 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 202.844 million shares to a low of 23.758 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $122.90 to a low of $12.11.

In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 381,527 shares per day to a low of 75,148 shares per day, with the mean and median being 242,727 and 180,521 shares, respectively. Lastly, no one stock comprised more than 27.1% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 63.84% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Transportation index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Transportation Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another transportation industry stock, the replacement stock may or may not be in the transportation industry. As a result, the number of stocks in the S&P Transportation Index may increase or decrease due to changes in the composition of the S&P 500.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Transportation index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT-SE (U.K.) 100, and the FT-SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related

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3. On September 26, 1992, the CBOE amended the proposed rule to clarify and confirm that S&P Transportation Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.5(e) ("Amendment No. 1"). See File No. SR-CBOE-92-22, Amendment No. 1. On November 8, 1992, the proposal was amended to reflect changes to the CBOE Index rules by the effectiveness of S&P-CBOE-91-51 (CBOE Biotech Index, approved September 28, 1992) and S&P-CBOE-92-32 (nonvestative announcements to Chapter XXIV of the CBOE Rules) ("Amendment No. 2"). See File No. SR-CBOE-92-22, Amendment No. 2. See infra note 5.
5. More specifically, on April 26, 1990 the proposal was amended to: (1) require a maintenance standard that, if the Index increases to more than twenty stocks or decreases to less than ten stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; (2) require no maintenance standard that, if less than 90% of the stocks included therein comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, the new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change; and (3) clarify the calculation and closing Index value for reduced-value long-term options based on the Index. The closing value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-thousandth ("Adjustment No. 4"). See File No. SR-CBOE-92-22, Amendment No. 3.
6. LEAPS are an acronym for Long-Term Equity Anticipation Securities. LEAPS are long-term index

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7. According to the CBOE, the S&P Transportation Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the transportation industry. The CBOE believes the Index will provide retail and institutional investors a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed transportation industry funds, as well as a means of hedging or investing in the transportation industry.

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8. See supra note 5. If the Index increases to more than twenty stocks or decreases to less than ten stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b) of the Act reflecting such change.
industries. An industry index contract such as the S&P Transportation Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Transportation Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.9

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.10

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.11 Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.12 In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAPS series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Transportation Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Transportation Index or a reduced-value Transportation Index that will be computed at one-tenth the value of the full-value Index. The current and closing index value of a reduced-value Transportation LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)13 will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential, and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price for a reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Transportation Index options and reduced-value Transportation Index options. Specifically, Exchange rules governing margin requirements,14 position and exercise limits,15 and trading halt procedures16 that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index

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9 For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

10 See supra note 9.

11 A European-style option can be exercised only during a specified period before the option expires.

12 For a description of the strike price intervals for reduced-value Index options and long-term Index options, See Section G. infra.


14 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short option positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long option positions, 100% of the options premium paid.

15 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that lower limit is warranted.

16 Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.
options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index. 17

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). 19 Specifically, the Commission finds that the trading of Transportation Index options, including full-value and reduced-value Transportation LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the transportation industry. 19

The trading of options on the Transportation Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Transportation Index and reduced-value Transportation Index are narrow-based indices. The Transportation Index is comprised of only fifteen stocks, all of which are within one industry—the transportation industry. In addition, the basic character of the reduced-value Transportation Index, which is comprised of the same component securities as the Transportation Index and calculated by dividing the Transportation Index value by ten, is essentially identical to the Transportation Index. 20 Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options. 21

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 242,727 and 180,521 shares, respectively. 22 Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $10.5 billion to a low of $447 million as of August 1991. Finally, the mean and median being $3.3 billion and $2.5 billion, respectively. Third, although the Index is only comprised of fifteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 21.1% of the Index's total value and the percentage weighting of the three largest issues in the Index accounting for 49.05% of the Index's value. 23

Fourth, all of the component stocks in the Index currently are eligible for options trading. 24 The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than twenty or decreases that number to less than ten, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Transportation Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Transportation Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Transportation Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Transportation Index options (including full-value and reduced-value Transportation LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is

17 ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing among options markets. The Intermarket Surveillance Group Agreement, July 14, 1983 is the most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

18 Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Transportation Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the transportation industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to make derivative decisions in the transportation industry sector of the U.S. economy.

19 For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the Index's weighting. Further, if an index contained only a few issues, the Commission might question whether it can be traded as an index product.

20 The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.
designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Transportation Index options and Transportation Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulation and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.27 In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance Information.28

D. Market Impact

The Commission believes that the listing and trading of Transportation Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.27 First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Transportation Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.28 The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirty day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b) of the Act if the number of component securities in the Index changes to either greater than twenty or fewer than ten. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. Persons making written submission 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-92-22), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.29
Jonathan G. Katz,
Secretary.

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Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Health Care Index and Long-Term Options on a Reduced-Value Health Care Index.

I. Introduction


Health Care LEAPS will trade independent of and in addition to regular Health Care Index options traded on the Exchange.

**B. Composition of the Index**

The Index is based on twenty-eight management, drug, medical product, diversified, and miscellaneous health care industry stocks that are included in the S&P 500 Index. Twenty-five of those stocks currently trade on the New York Stock Exchange, Inc. ("NYSE") and three are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 229.76. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $56.38 billion to a low of $438.81 million, with the mean and median being $10.98 billion and $5 billion, respectively. The market capitalization of all the stocks in the Index was $307.49 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.159 billion shares to a low of 46.19 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $100.06 to a low of $8.40. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,210,116 shares per day to a low of 77,346 shares per day, with the mean and median being 446,487 and 419,146 shares, respectively. Lastly, no stock comprised more than 18.34% of the Index's total value and the percentage

**C. Maintenance**

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issues, mergers, and acquisitions involving component securities. If it becomes necessary for S&P to remove a Health Care Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Health Care Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another health care industry, the replacement stock may or may not be in the health care industry. As a result, the number of stocks in the S&P Health Care Index may increase or decrease due to changes in the composition of the S&P 500.

**D. Applicability of CBOE Rules Regarding Index Options**

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Health Care Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT–SE (U.K.) 100, and the FT–SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a

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3. On September 28, 1992 the CBOE amended the proposal to clarify and confirm that S&P Health Care Index options will be A.M. settled options subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR-CBOE-92–24, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR-CBOE-91–51 (CBOE Biotech Index, approved September 28, 1992) and SR-CBOE-92–32 (non-substantive amendment of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR-CBOE-92–24, Amendment No. 2. See infra note 5.
5. More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if the Index increases to more than thirty-seven stocks or decreases to less than nineteen stocks, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 100% of the Index's weighting becomes 100%, the replacement stock may or may not be in the health care industry. As a result, the number of stocks in the S&P Health Care Index may increase or decrease due to changes in the composition of the S&P 500.

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7. According to the CBOE, the S&P Health Care Index represents a segment of the U.S. equity market that is not currently represented in the S&P 500 Index. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed health care industry funds, as well as a means of hedging the risks of investing in the health care industry.

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8. See supra note 5. If the Index increases to more than thirty-seven stocks or decreases to less than nineteen stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change.
particular industry or a group of related industries. An industry index contract such as the S&P Health Care Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Health Care Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.9

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through theNASDAQ-EMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.10

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options. Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration. In addition, pursuant to CBOE Rule 24.9, there will be five expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business days before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Health Care Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Health Care Index or a reduced-value Health Care Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for the Health Care LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX," respectively)13 will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Health Care Index options and reduced-value Health Care Index options. Specifically, Exchange rules governing margin requirements, position and exercise limits, and trading halt procedures14 that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with

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9 For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.
10 See supra note 9.
11 A European-style option can be exercised only during a specified period before the option expires.
12 For a description of the strike price intervals for reduced-value Index options and long-term Index options. See Section G. infra.
14 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, minus a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.
15 Pursuant to CBOE Rule 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 6,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.
16 Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.
The trading of options on the Health Care Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Health Care Index and reduced-value Health Care Index are narrow-based indices. The Health Care Index is comprised of only twenty-eight stocks, all of which are within one industry—the health care industry. In addition, the basic character of the reduced-value Health Care Index, which is comprised of the same component securities as the Health Care Index and calculated by dividing the Health Care Index value by ten, is essentially identical to the Health Care Index. Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 446,487 and 419,146 shares, respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $56.38 billion to a low of $438.81 million as of August 31, 1992, with the mean and median being $10.98 billion and $5 billion, respectively. Third, although the Index is only comprised of twenty-eight stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 18.34% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 40.25% of the Index's value. Fourth, all of the component stocks in the Index currently are eligible for options trading. The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Health Care Index options (including full-value and reduced-value Health Care LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-
traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Health Care Index options and Health Care Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.

D. Market Impact

The Commission believes that the listing and trading of Health Care Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets. First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Health Care Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index. The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current opening Index value, for purposes of Index LEAPS trading, to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than thirty-seven or fewer than nineteen. The Commission believes that these modifications strengthen the integrity of the Index and do not rise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis. Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-92-24), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

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BILLING CODE 8010-01-M

[Release No. 34-32240; File No. SR-CBOE-92-23]

Self-Regulatory Organizations;
Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations: Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Retail Index and Long-Term Options on a Reduced-Value Retail Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE")...
on "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Corporation ("S&P") Retail Index ("Retail Index" or "Index"). Notice of the proposal, as amended through November 8, 1992, appeared in the Federal Register on November 20, 1992. No comment letters were received on the proposed rule change. Therefore, the CBOE amended the proposal to clarify, among other things, several proposed listing and maintenance standards. This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Retail Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Retail Index ("Retail LEAPS" or "Index LEAPS"). Retail LEAPS will trade independent of and in addition to regular Retail Index options traded on the Exchange.

B. Composition of the Index

The Index is based on thirty-three department, drug and food store, general merchandise, specialty, and specialty apparel industry stocks that are included in the S&P 500 Index. Twenty-eight of those stocks, together with the two smallest stocks, continue to trade on the New York Stock Exchange, Inc. ("NYSE"), and twenty-two trade on the American Stock Exchange, Inc. ("Amex") and four are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by the company's shares outstanding in order to calculate the current index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 599.85. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $65.501 billion to a low of $728.21 million, with the mean and median being $6.14 billion and $2.55 billion, respectively. The market capitalization of all the stocks in the Index was $202.776 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 1.149 billion shares to a low of 20.441 million shares. The average price per share of the stocks in the Index, for the same sixty-month period between March and August 1992, ranged from a high of $82.52 to a low of $13.53. In addition, the average daily trading volume of the stocks in the Index, during the six-month period, ranged from a high of 1,077,222 shares per day to a low of 28,025 shares per day, with the mean and median being 324,119 and 216,643 shares, respectively. Lastly, no one stock comprised more than 32.3% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 57.74% of the Index's value. The percentage weighting of the lowest weighted stock was 3.6% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 2.52% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Retail Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Retail Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another retail industry, the replacement stock may or may not be in the retail industry. As a result, the number of stocks in the S&P Retail Index may increase or decrease due to changes in the composition of the S&P 500.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in Chapter XXIV of the CBOE Rules will be applicable to S&P Retail Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow-based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100, the FT-SE (U.K.) 100, and the FT-SE Eurotrack 200 indexes, also is a "broad-based index" within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rule 24.4(b)(1).

According to the CBOE, the S&P Retail Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the retail industry. The CBOE believes the Index will provide retail and institutional investors with a means to benefit from their forecasts of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed retail industry portfolios as a means of hedging the risks of investing in the retail industry.

The CBOE believes that a lower Index level is necessary for successful trading of Retail Index options. Therefore, the CBOE intends to base trading on Retail Index options at one-half the value calculated by S&P or its designees. For purposes of trading Retail Index options, as of August 31, 1992, the Index level was 294.93.
options. The amendment to Rule 24.1 further provides that the terms "narrow-based index" and the previously defined "industry index" both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Retail Index option will, therefore, be deemed to be "narrow-based" for purposes of the position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Retail Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index’s component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day’s (i.e., Thursday’s) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday’s closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.12 Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.13 In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Retail Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Retail Index or a reduced-value Retail Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Retail LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange’s Index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00. Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 500 and 500 Indexes ("OEX" and "SPX"), respectively14 will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid-offer differential, and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Retail Index options and reduced-value Retail Index options. Specifically, Exchange rules governing margin requirements,15 position and exercise limits,16 and trading halt procedures17 that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a

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10 For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, S&P will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

11 See supra note 10.

12 A European-style option can be exercised only during a specified period before the option expires.

13 For a description of the strike price intervals for reduced-value Index options and long-term Index options, see Section C. infra.


15 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be (1) for short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long-term options positions, 100% of the options premium.

16 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 4,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

17 Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended under certain circumstances, in the event the net change in the weighted closing value of the underlying Index is greater than or equal to 20% of the Index value.
given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated in the Index. In the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended January 29, 1990, will be applicable to the trading of options on the Index.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).

Specifically, the Commission finds that the trading of Retail Index options, including full-value and reduced-value Retail LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the retail industry. The trading of options on the Retail Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Retail Index and reduced-value Retail Index are narrow-based indices. The Retail Index is comprised of only thirty-three stocks, all of which are within one industry—the retail industry. In addition, the basic character of the reduced-value Retail Index, which is comprised of the same component securities as the Retail Index and calculated by dividing the Retail Index value by ten, is essentially identical to the Retail Index. The Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 324,119 and 216,643 shares, respectively. Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $6.5 billion to a low of $728.21 million as of August 31, 1992, with the mean and median being $6.14 billion and $2.55 billion, respectively. Third, although the Index is only comprised of thirty-three stocks, for the most part, no non-particular stock or group of stocks dominates the Index. Although one stock in the Index comprises approximately 32.3% of the Index's total value, the Index is comprised of a total of thirty-three stocks with the percentage weighting of the three largest issues in the Index accounting for 47.63% of the Index's value. Fourth, thirty-one of the thirty-three stocks in the Index (representing 99.1% of the weighting of the Index) are eligible for options trading. The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than forty-four or decreases that number to less than twenty-two, the CBOE will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of Retail Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Retail Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Retail Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Retail Index options (including full-value and reduced-value Retail LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an
environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Retail Index options and Retail Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, NYSE, Amex, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.26

D. Market Impact

The Commission believes that the listing and trading of Retail Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.28 First, as described above, for the most part, no one stock or group of stocks dominates the Index.29 Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks.30 Third, the 4,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party nonperformance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Retail Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.31

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that the numerical value of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to Section 19(b) of the Act if the number of component securities in the Index changes to either greater than forty-four or fewer than twenty-two. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All written communications should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,32 that the proposed rule change (SR-CBOE-92-23), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.33

Jonathan G. Katz,
Secretary.

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BILLING CODE 8010-01-P

[Release No. 34-32238; File No. SR-CBOE-92-25]

Self-Regulatory Organizations;
Chicago Board Options Exchange

April 29, 1993.

In the matter of Self-Regulatory Organizations: Chicago Board Options

Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Banking Index and Long-Term Options on a Reduced-Value Banking Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to provide for the listing and trading of index options on the Standard & Poor's Ordinary Corporation Stock Index ("S&P" or "Index") and Banking Index ("Banking Index" or "Index"). Notice of the proposal, as amended through September 9, 1992, appeared in the Federal Register on November 20, 1992. No comment letters were received on the proposed rule change. Thereafter, the CBOE amended the proposal to clarify and modify the provisions subject to the provisions of CBOE Rule 24.9(e) ("Amendment No. 1"). See File No. SR-CBOE-92-25, Amendment No. 1. On November 9, 1992, the proposal was amended to reflect changes to the CBOE rules made by the effectiveness of SR-CBOE-91-51 (CBOE Biotech Index approved September 28, 1992) and SR-CBOE-92-32 (non-substantive amendments to Chapter XXIV of the CBOE rules, effective upon filing) ("Amendment No. 2"). See File No. SR-CBOE-92-25, Amendment No. 2. See infra note 5.

II. Description of Proposal

A. General

The CBOE proposes to list and trade options on the Banking Index, an index developed by S&P. The CBOE also proposes to list either long-term options on the full-value Index or long-term options on a reduced-value Index that will be computed at one-tenth of the value of the Banking Index ("Banking LEAPS" or "Index LEAPS"). Banking LEAPS will trade independent of and in addition to Regular Banking Index options traded on the Exchange. The Index is based on twenty-five money center, major regional, and other major banking industry stocks that are included in the S&P 500 Index. Twenty-two of those stocks currently trade on the New York Stock Exchange ("NYSE") and three are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 167.20. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $14.75 billion to a low of $1.25 billion, with the mean and median being $4.79 billion and $3.55 billion respectively. The market capitalization of all the stocks in the Index was $119.841 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 346.25 million shares to a low of 40.261 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $72.53 to a low of $15.91. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,228,379 shares per day to a low of 104,390 shares per day, with the mean and median being 371,314 and 359,521 shares, respectively. Lastly, no one stock comprised more than 12.31% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 44.18% of the Index's value. The percentage weighting of the lowest weighted stock was 1.05% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 7.77% of the Index's value.

B. Composition of the Index

The Index is based on twenty-five money center, major regional, and other major banking industry stocks that are included in the S&P 500 Index. Twenty-two of those stocks currently trade on the New York Stock Exchange ("NYSE") and three are national market system ("NMS") securities that currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 31, 1992, the Index was at 167.20. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $14.75 billion to a low of $1.25 billion, with the mean and median being $4.79 billion and $3.55 billion respectively. The market capitalization of all the stocks in the Index was $119.841 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 346.25 million shares to a low of 40.261 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $72.53 to a low of $15.91. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1,228,379 shares per day to a low of 104,390 shares per day, with the mean and median being 371,314 and 359,521 shares, respectively. Lastly, no one stock comprised more than 12.31% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 44.18% of the Index's value. The percentage weighting of the lowest weighted stock was 1.05% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 7.77% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustments include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Banking Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Banking Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another banking index component stock or replacement stock may or may not be in the banking industry. As a result, the number of stocks in the S&P Banking Index may increase or decrease due to changes in the composition of the S&P 500.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Banking Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a "market index," a term which includes the S&P 500, S&P 100,
### Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Banking Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority (“OPRA”) every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the index calculation.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index’s component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day’s (i.e., Thursday’s) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday’s closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration day.

### Contract Specifications

The proposed options on the Index will be cash-settled, European-style options. Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be $5.00 for full-value index options with a duration of one year or less to expiration. In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycles plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month (“Expiration Friday”). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

### Listing of Long-Term Options on the Full-Value or Reduced-Value Banking Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Banking Index or a reduced-value Banking Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Banking LEAPS will be computed by dividing the value of the full-value Index by 10 and rounding the resulting figure to the nearest one-hundreth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 18.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange’s index options, including sales practice rules, margin requirements, and floor trading procedures. The strike price intervals for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes (“OEX” and “SPX,” respectively) will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

### Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Banking Index options and reduced-value Banking Index options.

Specifically, Exchange rules governing margin requirements, position and exercise limits, and trading halt requirements for LEAPS will be subject to the same rules that govern the trading of all the Exchange’s index options, including sales practice rules, margin requirements, and floor trading procedures. The strike price intervals for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes (“OEX” and “SPX,” respectively) will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-value Index LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

### Position and Exercise Limits, Margin Requirements, and Trading Halts


14 Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) For long options positions, 100% of the options premium paid.

15 Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5, that a lower limit is warranted.
procedures that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index. 17

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission finds that the trading of Banking Index options, including full-value and reduced-value Banking LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the banking industry. 19

The trading of options on the Banking Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Banking Index and reduced-value Banking Index are narrow-based indices. The Banking Index is comprised of only twenty-five stocks, all of which are within one industry—the banking industry. In addition, the basic character of the reduced-value Banking Index, which is comprised of the same component securities as the Banking Index and calculated by dividing the Banking Index value by ten, is essentially identical to the Banking Index. 20 Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options. 21

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 371,314 and 339,521 shares, respectively. 22 Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $14.75 billion to a low of $1.25 billion as of August 31, 1992, with the mean and median being $4.79 billion and $3.55 billion, respectively. Third, although the Index is comprised of twenty-five stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 12.31% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 30.41% of the Index's value. 23 Fourth, all of the component stocks in the Index currently are eligible for options trading. 24

The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than thirty-three or decreases that number to less than seventeen, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Banking Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Banking Index options. Finally, the Commission believes that the expenses of attempting to manipulate the value of the Banking Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Banking Index options (including full-value and reduced-value Banking LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of 25

18 Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

19 ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.


21 The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Banking Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost. See generally Securities Exchange Act Release No. 29994, 56 FR 63536 (December 4, 1991) (order designating the PSE Technology Index as a broad-based index rather than a narrow-based index).

22 In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 104,390 shares per day.

23 For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the Index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

24 The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million shares over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.
options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Banking Index options and Banking Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.

D. Market Impact

The Commission believes that the listing and trading of Banking Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets. First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index is accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Banking Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing Index value for purposes of Index LEAPS trading to the nearest one-hundredth. Amendment No. 3 also requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than thirty-three or fewer than seventeen. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications and other changes to the Index are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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 communications relating to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-CBOE-92-25), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[BILLING CODE 4101-01-M]

[Release No. 34-32239; File No. SR-CBOE-92-28]

Self-Regulatory Organizations; Chicago Board Options Exchange

April 29, 1993.

In the Matter of Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to a Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Options and Long-Term Options on the S&P Insurance Index and Long-Term Options on a Reduced-Value Insurance Index.

I. Introduction

On September 18, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule
regular Insurance Index options traded on the Exchange.  

B. Composition of the Index

The Index is based on sixteen life, property and casualty, and multiline insurance industry stocks that are included in the S&P 500 Index. Fifteen of those stocks currently trade on the New York Stock Exchange ("NYSE") and one is a national market system ("NMS") security that currently trades through facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ--NMS"). The Index is capitalization-weighted, meaning that the price of each stock is multiplied by that company's shares outstanding in order to calculate the current Index level. The Index will be calculated on a real-time basis using last sale prices.

As of August 28, 1992, the Index was at 120.43. As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $20.43 billion to a low of $715 million, with the mean and median being $4.45 billion and $3.26 billion, respectively, the market capitalization of all the stocks in the Index was $711.166 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 212.270 million shares to a low of 15.025 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $88.59 to a low of $11.56. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 287,928 shares per day to a low of 177,613 shares per day, with the mean and median being 140,159 and 177,613 shares, respectively. Lastly, no one stock comprised more than 28.71% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 62.8% of the Index's value. The percentage weighting of the lowest stock was 1.01% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 10.58% of the Index's value.

C. Maintenance

The Index will be maintained by S&P and the CBOE has represented that it will not influence any S&P decisions concerning maintenance of the Index. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor adjustment include, but are not limited to, spin-offs, certain rights issuances, mergers, and acquisitions involving component securities.

If it becomes necessary for S&P to remove a Insurance Index component stock from the S&P 500 Index (generally due to a takeover or merger), the stock will also be removed from the Insurance Index. Because the S&P is not required to replace the stock chosen as a replacement for the S&P 500 Index with another insurance industry, the replacement stock may or may not be in the insurance industry. As a result, the number of stocks in the S&P Insurance Index may increase or decrease due to changes in the composition of the S&P 500.

D. Applicability of CBOE Rules Regarding Index Options

Except as modified by this rule filing, the rules in chapter XXIV of the CBOE Rules will be applicable to S&P Insurance Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for both broad and narrow based index options.

The CBOE is amending Rule 24.1 to make clear that a “market index,” a term which includes the S&P 500, S&P 100, the FT—SE (U.K.) 100, and the FT—SE Eurotrack 200 indexes, also is a “broad-based index” within the meaning of the rules in Chapter XXIV of the CBOE Rules, including Rule 24.4 which relates to position limits for broad-based index options. The amendment to Rule 24.1 further provides that the terms “narrow-based index” and the previously defined “industry index” both mean an index designed to be representative of a particular industry or a group of related industries. An industry index contract such as the S&P Insurance Index option will, therefore, be deemed to be “narrow-based” for purposes of the

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2 More specifically, on April 20, 1993 the proposal was amended to: (1) Require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change; (2) require as a maintenance standard that, if less than 90% of the Index's weighting becomes comprised of stocks that are not eligible for standardized options trading on the CBOE pursuant to CBOE Rule 5.3, no new series of options based on the Index will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change; and (3) clarify that the current and closing Index value for reduced-value long-term options based on the Index will be computed by dividing the value of the full-value Index by ten and rounding the resulting figure to the nearest one-hundredth ("Amendment No. 3"). See File No. SR-CBOE-92-24, Amendment No. 3.

3 LEAPS is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rules 45(b)(1) and 45(b)(2).

4 See supra note 5. If the Index increases to more than twenty-one stocks or decreases to less than eleven stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change.

5 See supra note 5. If the Index increases to more than twenty-one stocks or decreases to less than eleven stocks, no new series of Index options will be listed for trading unless and until the Commission approves a rule filing pursuant to section 19(b)(1) of the Act reflecting such change.

6 LEAPS in an acronym for Long-Term Equity Anticipation Securities. LEAPS are long term index option series that expire from twelve to thirty-six months from their date of issuance. See CBOE Rules 45(b)(1) and 45(b)(2).

7 According to the CBOE, the S&P Insurance Index represents a segment of the U.S. equity market that is not currently represented in the derivative markets and, as such, the CBOE concludes, should offer investors a low-cost means to achieve diversification of their portfolios toward or away from the insurance industry. The CBOE believes that retail and institutional investors with a means to benefit from or away from the Insurance industry. The CBOE believes that retail and institutional investors with a means to benefit from the performance of that industry's market performance. Options on the Index also can be utilized by portfolio managers and investors to provide a performance measure and evaluation guide for passively or actively managed insurance industry funds, as a means of hedging the risks of investing in the insurance industry.
position limit requirements of Rule 24.4A.

E. Calculation of the Index

Similar to the broad-based S&P 500 Stock Index, the S&P Insurance Index is capitalization-weighted and reflects changes in the total capitalization of the component stocks relative to the capitalization of the Index on the base date. The Index is calculated by taking the summation of capitalizations of the component stocks (share price multiplied by the number of shares outstanding) and dividing the result by the divisor.

The Index will be calculated continuously by S&P or its designee and will be disseminated to the Options Price Reporting Authority ("OPRA") every fifteen seconds by the CBOE. If a component stock is not currently being traded, the most recently traded price will be used in the Index calculation.9

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (i.e., Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.10

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.11 Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard time) will apply to the contracts. The Index multiplier will be 244.

10 The strike price interval will be $5.00 for full-value Index options with a duration of one year or less to expiration.12 In addition, pursuant to CBOE Rule 24.9, there will be five expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus two additional near-term months so that the two nearest term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAP series that expire from twelve to thirty-six months from the date of issuance.

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full-Value or Reduced-Value Insurance Index

The proposal provides that the Exchange may list long-term Index options that expire from 12 to 36 months from listing on the full-value Insurance Index or a reduced-value Insurance Index that will be computed at one-tenth the value of the full-value Index. The current and closing Index value for reduced-value Insurance LEAPS will be computed by dividing the value of the full-value Index by 10, and rounding the resulting figure to the nearest one-hundredth. For example, an Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced-value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements, and floor trading procedures. The strike price interval for the reduced-value Index LEAPS will be no less than $2.50 instead of $5.00.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value S&P 100 and 500 Indexes ("OEX" and "SPX", respectively)13 will be applicable to the trading of reduced-value Index LEAPS. For example, Index LEAPS may expire from 12 to 36 months from the date of listing, and they may be up to six expiration months beyond one year to expiration. Moreover, the proposal provides that either full-value or reduced-value Index LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price interval, bid/ask differential and continuity rules will not apply to the trading of the full-value or reduced-valueIndex LEAPS until their time to expiration is less than 12 months. The strike price interval for reduced-value Index LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional LEAPS series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced-value OEX and SPX LEAPS.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Insurance Index options and reduced-value Insurance Index options. Specifically, Exchange rules governing margin requirements, position and exercise limits,14 and trading halt procedures15 that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in reduced-value Index options complies with applicable position and exercise limits, positions in reduced-value Index options will be aggregated with positions in the full-value Index options. For these purposes, ten reduced-value contracts will equal one.
full-value contract for purposes of aggregating these positions.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full-value and reduced-value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.17

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).18 Specifically, the Commission finds that the trading of Insurance Index options, including full-value and reduced-value Insurance LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the insurance industry.19 The trading of options on the Insurance Index, including full-value and reduced-value LEAPS on the Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Insurance Index and reduced-value Insurance Index are narrow-based indices. The Insurance Index is comprised of only sixteen stocks, all of which are within one industry—the insurance industry. In addition, the basic characteristic of the reduced-value Insurance Index, which is comprised of the same component securities as the Insurance Index and calculated by dividing the Insurance Index value by ten, is essentially identical to the Insurance Index.20 Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options.21

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 140,159 and 177,613 shares, respectively.22 Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $20.43 billion to a low of $715 million as of August 31, 1992, with the mean and median being $4.45 billion and $3.26 billion, respectively. Third, although the Index is only comprised of sixteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 28.71% of the Index's total value and the percentage weighting of the three largest issues in the Index account for 49.16% of the Index's value.23 Fourth, fifteen of the sixteen stocks in the Index (representing 99% of the weighting of the Index) currently are eligible for options trading.24 The proposed CBOE maintenance requirement that 90% of the weighting of the Index be comprised of stocks that are eligible for options trading will ensure that the Index is almost completely comprised of options eligible stocks. Fifth, if S&P increases the number of component stocks to more than twenty-one or decreases that number to less than eleven, the CBOE will be required to seek Commission approval pursuant to section 19(b)(2) of the Act before listing new strike price or expiration month series of Insurance Index options. This will help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in Insurance Index options. Finally, the Commission believes that the expense of attempting to manipulate the value of the Insurance Index in any significant way through trading in component stocks (or options on those stocks) coupled with, as discussed below, existing mechanisms to monitor trading activity in those securities, will help deter such illegal activity.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Insurance Index options (including full-value and reduced-value Insurance LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of

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17 ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by the member firms on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.
19 Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Insurance Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks comprising the insurance industry in the U.S. stock markets. The Commission also believes that these Index options will provide investors with a means by which to manage investment decisions in the insurance industry sector of the U.S. stock markets, allowing them to establish positions or increase existing positions in such markets in a cost effective manner. The Commission believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the index to hedge the risks associated with that portfolio more efficiently and effectively. Moreover, the Commission believes that the reduced-value Index LEAPS, that will be traded on an index computed at one-tenth the value of the Insurance Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a relatively low cost.
21 See supra notes 14 through 16, and accompanying text.
22 In addition, for the six-month period between March and August 1992, all of the companies comprising the Index had an average daily trading volume greater than 15,388 shares per day.
23 For an index with a significantly greater number of stocks than fifteen issues, the Commission might come to a different conclusion if only three stocks accounted for more than 55% of the index's weighting. Pursuant to an index containing only a few stocks, the Commission might question whether it can be traded as an index product.
24 The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the closing price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See CBOE Rule 5.3.
options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Insurance Index options and Insurance Index LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.22 In this regard, the CBOE, NYSE, and NASD are all members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.23

D. Market Impact

The Commission believes that the listing and trading of Insurance Index options, including full-value and reduced-value Index LEAPS on the CBOE will not adversely impact the underlying securities markets.24 First, as described above, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Third, the 6,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Insurance Index options (including full-value and reduced-value Index LEAPS) based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.25

The Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 3 provides for the rounding of the current and closing Index value, for purposes of Index LEAPS trading, to the nearest one-hundredth. Amendment No. 3 also requires that 80% of the Index's numerical value be accounted for by stocks that meet the options listing standards and that the CBOE submit a rule filing pursuant to section 19(b)(2) of the Act if the number of component securities in the Index changes to either greater than twenty-one or fewer than eleven. The Commission believes that these modifications strengthen the integrity of the Index and do not raise new issues. Moreover, the Commission finds that these modifications to the proposal are designed to reduce the likelihood that the Index could be susceptible to manipulation. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 3 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3 to the proposed rule change. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,26 that the proposed rule change (SR-CBOE--92--28), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz, Secretary.

[FR Doc. 93-10723 Filed 5-5--93; 8:45 am]

BILLING CODE 8010-01-W

[Release No. 34-32230; File No. SR--PHILADEP--92--04]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Proposed Rule Change Relating to Definition of Signature Guarantee

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on December 22, 1992, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change ("PHILADEP") as described in Items II, II, and III below, which items have been prepared primarily by PHILADEP. PHILADEP amended the filing to correct citations contained in the original filing, to revise the language of its Rule 1

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23 See supra note 17. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing insurance industry stocks. If the composition of the Index would change so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to a comprehensive surveillance sharing agreement, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index. The CBOE should, accordingly, notify the Commission immediately if more than twenty percent of the numerical value of the Index is represented by ADRs whose underlying securities are not subject to a comprehensive surveillance sharing agreement, so that the Commission can decide whether trading on the Index should be ceased or phased out.
24 In addition, the CBOE has represented that the CBOE and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to support the new series of Index options that would result from the introduction of Insurance Index options and Index LEAPS. See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 22, 1993 and memorandum from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, CBOE, dated March 19, 1993.
describing an acceptable signature guarantee, and to provide additional information regarding the purpose of certain amendments. 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

PHILADEP proposes to amend PHILADEP Rule 1 to define "signature guarantee" as a medallion or stamp of a "signature guarantee program" as defined in Rule 17Ad-15 under the Act. The rule change also would clarify the language in PHILADEP Rule 1 regarding the warranties provided by a signature guarantee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PHILADEP 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. PHILADEP 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

The purpose of the proposed rule change is to amend the definition of "signature guarantee" so that a medallion imprint or stamp evidencing participation or membership in a "signature guarantee program" as defined by Rule 17Ad-15 will constitute a signature guarantee acceptable to PHILADEP. Such programs are being offered by entities unaffiliated with PHILADEP or its parent corporation, the Philadelphia Stock Exchange, Inc. ("PHLX").

In addition, the proposed rule change adds language, based on the Uniform Commercial Code Section 8-312, stating that a signature guarantee is a warranty of the genuineness of the signature, the appropriateness of the endorser, and the legal capacity of the endorser. This addition is made in an effort to create a more uniform standard in the securities industry.

PHILADEP believes the proposed rule change is consistent with the Act, in general, and with section 17A(b)(3)(F) of the Act, in particular, because it is designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and to remove impediments and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change also is consistent with the requirements of section 17A(a)(1) of the Act because it should foster the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17A(d)(5) of the Act, which requires transfer agents to comply with Commission rules regarding the acceptance or rejection of signature guarantees and Rule 17Ad-15 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such date if it finds such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission 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 also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-PHILADEP-92-04 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz, Secretary.

[FR Doc. 93-10626 Filed 5-5-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32228; File No. SR-PHLX-92-39]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Proposed Rule Change Relating to Requirement that Members Become Participants in a "Signature Guarantee Program"

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"); notice is hereby given that on December 21, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that requires members to participate in a "signature guarantee program" and defined in Rule 17Ad-15(g)(3) under the Act and

3 Letter from Murray Ross, Secretary, PHILADEP, to Christine Bibilee, Attorney, Commission (January 26, 1993); and Letter from Murray Ross, Secretary, PHILADEP, to Christine Bibilee, Attorney, Commission (February 9, 1993).
4 The New York Stock Exchange has adopted similar language in its Rule 210. The Midwest Stock Exchange is considering adding a corresponding provision to its rules. Conversation between Murray Ross, Secretary, PHILADEP, and Christine Bibilee, Staff Attorney, Division of Market Regulation, Commission (January 12, 1993).
eliminates PHLX's existing signature guarantee program. Subsequently, PHLX amended the filing to eliminate two additional sections deemed obsolete, to correct citations contained in the original filing, to provide a description of the existing signature guarantee program and to provide additional information regarding the purpose of certain amendments. The proposed rule change, as amended, is described in items I, II, and III below, which Items have been prepared primarily by PHLX. 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

PHLX proposes to amend PHLX Rules 325 through 331 and 338 through 340 in order to comply with the requirements of Rule 17Ad–15 adopted under the Act pertaining to signature guarantees. The proposed rule change also deletes as obsolete or unnecessary PHLX Rules 334 through 336 and corollary forms 9 and 10.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PHLX 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. PHLX 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

The purpose of the proposed rule change is to eliminate PHLX’s signature guarantee program and to enable PHLX to convert its Rules respecting signatures affecting assignments, powers of substitutions, signature guarantees, and other certifications and guarantees incident to the transfer, payment, exchange, purchase or delivery of certificates representing securities (including, but not limited to, erasure guarantees, one-and-the-same guarantees and situs certifications) to require members and member organizations to use a medallion imprint or stamp which signifies their participation in the “signature guarantee program” as defined by Rule 17Ad–15 (a “Rule 17Ad–15 Signature Guarantee Program”). Such programs are being offered and administered by entities unaffiliated with PHLX.

In order to facilitate compliance with transfer agents’ requirements for verification of signatures on guarantees made by member organizations, PHLX and its subsidiary, the Stock Clearing Corporation of Philadelphia (“SCCP”), jointly administered a signature guarantee program for their members. PHLX and SCCP members could subscribe to the joint PHLX/SCCP signature guarantee program, in an arrangement under which PHLX and SCCP provided sample signatures to transfer agents of certain authorized officers and/or employees under powers of attorney filed with PHLX and SCCP under PHLX Rules 327 and 340 and guaranteed the signature to any assignment or power of substitution executed by such authorized persons. The Offices of the Secretary of PHLX and SCCP required each member of the program to execute and submit an Agreement regarding Signature Guarantees, a power of attorney providing the name and sample signature of each authorized signatory, and certified resolutions of the Board of Directors appointing its authorized signatory. Under the Agreement regarding Signature Guarantees, the participant agrees to indemnify and hold harmless PHLX and SCCP for any loss resulting from its guarantee. The power of attorney remained in effect until written notice of revocation was received by SCCP. SCCP maintained an extensive file of sample authorized signatures provided by participating organizations and made these samples available to transfer agents. The SCCP transfer department notified issuers and transfer agents of changes in authorized signatories on behalf of member organizations. This program enabled members to send listed or over the counter securities directly to transfer agents without having each certificate individually guaranteed by a New York Stock Exchange member organization, a national bank, or the SCCP transfer department. PHLX’s signature guarantee program had been approved by the Stock Transfer Association. Additional insurance coverage was maintained by PHLX under a separate binder to its blanket bond coverage for SCCP for signature guarantee purposes in the amount of 25 million dollars for a single loss and 50 million dollars aggregate to cover certificates on which the signature (or authorized power of attorney) was guaranteed by a participating member of the signature guarantee program.

Pursuant to Rule 17Ad–15, recently adopted under the Act, transfer agents were empowered to establish guidelines for acceptable signature guarantee programs as contemplated by that Rule. Non-participants in such a signature guarantee program risk rejection of transfers. PHLX does not desire to administer a Rule 17Ad–15 Signature Guarantee Program and has determined that its signature guarantee program would not qualify under Rule 17Ad–15. PHLX has notified all members and participants in its signature guarantee program that as of October 26, 1992, the PHLX administered program would no longer be in compliance with Rule 17Ad–15 and PHLX was therefore discontinuing the program. It should be noted that PHLX’s signature guarantee program was not documented in PHLX’s rules. The references to the former signature guarantee program were contained in Rule 1 of the SCCP’s Rules and Rule 1 of the Philadelphia Depository Trust Company’s (“Philadep”) Rules. Each of these organizations have filed with the Commission proposals to amend their respective Rule 1.

Incidental to the foregoing, the rule change also reflects the restatement of certain PHLX rules relating to guarantees, transfers and deliveries of securities. Specifically, PHLX Rules 327, 338 and 339 have been amended to require members to use a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program to guarantee signatures, and to define a signature guarantee acceptable to PHLX as a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program. PHLX Rules 325, 328, 329, 330 and 331 have been amended to add cross references to the PHLX rules defining an acceptable signature guarantee or to substitute language regarding the use of a medallion or stamp of a Rule 17Ad–15 Signature Guarantee Program. In addition, the proposal eliminates certain unnecessary or obsolete rules and, where necessary in the interests of uniformity in the industry, amends certain PHLX rules in this area to conform to the corresponding rules of...
the New York Stock Exchange ("NYSE").

The proposed rule change is consistent with the Act, in general, and in particular with section 6(b)(5), in that it generally is designed to prevent fraudulent and manipulative acts and practices, to foster coordination among persons engaged in regulating, clearing, settling, and processing information with respect to transactions in securities, and to remove impediments and perfect the mechanism of a free and open market.

The proposed rule change also is consistent with the requirements of section 17A of the Act in that it fosters the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17Ad(5) of the Act and Rule 17Ad–15 thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those than may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-PHLX-92–39 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.
Jonathan G. Katz,
Secretary.

[Federal Register: May 6, 1993 (Vol. 58, No. 86) Pages 27031-27038]

[Release No. 34–32229; File No. SR-SCCP-92–03]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Proposed Rule Change Relating to Definition of Signature Guarantee

April 27, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on December 28, 1992, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by SCCP. SCCP amended the filing to correct citations contained in the original filing, to provide a description of its current signature guarantee program and to provide additional information regarding the purpose of certain amendments.

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

SCCP proposes to amend SCCP Rule 1 to define a "signature guarantee" as a medallion or stamp of a "signature guarantee program" under Rule 17Ad–15 adopted under the Act. The rule change also would clarify the language in SCCP Rule 1 regarding the warranties provided by a signature guarantee and would eliminate SCCP's existing signature guarantee program.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP 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. SCCP 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

The purpose of the proposed rule change is to eliminate SCCP's existing signature guarantee program and amend the definition of "signature guarantee" so that a medallion imprint or stamp evidencing participation in a "signature guarantee program" as defined by Rule 17Ad–15 will constitute a signature guarantee acceptable to SCCP. Such programs are being offered by entities unaffiliated with SCCP or its parent corporation, the Philadelphia Stock Exchange, Inc. ("PHLX").

In order to facilitate compliance with transfer agents' requirements for verification of signatures on guarantees made by member organizations, SCCP and PHLX jointly administered a signature guarantee program for their members. PHLX and SCCP members could subscribe to the joint PHLX/SCCP signature guarantee program, in an arrangement under which PHLX and SCCP provided sample signatures to

PHLX Rule 326 is being amended, consistent with NYSE Rule 201, to permit an assignment or power of substitution to be executed by a domestic executor, trustee or guardian, without additional documentation. PHLX Rule 340 is being amended, consistent with NYSE Rule 210 and the Uniform Commercial Code Section 9–312, to define the warranties provided by a signature guarantee.


Letter from Murray Ross, Secretary, SCCP, to Christine Sibille, Attorney, Commission (January 26, 1993); Letter from Murray Ross, Secretary, SCCP, to Christine Sibille, Attorney, Commission (February 8, 1993).
transfer agents of certain authorized officers and/or employees under powers of attorney filed with PHLX and SCCP under PHLX Rules 327 and 340 and guaranteed the signature to any assignment or power of substitution executed by such authorized persons. The Offices of the Secretary of PHLX and SCCP required each member of the program to execute and submit an Agreement regarding Signature Guarantees, a power of attorney providing the name and sample signature of each authorized signatory, and certified resolutions of the Board of Directors appointing its authorized signatory. Under the Agreement regarding Signature Guarantees, the participant agrees to indemnify and hold harmless PHLX and SCCP for any loss resulting from its guarantee. The power of attorney remained in effect until written notice of revocation was received by SCCP. SCCP maintained an extensive file of sample authorized signatures provided by participating organizations and made these samples available to transfer agents. The SCCP transfer department notified issuers and transfer agents of changes in authorized signatories on behalf of member organizations. This program enabled members to send listed or over the counter securities directly to transfer agents without having each certificate individually guaranteed by a New York Stock Exchange member organization, a national bank, or the SCCP transfer department. SCCP’s signature guarantee program had been approved by the Stock Transfer Association. Additional insurance coverage was maintained by PHLX under a separate binder to its blanket bond coverage for SCCP for signature guarantee purposes in the amount of 25 million dollars for a single loss and 50 million dollars aggregate to cover certificates on which the signature (or authorized power of attorney) was guaranteed by a participating member of the signature guarantee program. Pursuant to Rule 17A(d)-15, transfer agents were empowered to establish guidelines for acceptable “signature guarantee programs” as contemplated by Rule 17A(d)-15. Non-participants in such a “signature guarantee program” risk rejection of transfers. SCCP does not desire to administer a “signature guarantee program” as contemplated by Rule 17A(d)-15 on SCCP’s own or PHLX’s behalf. Instead, SCCP proposes to eliminate its existing signature guarantee program, and accept guarantees from a guarantor institution that is in a signature guarantee program as defined in Rule 17A(d)-15 and has attached a medallion or stamp evidencing participation in such a signature guarantee program on the certificate or other documentation.

In addition, the proposed rule change adds language, based on the Uniform Commercial Code Section 8-312, stating that a signature guarantee is a warranty of the genuineness of the signature, the appropriateness of the endorser, and the legal capacity of the endorser. This addition is made in an effort to create a more uniform standard in the securities industry.

The proposed rule change is consistent with the Act, in general, and in furtherance of section 17A(b)(3)(F) of the Act, in particular, that it generally is designed to foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions, and to remove impediments and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The proposed rule change also is consistent with the requirements of section 17A(d)(1) of the Act in that it fosters the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities. In addition, the proposal is consistent with section 17A(d)(5) of the Act and Rule 17Ad-15 thereunder.

B. Self-Regulatory Organization’s Statement on Burden on Competition

SCCP does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period is appropriate and

*The New York Stock Exchange has adopted similar language in its Rule 210. The Midwest Stock Exchange is considering adding a corresponding provision to its rules. Conversation between Murray Ross, Secretary, SCCP, and Christine Sibille, Staff Attorney, Division of Market Regulation, Commission (January 12, 1993).

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or
B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-SCCP-82-03 and should be submitted by May 27, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 93-10629 Filed 5-5-93; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-19443; File No. 812-8336] ITT Life Insurance Corp., et al.; Applications

April 29, 1993.

AGENCY: Securities and Exchange Commission (the “Commission” or the “SEC”).

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the “1940 Act”).

APPLICANTS: ITT Life Insurance Corporation (“ITT Life”), ITT Life Insurance Corporation Separate Account Two (the “Separate Account”) and Hartford Equity Sales Company, Inc.
RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under a flexible premium deferred variable annuity contract (the “Contract”).

FILING DATE: The application was filed on April 1, 1993 and amended on April 23, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission 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 May 24, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC’s Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

Applicants, c/o Kathleen McGah, Esq., Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, CT 06070.

FOR FURTHER INFORMATION CONTACT:

Thomas Bisset, Senior Attorney, at (202) 272-2058, or Wendell Faria, Deputy Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission’s Public Reference Branch.

APPLICANTS’ REPRESENTATIONS

1. ITT Life is a stock life insurance company engaged in the business of writing individual and group life insurance and annuities in the District of Columbia and all states except New York.

2. The Separate Account was established by ITT Life and has filed a registration statement under the 1940 Act as a unit investment trust. It will issue only flexible premium deferred variable annuity contracts (the “Contracts”). The Separate Account will initially be the variable option for certain contract owners who previously purchased fixed annuity contracts from Fidelity Bankers Life Insurance Company (“FBL Contract Owners”). On May 13, 1991, a receiver was appointed for Fidelity Bankers Life Insurance Company, an insurer domiciled in Virginia. The receiver selected Hartford Life Insurance Company, an affiliated insurer of ITT Life, to assume and reinsure certain FBL contracts. FBL Contract Owners may select a fixed annuity option sponsored by the Hartford Life Insurance Company. On or after May 15, 1993, the FBL Contract Owners may transfer into the Separate Account.


3. Hartford Equity Sales Company, Inc., the principal underwriter for the Contracts, is a broker-dealer registered under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

4. There is no deduction for sales expenses from purchase payments when made, but a contingent deferred sales charge (“CDSC”) may be assessed when a Contract is surrendered. CDSCs are assessed first from purchase payments in the order received and then from other Contract values. The CDSC is a percentage of the amount withdrawn (not to exceed the aggregate amount of the purchase payments made), as follows:

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<th>Charge</th>
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<td>6 percent</td>
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<td>0 percent</td>
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5. An annual maintenance fee of $25 is deducted from Contract values each Contract year. ITT Life also assesses a daily charge at the rate of .15 per annum against all Contracts held in the Separate Account during both the accumulation and annuity phases of the Contracts. ITT Life guarantees that it will not increase the annual maintenance fee of $25.00 and the administrative fee of .15% per annum. In addition, Applicants represent that the annual maintenance fee and the daily administrative charge will not be more than the actual cost of the administrative services provided.

6. For assuming mortality and expense risks under the Contracts, ITT Life will make a daily charge at the annual rate of 1.25% against all Contract values held in the Separate Account. Approximately 0.90% of that charge is for assuming mortality risks and 0.35% is for assuming expense risks. The rate of the mortality and expense risk charge cannot be increased. ITT Life assumes mortality risks by undertaking to make annuity payments under the Contract option selected by the Contract owner regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live. ITT Life also assumes mortality risks by undertaking payment of a minimum death benefit under the Contract. ITT Life assumes the expense risk that administrative fees may be insufficient to cover the actual expenses. If the mortality and expense risk charge is insufficient to cover the actual cost of the expense risk undertaking, ITT Life will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be surplus to ITT Life and will be available for any proper corporate purpose. ITT Life expects a reasonable profit from the mortality and expense risk charge.

Applicants’ Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, securities, or transactions from any provision of the 1940 Act if and to the extent that 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 1940 Act.

2. Applicants request an order under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) to deduct a mortality and expense risk charge from the assets of the Separate Account. Section 27(c)(2) of the 1940 Act prohibits the sale of periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are held under an indenture or agreement containing in substance the provisions required by sections 26(a)(2) and (3). Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense.
Account under the Contract meets the

to deduct the mortality and expense risk

requested exemption from sections

Act.

this representation.

Commission upon request a

undertakes to maintain at its home

Account's distribution financing

a reasonable likelihood that the Separate

Applicants have concluded that there is

unit value administration; and

all have the same special

all have guaranteed annuity purchase

rates; (iv) all have the same special

lower than Applicants' Contracts; (iii)

death benefit guarantees the same or

include profit from the mortality and

explicit sales loads will be insufficient

likelihood that the proceeds from

forth in detail the methodology

office, available to the Commission

Participation of Private-sector

Representatives on U.S. Delegations

As announced in Public Notice No.

655 (44 FR 17846), March 23, 1979, the

Department is submitting its January 14,

92–January 26, 1993 list of U.S.

crediting Delegations which included

secured and presented in the Federal Register on


Dated: March 9, 1993.

Frank R. Proven,

Managing Director, Office of International

Conferences.

United States Delegation to the 3rd

Meeting of the Aeronautical Fixed

Service Systems Planning for Data

Interchange Panel International Civil

Aviation Organization (ICAO)

Montreal, January 14–January 30, 1992

Representative

Cindy J.H. Peak, Manager,

Communications Systems Engineering

Division, Federal Aviation

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United States Delegation to the Group

of Rapporteurs and Pollution and

Energy, Twenty-Third Session,

Economic Commission for Europe (ECE)

Geneva, January 20–22, 1992

Representative

Thomas Baines, Senior Project Director,

Office of Mobile Sources,

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Private Sector Advisers

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United States Delegation to the Working

Party on Gas, Second Session,

Economic Commission for Europe (ECE)

Geneva, January 20–22, 1992

Representative

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Alternate Representative

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Affairs, Department of State

Private Sector Adviser

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Propane, Elizabeth, New Jersey

United States Delegation to the Meeting

of Study Group III and Working Party

4 of the International Telegraph and

Telephone Consultative Committee,

International Telecommunication

Union, Geneva, Switzerland, January

21–23, 1992

Representative

Earl S. Barbey, Director,

Telecommunications and Information

Standards, Department of State

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Western Union Corporation, Upper

Saddle River, New Jersey

Kenneth Leeson, Telecommunications

Advisor, International Business

Machines, Purchase, New York

Robert Madden, Manager, American

Telephone & Telegraph Co.,

Morristown, New Jersey

(exter that provision may be made for

the payment to any such person of a fee,

not exceeding such reasonable amount

as the Commission may prescribe, as

compensation for performing

bookkeeping or other administrative

services).

3. Applicants represent that the

mortality and expense risk charge of

1.25% is within the range of industry

practice for comparable annuity

contracts as determined by a survey of

comparable contracts issued by other

insurance companies. Applicants

Contract is comparable to the Contracts

of other insurance companies in that (i)

current charge levels are approximately

the same; (ii) all provide minimum

death benefit guarantees the same or

lower than Applicants' Contracts; (iii)

all have guaranteed annuity purchase

rates; (iv) all have the same special

accounting system for separate account

unit value administration; and (v) all are

offered in the same market. ITT Life

undertakes to maintain at its home

office, available to the Commission

upon request, a memorandum setting

forth in detail the methodology

underlying this representation and the

contracts analyzed.

4. Applicants state that there is a

likelihood that the proceeds from

explicit sales loads will be insufficient

to cover the expected costs of

serving the Contracts. Any shortfall

will be covered from the assets of ITT

Life's general account, which may

include profit from the mortality and

expense risk charge. Therefore,

Applicants have concluded that there

is a reasonable likelihood that the Separate

Account's distribution financing

arrangement will benefit the Separate

Account and Contract owners. ITT Life

undertakes to maintain at its home

office, and make available to the

Commission upon request, a memorandum setting forth the basis of

this representation.

5. Applicants represent that the

Separate Account will invest only in

open-end management investment

companies that have undertaken to have

a board of directors, a majority of whom

are not interested persons of the

company, formulate and approve any

plan to finance distribution expenses

pursuant to Rule 12b–1 under the 1940

Act.

Conclusion

Applicants assert that, for the reasons

and upon the facts set forth above, the

requested exemption from sections

26(a)(2)(C) and 27(c)(2) of the 1940 Act
deduct the mortality and expense risk
charge from the assets of the Separate

Account under the Contract meets the

standards in section 6(c) of the 1940

Act. Applicants assert that the

exemption requested is necessary and

appropriate in the public interest and

consistent with the protection of

investors and the policies and

provisions of the 1940 Act.

For the Commission, by the Division of

Investment Management, pursuant to
delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–10631 Filed 5–5–93; 8:45am]

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Technical Subgroup on Controls (January 25–26)
Representative
Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President
Alternate Representative
Michael Glover, Economic Officer, United States Embassy, London

Technical Subgroup on Indicator Prices (January 27–29)
Representative
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Alternate Representative
Thomas L. Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Adviser
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International Coffee Organization Council and Negotiating Session (February 1–5)
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Alternate Representative
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United States Delegation to the Forty-Eighth Session of the Human Rights Commission, United Nations Economic and Social Council (ECOSOC), Geneva, January 27–March 6, 1992
Representative
The Honorable J. Kenneth Blackwell, Ambassador, United States Representative to the United Nations Human Rights Commission

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The Honorable Morris B. Abram, Ambassador, Permanent Representative to the European Office of the United Nations, Geneva
The Honorable John R. Bolton, Assistant Secretary, Bureau of International Organization Affairs, Department of State
The Honorable Otto J. Reich, Washington, DC
The Honorable Richard Schifter, Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs, Department of State

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The Honorable Juliette Clagett McLennan, Ambassador, United States Representative to the United Nations Commission on the Status of Women, Washington, DC
H. Clarke Rodgers, Deputy Chief of Mission, United States Mission, Geneva

The Honorable Shirin R. Tahir-Kheli, United States Alternate Representative for Special Political Affairs, New York
Jackie Wolcott, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State

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Ramona Dunn, United States Mission, Geneva
Peter Eicher, United States Mission, Geneva
Elizabeth Kimber, United States Mission, Geneva
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John Knox, Office of the Legal Adviser, Department of State
Karen E. Krueger, Deputy Director, Office of Multilateral Affairs, Bureau of Human Rights and Humanitarian Affairs, Department of State
Gail Dennis Mathieu, United States Observer Mission to the United Nations Educational, Scientific and Cultural Organization, Paris
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The Honorable Gerald B. Helman, Ambassador, Vice Chairman, United States Delegation
Walda Roseman, Federal Communications Commission, Vice Chairman, United States Delegation

Charles Rush, Department of Commerce, Vice Chairman, United States Delegation
The Honorable Harrison Schmitt, Vice Chairman, United States Delegation
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Karyl Irion, National Aeronautics and Space Administration
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Harold Kimball, International Regulation and Technology, Division Director, National Telecommunications and Information Administration, Department of Commerce
William Luther, International Adviser, Field Operations Bureau, Federal Communications Commission
Niels Marquardt, First Secretary, American Embassy, Paris
Robert May, HQAF SMA/CA, United States Air Force, Department of Defense
Robert McIntyre, Private Radio Bureau, Federal Communications Commission
H. Donald Messer, Voice of America, United States Information Agency
Larry Olson, Chief, International Branch Negotiations, Federal Communications Commission

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Roman Zaputowycz, Bell Atlantic, Bedminster, New Jersey

United States Delegation to the International Coffee Organization (ICO), London, February 4-7, 1992

Representative
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United States Delegation to the Meeting of the Study Group II (Network Operations and ISDN), International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, February 4-14, 1992

Representative
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United States Delegation to the 6th Negotiating Session of the Biological Diversity Convention, United Nations Environmental Program (UNEP), Nairobi, February 6-15, 1992

Representative
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United States Delegation to the North American Forestry Commission, 16th Session, Food and Agriculture Organization (FAO), Cancun, Mexico, February 10-14, 1992

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United States Delegation to the Accident Investigation Divisional Meeting, International Civil Aviation Organization (ICAO), Montreal, February 11-28, 1992

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Bernard Loeb, Director, Office of Research and Engineering, National Transportation Safety Board
Monty Montgomery, Advisor on Flight Recorder Issues, Chief, Engineering Services Division, Office of Research and Engineering, National Transportation Safety Board
John Rawson, Manager, Accident Investigation Division, Office of Accident Investigation, Federal Aviation Administration
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Stan Smith, Advisor on ADREP Issues, Chief, Data and Analysis Division, Office of Research and Engineering, National Transportation Safety Board
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Representative

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Alternate Representative

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Rear Admiral Sidney A. Wallace, USCG (retired), Chairman of the Marine Environment Protection Committee

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John Tucker, Vice President of Engineering, National Steel and Shipbuilding Co., San Diego, CA

David Usher, President, Spill Control Association of America, Detroit, MI

United States Delegation to the 32nd Session of the Marine Environment Protection Committee, International Maritime Organization (IMO), London, March 2–6, 1992

Representative

Rear Admiral Arthur E. Henn, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representatives

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United States Delegation to the 1st Meeting of the Joint Global Investigation of Pollution in the Marine Environment, Intergovernmental Oceanographic Commission (IOC), United Nations Environmental Program (UNEP), Paris, March 4–7, 1992

Representative

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United States Delegation to the Study Group XI Switching and Signalling Meeting of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, March 9–20, 1992

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Roger Wilmot, Computer Sciences Corporation, Falls Church, Virginia

United States Delegation to the Thirty-Sixth Session of the Commission on the Status of Women, United Nations Economic and Social Council (ECOSOC), Vienna, March 11–20, 1992

Representative
The Honorable Juliette Clegg
McLennan, Ambassador, United States Representative to the United Nations Commission on the Status of Women

Alternate Representatives
The Honorable Jane E. Becker, Ambassador, United States Representative to International Organizations, Vienna
Gwendolyn Marie Boeke, Crewsow, Iowa
Patricia S. Harrison, Arlington, Virginia
Gwendolyn S. King, Commissioner for Social Security, Social Security Administration, Department of Health and Human Services
Elise Vartanian, Director, Women’s Bureau, Department of Labor

Senior Advisers
Jackie Wolcott, Deputy Assistant Secretary for International Humanitarian and Social Affairs, Bureau of International Organization Affairs, Department of State

Advisers

Advisers
Don Choi, Electronics Engineer, Defense Information Systems Agency
Leslie A. Collica, Computer Scientist, National Institute of Standards Technology, Department of Commerce
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United States Delegation to the Thirty-Sixth Session of the Commission on the Status of Women, United Nations Economic and Social Council (ECOSOC), Vienna, March 11–20, 1992

Representative
The Honorable Juliette Clegg
McLennan, Ambassador, United States Representative to the United Nations Commission on the Status of Women

Alternate Representatives
The Honorable Jane E. Becker, Ambassador, United States Representative to International Organizations, Vienna
Gwendolyn Marie Boeke, Crewsow, Iowa
Patricia S. Harrison, Arlington, Virginia
Gwendolyn S. King, Commissioner for Social Security, Social Security Administration, Department of Health and Human Services
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Richard W. Hoover, United States Mission, Vienna
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Thomas E. Thompson, Captain, Chief, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative
George F. Wright, Commander, Chief, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety,

Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers
Michael L. Blair, Lieutenant Commander, Engineering Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Ashis K. Chatterjee, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Roger M. Dent, Lieutenant Commander, Assistant Chief, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Gregory Shark, American Bureau of Shipping, New York, NY

United States Delegation to the Final Meeting of the Plenary Period of Study Group I (Services) of the International Telegraph and Telephone Consultative Committee, International Telecommunication Union (ITU), Geneva, Switzerland, March 24-April 3, 1992

Representative
Douglas V. Davis, Attorney Advisor, Common Carrier Bureau, Federal Communications Commission

Advisers
Granger Kelly, Electrical Engineer, Interoperability and Standards Office, Defense Communication Agency
Victor Muller, Department Assistant, Defense Information Systems Agency

Private Sector Advisers
Sandra J. Burns, District Manager, Bellcore, Morristown, New Jersey
Anita F. Kaufman, Senior Staff Specialist, MCI International, Rye Brook, New York
Thanos Kiprios, Senior Standards Engineer, COMSAT, Washington, DC
Ben Č. Levitan, Engineer, Aeronautical Radio, Inc., Annapolis, Maryland
Robert Madden, Manager, AT&T, Morristown, New Jersey
Herman R. Siltbarger, Communications Consultant, Applicom, Tinton Falls, New Jersey
Blake Wattenbarger Engineering Supervisor, AT&T Bell Laboratories, Holmdel, New Jersey

United States Delegation to the Committee on Commodity Problems, Intergovernmental Group on Wine and Vine Products, 5th Session, Siena, Italy, March 30-April 3, 1992

Representative
Katharine Nishiura, Agricultural Economist, Horticultural and Tropical Products Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative
J. Dawson Ahalt, United States Mission to the United Nations Agencies for Food and Agricultural Affairs, Rome

Private Sector Adviser
Kirby Mouton, Economist, University of California at Berkeley, Berkeley, CA.

United States Delegation to the 3rd Meeting of the Special Committee for the Monitoring and Coordination of the Development of Transition Planning for the Future Air Navigation Systems (FANS), International Civil Aviation Organization (ICAO), Montreal, March 30-April 14, 1992

Representative
Martin T. Pozesky, Associate Administrator, System Engineering and Development, Federal Aviation Administration

Alternate Representative
Norman Solat, Research and Development Service, Federal Aviation Administration

Advisers
Frank Colson, Director, Transportation and Federal Aviation, Office of the Secretary, United States Air Force, Department of Defense
Dennis B. Cooper, Manager, International Research Programs Office, Federal Aviation Administration
David DeCarne, Manager, International Organizations Branch, Office of International Aviation, Federal Aviation Administration
Joseph Dorfler, Manager, Satellite Navigation and Communication Program, Federal Aviation Administration
Joseph 0. Pitts, Manager, NAS Programs and Future Systems Branch, Advanced Systems and Facilities Division, Federal Aviation Administration

Private Sector Advisers
Larry Chesto, Director, Telecommunications Systems, Aeronautical Radio, Inc., ARINC, Annapolis, Maryland
Roger Fleming, Air Transport 
Association of America, Washington, 
DC

Raymond J. Hilton, Director, Air Traffic 
Management, Air Transport 
Association of America, Washington, 
DC

United States Delegation to the 
Americas Regional 
Telecommunications Development 
Conference of the International 
Telecommunication Union (ITU), 
Acapulco, Mexico, March 31-April 4, 
1992 

Representative

The Honorable Bradley P. Holmes, 
United States Coordinator and 
Director, Bureau of International 
Communications and Information 
Policy, Department of State

Alternate Representative

Thomas Sugrue, Acting Assistant 
Secretary for Communications and 
Information, National 
Telecommunications and Information 
Administration, Department of Commerce

Advisers

Rudolfo Baca, Senior Attorney, Office of 
International Communications, 
Federal Communications Commission

Kenneth W. Bleakley, Deputy United 
States Coordinator and Director, 
Bureau of International 
Communications and Information 
Policy, Department of State

Doreen Bogdan, Telecommunications 
Policy Specialist, Office of 
International Affairs, National 
Telecommunications and Information 
Administration, Department of Commerce

Daniel Goodspeed, Counselor, Bureau of 
International Communications and 
Information Policy, Department of State

Nedra Huggins-Williams, Senior 
Advisor for Telecommunications 
Development, Bureau of International 
Communications and Information 
Policy, Department of State

William Moran, Telecommunications 
Policy Specialist, Office of 
International Affairs, National 
Telecommunications and Information 
Administration, Department of Commerce

Jean Prewitt, Associate Administrator, 
Office of International Affairs, 
National Telecommunications and 
Information Administration, 
Department of Commerce

Walda Roseman, Director, Office of 
International Communications, 
Federal Communications Commission

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Government Affairs, AT&T, 
Washington, DC

Ray Crowell, Director, Industry/ 
Government Planning, COMSAT, 
Washington, DC

David Fine, Assistant Vice President, 
Government and International 
Relations, Southwestern Bell 
Corporation, Washington, DC

Douglas Goldschmidt, Vice President, 
Business Development, Alpha 
LyraCom/PanAmSat, Greenwich, 
Connecticut

Ann LaFrance, Partner, Squire, Sanders 
and Dempsey, Washington, DC

Travis Marshall, Vice President, 
Motorola Corporation, Washington, 
DC

Judith O'Neil, Attorney, Steptoe & 
Johnson, Washington, DC

Aileen Pisicotta, International 
Communications Counsel, Latham & 
Watkins, Washington, DC

United States Delegation to the 
International Coffee Organization (ICO) 
Working Group (April 2-3) and 
International Coffee Organization 
Council Meeting (April 6-10), London, 
April 2-10, 1992 

Representative

Myles Prachotte, Assistant United States 
Trade Representative for Latin 
America, Africa and the Caribbean, 
Executive Office of the President

Alternate Representative

Dan Cruz-DePaula, Deputy Director for 
Commodities, Office of the United 
States Trade Representative, 
Executive Office of the President

Advisers

William Weingarten, Director, Office of 
Food Policy Programs, Bureau of 
Economic and Business Affairs, 
Department of State

Robert Windsor, First Secretary, United States 
Embassy

Private Sector Advisers

David Brown, Division of Kraft General 
Foods, Maxwell House Coffee Co., 
White Plains, NY

Steven Gluck, Vice President, Cargill 
Coffee, Cargill Inc., Liberty Corner, NJ

John T. Hays, Founder/Director, Coffees 
of Hawaii, Inc., Honolulu, Hawaii

John Sutherland, Division of Quaker 
Oats Corp., Continental Coffee, 
Chicago, IL

Richard L. Thompson, Vice President 
Commodities, Nestle Beverage Co., 
San Francisco, CA

Gregory W. White, Folgers Coffee, 
Cincinnati, Ohio

United States Delegation to the 56th 
Session of the Maritime Safety 
Committee (MSC), International 
Maritime Organization (IMO), London, 
April 6-10, 1992 

Representative

A.E. Henn, Rear Admiral, Chief, Office 
of Marine Safety, Security and 
Environmental Protection, United 
States Coast Guard, Department of Transportation

Alternate Representative

Joseph J. Angelo, Chief, Merchant Vessel 
Inspection and Documentation 
Division, United States Coast Guard, 
Department of Transportation

Advisers

H. Paul Colleen, Chief, Naval 
Architecture Branch, Marine 
Technical and Hazardous Materials 
Division, United States Coast Guard, 
Department of Transportation

Charles Guldenscuh, Captain, Chief, 
Marine Investigation Division, United 
States Coast Guard, Department of Transportation

Gene Hammel, International Affairs 
Staff, United States Coast Guard, 
Department of Transportation

Edward J. LaRue, Chief, Navigation 
Rules and Information Branch, United 
States Coast Guard, Department of Transportation

Robert Markle, Chief, Survival Systems 
Branch, Merchant Vessel Inspection 
and Documentation Division, United 
States Coast Guard, Department of Transportation

Robert C. McIntyre, Chief, International 
Staff, Private Radio Bureau, Federal 
Communications Commission

Marjorie Murtagh, Chief, Fire Protection 
Section, Marine Technical and 
Hazardous Materials Division, United 
States Coast Guard, Department of Transportation

Marvin J. Pontiff, Lieutenant 
Commander, Chief, Compliance and 
Enforcement Branch, United States 
Coast Guard, Department of Transportation

S. A. Wallace, Rear Admiral USCG 
(Ret.), Reston, Virginia

Private Sector Advisers

Jim Dolan, Senior Vice President, 
American Bureau of Shipping, New 
York, NY

Joseph J. Cox, Vice President, American 
Institute of Merchant Shipping, 
Washington, DC
United States Delegation to the Fifth Meeting of Study Group VII (Data Networks) of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, April 6–16, 1992

Representative
Gary M. Fereno, Senior Telecommunications Policy Specialist, Bureau of International Communications and Information Policy, Department of State

Advisers
Victor Muller, Department Assistant, Defense Information Systems Agency
Steve Perschau, Senior Engineer, National Communications System
Neil Seitz, Deputy Director, Systems and Network Development, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers
Mack W. Bishop, Programmer, IBM Corporation, Roanoke, Texas
Edmond Blouston, Managing Director, Electronic Data Systems, Corte de Caza, California
Fred M. Burg, Supervisor, Standards, AT&T Bell Laboratories, Holmdel, New Jersey
Richard Jesmajian, Senior Engineer, AT&T Bell Laboratories, Holmdel, New Jersey
Ben C. Lavitan, Engineer, ARINC, Annapolis, Maryland
James R. Moulton, President, Open Network Solutions, Inc., Sterling, Virginia
Mark Neibert, Manager, International Digital and Protocol Standards, COMSAT, Washington, DC
Joel M. Snyder, Consultant, Tucson, Arizona

United States Delegation to the Meeting of Study Group 7 (Science Services) of the International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, Switzerland, April 7–9, 1992

Representative
Robert M. Taylor, Spectrum Management Specialist, NASA

Advisers
Roger E. Beehler, Manager, NBS Broadcast Services, National Institute of Standards and Technology, Department of Commerce
Harold G. Kimball, Chairman CCIR Study Group 7, Deputy Associate Administrator, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers
Roger Andrews, Atlantic Research Corporation, Professional Services Group, Sterling, Virginia
Alan Rinker, Atlantic Research Corporation, Professional Services Group, Sterling, Virginia

United States Delegation to the 30th Session of the Administrative and Legal Committee, International Union for the Protection of New Varieties of Plants (UPOV), Geneva, April 8–9, 1992

Representative
Lee J. Schroeder, United States Alternate Representative to the UPOV Council, Patent and Trademark Office, Department of Commerce

Adviser
Alan Atchly, Examiner, Plant Variety Protection Office, Department of Agriculture

Private Sector Adviser
Michael Roth, Chief Patent Counsel, Pioneer Hi Bred International, Inc., Des Moines, Iowa


Representative to the Working Group Technical Sessions and Alternate Representative to the Policy Sessions
Robert Reiley, Director, Office of Metals, Minerals, and Commodities, Department of Commerce

Adviser
Margaret Jones, Office of Special Trade Activities, Bureau of Economic and Business Affairs, Department of State

Alternate Representative
Gary Fereno, Director of CITEL and CCITT, Standards and Policy, Bureau of International Communications and Information Policy, Department of State

Adviser
Steven Perschau, Senior Engineer, National Communications Systems

Private Sector Advisers
Bruce J. DeGrasse, Consultant, B.J. Communications, Dallas, Texas
Michael C. Nier, Senior Engineer, Eastman Kodak Company, Rochester, New York
Herman R. Silbiger, Communications Consultant, APPLICOM, Tinton Falls, New Jersey
Cornelius J. Starkey, Vice President, Data Beam Corporation, Lexington, Kentucky
Charles Touchton, Standards Engineer, IBM Corporation, Tampa, Florida
Delegates

James O. Mason, M.D. (Chief Delegate), Assistant Secretary for Health, United States Public Health Service, Department of Health and Human Services
Antonia C. Novello, M.D., Surgeon General, United States Public Health Service, Department of Health and Human Services

Alternate Delegates

The Honorable Morris B. Abram, Ambassador, United States Permanent Representative to the European Office of the United Nations, Geneva
Neil A. Boyer, Director, Health and Transportation Programs, Bureau of International Organization Affairs, Department of State
James Sarn, M.D., Deputy Assistant Secretary for International Health, United States Public Health Service, Department of Health and Human Services

Advisers

Kenneth Bernard, M.D., Associate Director for Medical and Scientific Affairs, Office of International Health, United States Public Health Service, Department of Health and Human Services
John R. Crook, Counselor for Legal Affairs, United States Mission, Geneva
Joe H. Davis, M.D., Assistant Director for International Health, Centers for Disease Control, United States Public Health Service, Department of Health and Human Services
Peter D. Eicher, Counselor for Political Affairs, United States Mission, Geneva
Elizabeth A. Kimber, United States Mission, Geneva
Melinda L. Kibble, Deputy Assistant Secretary for International Development and Technical Specialized Agency Affairs, Bureau of International Organization Affairs, Department of State
Stuart Nightingale, M.D., Associate Commissioner for Health Affairs, Food and Drug Administration, United States Public Health Service, Department of Health and Human Services
Thomas E. Park, Deputy Director, Office of Health, Bureau for Research and Development, Agency for International Development
Vivian W. Pinn, M.D., Director, Office of Research on Women's Health, National Institute of Health, United States Public Health Service, Department of Health and Human Services
Donald L. Pressley, Development Attaché, United States Mission, Geneva
H. Clarke Rodgers, Deputy Chief of Mission, United States Mission, Geneva
Clayton F. Rubensaal, Jr., United States Mission, Geneva
Harold P. Thompson, International Health Attaché, United States Mission, Geneva

Private Sector Advisers

Tenley Albright, M.D., Chairman of the Board, Institute for Clinical Applications, Inc., Boston, Massachusetts
Alma Rose George, M.D., President, National Medical Association, Washington, DC
Eric Munoz, M.D., Medical Director, University Hospital, Associate Dean for Clinical Affairs and Associate Professor of Surgery, New Jersey Medical School, Newark, New Jersey
Margaretta Madden Styles, American Nurses Association, Livingston Professor of Nursing, University of California at San Francisco, San Francisco, California
William Walsh, M.D., Director, Project Hope, Washington, DC

United States Delegation to the Chemicals Group and Management Committee, 18th Joint Meeting, Organization for Economic Cooperation and Development (OECD) Paris, May 11-14, 1992

Representative

Linda J. Fisher, Assistant Administrator, Office of Pesticides and Toxic Substances, Environmental Protection Agency

Advisers

Charles Auer, Director, Existing Chemicals Assessment Division, Environmental Protection Agency
Mark A. Greenwood, Director, Office of Toxic Substances, Environmental Protection Agency
Breck Milroy, Office of Environmental Protection, Bureau of Oceans and International Environmental and Scientific Affairs, State Department
David A. Ogden, Office of International Activities, Environmental Protection Agency

Private Sector Advisers

Kenneth Murray, Exxon Corporation, East Brunswick, New Jersey
Polly Hopkin Thomas, World Wildlife Fund, Washington DC

United States Delegation to the Study Group II (Broadcasting Services—Television), International Radio Consultative Committee (CCIR), International Telecommunication Union (ITU), Geneva, Switzerland; May 11-14, 1992

Representative

Warren G. Richards, Standards and International Organizations, Bureau of International Communications and Information Policy, Department of State

Private Sector Adviser

Edward E. Reinhardt, Consultant, McLean, Virginia


Representative

John Reiser, Electronics Engineer, Mass Media Bureau, Federal Communications Commission

Private Sector Adviser

Bruce Gravens, ABL Engineering, Mentor, Ohio
William P. Kinsella, GTE-Spacenet Corp., Engineering Department, McLean, Virginia

United States Delegation to the XXIV Meeting of the Permanent Executive Committee (COMCITEL), Inter-American Telecommunications Conference (CITEL), Organization of American States (OAS), Santiago, Chile, May 11-13, 1992

Representative

Gary M. Fereno, Director for CITEL AND CCITT Policy, Bureau of International Communications and Information Policy, Department of State

Advisers

Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission
William P. Moran, Program Director, National Telecommunication and
Information Administration, Department of Commerce
Private Sector Advisers
Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Director, International Organizations and Standards, AT&T, Morristown, New Jersey
Thomas Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia
United States Delegation to the XXIV Meeting of the Permanent Executive Committee (COM/CITEL), Inter-American Telecommunications Conference (CITEL), Organization of American States (OAS), Santiago, Chile, May 11-15, 1992
Advisers
Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission
William F. Moran, Program Director, National Telecommunication and Information Administration, Department of Commerce
Private Sector Advisers
Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Director, International Organizations and Standards, AT&T, Morristown, New Jersey
Thomas Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia
Representative
Marjorie Murthaugh, Chief, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety and Environmental Protection, United States Coast Guard, Department of Transportation
Alternate Representative
Joseph Westwood-Booth, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Advisers
Roy A. Nash, Lieutenant Commander, Fire Protection Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Klaus Wahle, Survival Systems Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation
Private Sector Advisers
Rupert Chandler, Hopeman Brothers Inc., Waynesboro, Virginia
Teams and Organizations:
Agriculture
Luther V. Giddings, Staff Geneticist, Animal and Plant Health Inspection Service, Department of Agriculture
Henry Shands, National Program Leader for Plant Germ Plasm, Agricultural Research Service, Department of Agriculture
Merrit Sprague, Deputy Director, Office of Program Analysis, Department of Interior
Merritt Sprague, Deputy Director, Office of Program Analysis, Department of Interior

Representative
James W. Glosser, Special Assistant to the Administrator, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
Alternate Representative
Lonnie J. King, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
Advisers
Mark Duhin, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
James Smith, Animal and Plant Health Inspection Service (APHIS), Department of Agriculture
Alex B. Thierrmann, Deputy Administrator, International Services, Department of Agriculture
Private Sector Adviser
James Steel, Professor Emeritus, University of Texas School of Medicine, Houston, Texas
Representative and Chairman
Robert C. McIntyre, International Advisor, Private Radio Bureau, Federal Communications Commission
Advisers
Frank Rose, Private Radio Bureau, Federal Communications Commission
Richard L. Swanson, International Advisor, Private Radio Bureau, Federal Communications Commission
James T. Vorhees, National Telecommunications and Information Administration, Department of Commerce
Private Sector Advisers

William M. Borman Vice President, Government Relations, Motorola Inc., Washington, D.C.
Paul Rinaldo, American Radio Relay League, Newington, Connecticut

Representative
Gerald L. Richard, International Procedures Specialist, Federal Aviation Administration, Department of Transportation

Drazen T. Gardinl, International Procedures Specialist, Federal Aviation Administration, Department of Transportation

Roy Grimes, Aviation Safety Inspector, Federal Aviation Administration, Department of Transportation
Dale Livingston, Technical Program Manager, Atlantic City Airport Technical Center, Federal Aviation Administration, Department of Transportation
Michael Pumphrey, Assistant Manager, Federal Aviation Administration, Department of Transportation

Private Sector Advisers

Richard Covell, Manager, Air Ground Operations Aeronautical Radio Inc., Annapolis, Maryland
William Russell, Director, Flight Technology, Air Transport Association of America, Washington, DC

United States Delegation to the Council of the International Natural Rubber Organization (INRO), Kuala Lumpur, Malaysia, May 19-27, 1992
Representative
Daniel Cruz-DePaula, Deputy Director for Commodity, Policy and North South Affairs, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative
David Giesler, Economic Officer, United States Embassy, Kuala Lumpur

Private Sector Advisers

Mark Blitstein, Goodyear Tire and Rubber Company, Akron, Ohio
Harold Ross Miller, Managing Director, Goodrich Co. Pvt. Ltd., Singapore

Stanley Malcom Schultz, The Firestone Tire and Rubber Company, Akron, Ohio
Richard Alan Stauffer, Director, Cargill, Inc., Minnetonka, Minnesota
Peter W. C. Tan, Managing Director, Goodyear Orient Private Ltd., Singapore

Representative and Chairman
William T. Hatch, National Telecommunications and Information Administration, Department of Commerce

Advisers
Robert Hinkle, National Telecommunications and Information Administration, Department of Commerce
William Luther, Field Operations Bureau, Federal Communications Commission

Private Sector Adviser and Vice Chairman
Hans J. Weiss, Vice President, Technical Policy, COMSAT Laboratories, Clarksburg, Maryland

Private Sector Adviser
William Rummel, AT&T Bell Laboratories, Crawfords Corner Road, Holmdel, New Jersey

Principal Observer
Richard T. McDonnell, Agricultural Counselor, American Embassy, Madrid

Observer
Donald J. Mergen, Agricultural Attache, American Embassy, Madrid

Private Sector Adviser
David Daniels, Manager, California Olive Committee, Fresno, California

United States Delegation to the Maritime Transport Committee (MTC), June 1 and 3-4 and Informal Meeting Between Members of the Maritime Transport Committee and Representatives of the Central and Eastern European Countries (June 1-3), Organization for Economic Cooperation and Development (OECD), Paris, June 1-4, 1992
Representative
Geoffrey Ogden, Director, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of the State

Alternate Representative
Ralph Edwards, Office of International Affairs, Maritime Administration, Department of Transportation

Adviser
Appropriate USOECD, Mission Officer, Paris

Private Sector Advisers

Philip J. Loree, Chairman, Federation of American Controlled Shipping, New York, New York
Donald L. O'Hare, Sea-Land Corporation, Iselin, New Jersey

Private Sector Adviser
Peter Prowitt, American President Corporation, Washington, DC

United States Delegation to the Antarctic Treaty Consultative Meeting, Buenos Aires, June 1-4, 1992
Representative
Raymond Arnaudo, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of the State

Advisers
John Bengtson, Chief, Marine Mammal Division, National Marine Fisheries Service, Department of Commerce
Sidney Draggan, Division of Polar Programs, National Science Foundation

Private Sector Adviser
Bruce Wiersma, Dean, College of Resources, University of Maine, Bangor, Maine
United States Delegation to the 49th Session of the Joint Working Group of the Committee on Capital Movements and Invisible Transactions (CMIT) and the Insurance Committee: Organization for Economic Cooperation and Development (OECD), Paris, June 1-5, 1992

Representative
Bruce McAdams, Office of Service Industries, International Trade Administration, Department of Commerce

Adviser
James Heg, United States Mission to the Organization for Economic Cooperation and Development, Paris

Private Sector Advisers
Janet Belkin, Chairperson, International Committee, American Council of Life Insurance, Merrick, New York
Kevin T. Cronin, Washington Counsel, National Association of Insurance Commissioners, Washington, DC
Hans Miller, Hartford International Insurance Company, SA-NV, Brussels, Belgium
David Walsh, Director, Insurance Division, Department of Commerce, State of Alaska, Anchorage, Alaska

United States Delegation to the Ninth Annual Meeting of the North Atlantic Salmon Conservation Organization (NASCO), Washington, DC, June 8-12, 1992

Commissioners
Allen E. Peterson, Jr., Head of the United States Delegation to NASCO, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
David F. Egan, United States Commissioner to NASCO, Guilford, Connecticut
Clint Townsend, United States Commissioner to NASCO, Skowhegan, Maine

Advisers
Vaughn C. Anthony, Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Jennifer L. Bailey, Office of International Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Kevin Friedland, Fishery Biologist, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Arthur William Nellig, Fishery Biologist, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Richard G. Seaman, Fishing Conservation and Management Division, Northeast Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Larry Sneed, Director, Office of Fisheries Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State

H. Stetson Tinkham, Office of Fisheries Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State

Edward T. Baum, Fishery Scientist, State of Maine, Atlantic Sea Run Salmon Commission, Bangor, Maine
Jane M. Cleaves, New England Regional Coordinator, Atlantic Salmon Federation, Bowdoinham, Maine
Robert A. Jones, Director, DEP, Bureau of Fisheries, Hartford, Connecticut
Henry Lyman, Publisher Emeritus, Salt Water Sportsman, Inc., Boston, Massachusetts

John C. Phillips, Commissioner, Massachusetts Department of Fishery, Wildlife Environmental and Law Enforcement, Boston, Massachusetts
Gilbert C. Radonski, President, Sport Fishing Institute, Washington, DC
Andrew V. Stout, Executive Director, New England Atlantic Salmon Association, Newburyport, Massachusetts

United States Delegation to the Study Group XVII Working Parties (Data Transmission Over the Public Telephone Network), International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 8-12, 1992

Representative
Gary M. Ferno, Director, CITE and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of Commerce

Adviser
Robert Fenischel, Electronics Engineer, National Communication System

Private Sector Adviser
Richard Brandt, President, D.B. Consultants, Annandale, New Jersey

United States Delegation to the Permanent Technical Committee-I (PTC-I) and Working Groups and Ad Hoc Groups of the Organization of American States (OAS), Inter-American Telecommunication Conference (CITEL), San Pedro Sula, Honduras, June 8-16, 1992

Representative
Earl S. Barbely, Director for Telecommunications and Information Standards, Bureau of International Communications and Information Policy, Department of State

Advisers
Douglas V. Davis, Senior Attorney/Advisor, Federal Communications Commission
David Long, Director, Telecom Trade Policy, Office of the United States Trade Representative, Executive Office of the President
William Moran, Program Manager, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce

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Raymond B. Crowell, Director, Strategic Planning, COMSAT, Washington, DC
Cecil Crump, Director, International Organization and Standards, AT&T, Morristown, New Jersey


Representative
Helena A. Shaw, Director, Division of International Communications, Office of International Affairs, National Telecommunications and Information Administration, Department of Commerce

Alternate Representative
Amy Winton, Economist, Office of Trade, Bureau of Economic and Business Affairs, Department of State

Adviser
Mary Inoussa, Office of Service Industries, International Trade

Representative
Larry A. Nelson, Director, Office of Intellectual Property and Competition, Bureau of Economic and Business Affairs, Department of State

Alternate Representative
Lewis Flacks, Policy Planning Advisor, Copyright Office, Library of Congress

Private Sector Advisers
Jason Berman, President, Recording Industry Association of America, Washington, DC
Reed Farrell, President, American Federation of Television and Radio Artists
John Golodnar, President, American Federation of Musicians, Chevy Chase, Maryland
Bruce York, National Executive Director, American Federation of Television and Radio Artists
United States Delegation to the Executive Board Meeting of the United Nations Children's Fund (UNICEF), New York, June 15-26, 1992

Representative
Mary Ann Stewart [Mrs. Potter Stewart], United States Alternate Representative to the United Nations Children's Fund, Washington, DC

Alternate Representative
The Honorable Jonathan Moore, Ambassador, United States Representative to the Economic and Social Council of the United Nations, New York

Advisers
Thomas G. Beck, Office of International Donor Programs, Policy Directorate, Agency for International Development
Stanley J. Bennett, United States Mission to the United Nations, New York
Kimberly J. DeBlauw, Office of International Development Assistance, Bureau of International Organization Affairs, Department of State
Russell F. Graham, United States Mission to the United Nations, New York
Terese D. Hobgood, Office of United Nations System Budgets, Bureau of International Organization Affairs, Department of State


Representative
William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Alternate Representative
Gary M. Fereno, Director for CITE and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of State

Advisers
Wendell R. Harris, Assistant Bureau Chief, Common Carrier Bureau, Federal Communications Commission
Richard O. Savoye, Defense Information System Agency
Neil Seitz, Deputy Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers
William J. Buckley, Vice President, Technical Development, Verilink, San Jose, California
William L. Edwards, Standards Engineer, Sprint, Overland Park, Kansas
Gary Fishman, Technical Industry Standards, AT&T, Bedminster, New Jersey
Demosthenes Kostas, Manager, Standards Development, GTE Telephone Operations, Irving, Texas
Thomas L. Lyon, Computer Engineer, Sun Microsystems, Inc., Mountain View, California
Amitabh Sen, Technical Staff, Motorola, Inc., Washington, DC
Randall Spusta, Standards Engineer, BELLCORE, Red Bank, New Jersey
John A. Strand III, Director, Sprint, Overland Park, Kansas
Anthony Toubassi, Advisory Engineer, MCI, Richardson, Texas
Melvin Woinisky, Manager, Technology Planning, Northern Telecom, Inc., Morristown, New Jersey

Dr. Audrey P. Manley, Deputy Assistant Secretary for Health, Department of Health and Human Services
The Honorable Edward Marks, Minister-Counselor, Deputy United States Representative to the Economic and Social Council of the United Nations
Thomas E. Park, Deputy Director, Office of Health, Research and Development Bureau, Agency for International Development
Margaret J. Pollack, Chief, Economic and Humanitarian Assistance, Office of International Development Assistance, Bureau of International Organization Affairs, Department of State

Private Sector Adviser
Lawrence E. Bruce, Jr., President, United States Committee for the United Nations Children's Fund, New York

United States Delegation to the Commodities: International Wheat Council (IWC); 117th Session, London, June 22-24, 1992

Representative
Donald J. Novotny, Director, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative
Thomas L. Robinson, Director-Designate, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Advisers
Tim Power, Grain and Food Division, Foreign Agricultural Service, Department of Agriculture

Private Sector Adviser
Winston Wilson, President, U.S. Wheat Association, Washington, DC

United States Delegation to the Study Group III (Charging and Accounting Principles), Working Party 4 for Telephone Accounting Principles of the International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, June 22-25, 1992

Representative
Earl S. Barbely, Director, Telecommunications and
Informational Standards, Bureau of International Communications and Information Policy, Department of State

Advisers
William Kirsch, Deputy Assistant Bureau Chief/International, Federal Communications Commission
Suzanne Settle, Program Manager, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers
Donald P. Casey, Director, Regulatory, Western Union Corporation, Upper Saddle River, New Jersey
Robert Madden, Manager, American Telephone & Telegraph, Morristown, New Jersey
Mark Niebert, Manager, COMSAT, Washington, DC
Philip Onstad, Consultant, International Communications Association, Washington, DC
Marcel E. Scheidegger, MCI International, Rye Brook, New York
Richard W. Stone, Cable and Wireless Communications, Ltd., Vienna, Virginia
Carminie Tagliatela, Jr., Advisory Engineer, MCI Telecommunications, Inc., Washington, DC


Representative
Myles R.R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative
William A. Weingarten, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Advisers
Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President
Robert Windsor, United States Embassy, London

Private Sector Advisers
Richard Emanuele, Taridvat International Coffee Corporation, New York, New York

Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom
James F. McCre, Louis Dreyfus Coffee Company, Wilton, Connecticut
John Sutherland, Continental Coffee, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverage Company, San Francisco, California
Gregory W. White, Folgers Coffee Company, Cincinnati, Ohio

United States Delegation to the International Copper Study Group (ICSG), United Nations Conference on Trade and Development (UNCTAD), Geneva, June 22-26, 1992

Representative
Robert Reiley, Director, Office of Metals, Chemicals and Commodities, Department of Commerce

Alternate Representative
Robert MacSwain, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State

Advisers
Brian Duggan, Copper Industry Specialist, Office of Metals, Chemicals and Commodities, Department of Commerce
Janice Jolly, Copper Commodity Specialist, Bureau of Mines, Department of Interior

Private Sector Advisers
David Litvin, Director, Government Affairs, Kennecot Corporation, Washington, DC
W. Stuart Lyman, Senior Vice President, Copper Development Association, Greenwich, Connecticut
Arthur Meile, Vice President, Marketing, Phelps Dodge Corporation, Phoenix, Arizona
Robert Payne, President, Copper Development Association, Greenwich, Connecticut

United States Delegation to the 2nd Meeting of the Automatic Dependent Surveillance Panel (ADSP), International Civil Aviation Organization (ICAO), Montreal, June 22-July 10, 1992

Representative
W. Frank Price, Manager, International Procedures Branch, Federal Aviation Administration, Department of Transportation

Alternate Representative
Peter Massoglia, Research and Development Service, Federal Aviation Administration, Department of Transportation

Advisers
Brian Colamosca, Operations, Research and Analysis Branch, Federal Aviation Administration, Department of Transportation
Steve Creamer, International Procedures Specialist, ATP-145, Federal Aviation Administration, Department of Transportation
Bennett Flax, Operations, Research and Analysis Branch, Federal Aviation Administration, Department of Transportation
Elbert Henry, NAS Plans and Future Systems Branch, Federal Aviation Administration, Department of Transportation
Jeffrey Williams, International Procedures Specialist, Federal Aviation Administration, Department of Transportation

Private Sector Advisers
Lonnie H. Bowlin, Aerospace Engineering and Research Association, Inc., Landover, Maryland
Faye Francy, Aerospace Engineering and Research Association, Inc., Landover, Maryland
Jane Hamelink, MITRE Corporation, McLean, Virginia
Ray Hilton, Director, Air Traffic Management, Air Transport Association of America, Washington, DC
Beth Van Houtte, Aeronautical Radio, Inc., Annapolis, Maryland


Representative
John Knauss, United States Commissioner, Under Secretary of Commerce for Oceans and Atmosphere, Department of Commerce

Alternate Representative
Sylvia Earle, United States Deputy Commissioner, Chief Scientist, National Oceanic and Atmospheric Administration, Department of Commerce

Congressional Staff Advisers
Jill Brady, Staff Member, Committee on the Merchant Marine and Fisheries,
United States House of Representatives

Earl W. Comstock, Staff Member, Committee on Science, Commerce and Transportation, United States House of Representatives

Advisers

David Balton, Office of the Legal Adviser, Department of State
James Brennan, Deputy General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce
Robert Brownell, Office of Oceans Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
Kevin Chu, Office of Oceans Affairs, Bureau of Oceans and International Environment and Scientific Affairs, Department of State
Anne Crichton, Office of the Solicitor, Department of Interior
Becky Rootes, Office of International Affairs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Eileen Sobek, Land and Natural Resources Division, Department of Justice
Michael Tillman, Deputy Assistant Administrator, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce
Private Sector Advisers

Nancy Azzam, Windstar Foundation, Golden Valley, Minnesota
Nancy Davs, Animal Protection Institute of America, Washington, DC
William Evans, President, Texas Institute of Oceanography, Texas A&M University, Galveston, Texas
John Prescott, American Association of Zoological Parks and Aquariums, Boston, Massachusetts
Burton Rexford, Chairman, Alaskan Eskimo Whaling Commission
United States Delegation to the Study Group II (Network Operation) of the International Telegraph and Telephone Consultative Committee (CCTT), International Telecommunication Union (ITU), Geneva, Switzerland, June 28, 1992

Representative

Earl S. Barbely, Director, Telecommunications and Informational Standards, Bureau of International Communications and Information Policy, Department of State

Private Sector Advisers

Ivor Knight, Vice President, Business Technology and Standards, COMSAT, Washington, DC
Robert Madden, Manager, American Telephone & Telegraph, Morristown, New Jersey

Working Group on Controls (July 27-28)

Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Private Sector Advisers

Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom
John Sutherland, Continental Coffee Products, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverages, San Francisco, California
Gregory W. White, Folgers Coffee Company, Chicago, Illinois
Negotiating Group for a New Agreement (July 29-31)

Representative

Myles R. R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Private Sector Advisers

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John Sutherland, Continental Coffee Products, Division of Quaker Oats Corporation, Chicago, Illinois
Richard L. Thompson, Vice President, Commodities, Nestle Beverages, San Francisco, California
Gregory W. White, Folgers Coffee Company, Chicago, Illinois

United States Delegation to the Fourth Asian and Pacific Population Conference, Economic and Social Commission for Asia and the Pacific (ESCAP), Bali, Indonesia, August 19-27, 1992

Representative

The Honorable Robert L. Barry, United States Ambassador, Jakarta

Alternate Representative

Nancy O’Carter, Coordinator for Population Affairs, Bureau of Oceans and International, Environmental and Scientific Affairs, Department of State

Advisers

Richard Bash, Economic Counselor, United States Embassy, Jakarta
Richard Cornelius, Deputy Chief, Policy and Evaluation Division, Office of Population, Agency for International Development
Frank Hobbs, Chief, Population Studies Branch, Center for International Research, Bureau of the Census, Department of Commerce
John Rogosh, Director, Office of Human and Institutional Resources and Development, Agency for International Development, United States Embassy, Jakarta
Charles Weden, Director, Agency for International Development Mission, United States Embassy, Jakarta

Private Sector Adviser

Adrienne Allison, Vice President, Center for Development and Population Activities (CEDPA), Washington, DC

United States Delegation to the 22nd Session of the Subcommittee on Bulk Chemicals, International Maritime Organization (IMO), London, September 7-11, 1992

Representative

Kevin J. Eldridge, Commander, Chief, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Alternate Representative

Michael C. Parnaroskis, Chief, Bulk Cargo Section, Marine Technical and Hazardous Materials Division, Office
of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisors

Wayne Lundy, Marine Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Michael D. Morrissette, Chief, Hazard Evaluation Section, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

George Onden, Director, Maritime and Organization for Economic Cooperation and Development (OECD), United States Delegation to Council of the Indepedent Countries (IOCINCWIO), Intergovernmental Oceanographic Commission (IOC), Port Louis, Mauritius, September 14-18, 1992

Head of Delegation

William Erb, Director, Marine Science and Technology Division, Office of Ocean Affairs, Bureau of Oceans and International Environmental Scientific Affairs, Department of State

Private Sector Advisers

Robert J. Lakey, Robert J. Lakey & Associates Inc., Houston, Texas

United States Delegation to the Third Session of the Regional Committee for the Northern and Central Western Indian Ocean (IOCINCWIO), Intergovernmental Oceanographic Commission (IOC), Port Louis, Mauritius, September 14-18, 1992

Representatives

Geoffrey Onden, Director, Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State

David Morrissette, Director, Capital Goods Trade Policy, Office of the United States Trade Representative, Executive Office of the President

Private Sector Advisers

John J. Stocker, President, Shipbuilders Council of America, Arlington, Virginia

John H. Steele, President Emeritus, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts

Advisors

Stephen Clark, Deputy Chief, Conservation and Utilization Division, Northeast Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

Michael Fogarty, National Marine Fisheries Service, Department of Commerce

Kevin Friedland, Principal Investigator, Atlantic Salmon Program, Northeast Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

Robert Miller, Deputy Director, National Marine Mammal Laboratory, National Marine Fisheries Service, Department of Commerce

Steven A. Murawski, Supervisory Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Kenneth Sherman, Chief, Fisheries Ecology Division, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Tim Smith, Chief, Marine Mammals Investigations, Woods Hole Laboratory, National Marine Fisheries Service, Department of Commerce

James J. Traynor, Alaska Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

Private Sector Advisers

Vance Holliday, Tracor Inc., San Diego, California

Edward D. Houde, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

Thomas Osborne, John Hopkins University, Baltimore, Maryland

Charles H. Peterson, Institute Of Marine Sciences, University of North Carolina, Chapel Hill, Morehead City, North Carolina

Brian J. Rothschild, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

Herbert L. Windom, Skidaway Institute of Oceanography, Savannah, Georgia


Representative

Mylys R. R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative

Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers

Thomas Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

Duane Sams, Deputy Director for Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Robert Windsor, United States Embassy, London

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, New York, New York


Stephen H. Gluck, Vice President, Cargill Coffee PLC, Surrey, United Kingdom

John T. Hayes, Founder/Director, Coffees of Hawaii, Incorporated, Honolulu, Hawaii


John Sutherland, Continental Coffee, Chicago, Illinois

Richard L. Thompson, Vice President, Commodities, Nestle Beverage Company, San Francisco, California

Gregory W. White, Folger Coffee Company, Cincinnati, Ohio

United States Delegation to the 80th Meeting of the International Council for the Exploration of the Sea (ICES), Rostock, Germany, September 23-October 2, 1992

Representative

Michael P. Sissenwine, Senior Scientist, Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce

Alternate Representative

John H. Steele, President Emeritus, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts

Advisors

Stephen Clark, Deputy Chief, Conservation and Utilization Division, Northeast Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

Michael Fogarty, National Marine Fisheries Service, Department of Commerce

Kevin Friedland, Principal Investigator, Atlantic Salmon Program, Northeast Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

James L. Ludke, Director, National Fisheries Research Center, National Marine Fisheries Service, Department of Commerce

Robert Miller, Deputy Director, National Marine Mammal Laboratory, National Marine Fisheries Service, Department of Commerce

Steven A. Murawski, Supervisory Fishery Biologist, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Kenneth Sherman, Chief, Fisheries Ecology Division, Northeast Fisheries Center, National Marine Fisheries Service, Department of Commerce

Tim Smith, Chief, Marine Mammals Investigations, Woods Hole Laboratory, National Marine Fisheries Service, Department of Commerce

James J. Traynor, Alaska Fisheries Science Center, National Marine Fisheries Service, Department of Commerce

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Thomas Osborne, John Hopkins University, Baltimore, Maryland

Charles H. Peterson, Institute Of Marine Sciences, University of North Carolina, Chapel Hill, Morehead City, North Carolina

Brian J. Rothschild, Chesapeake Biological Laboratory, University of Maryland, Solomons, Maryland

Herbert L. Windom, Skidaway Institute of Oceanography, Savannah, Georgia
United States Delegation to the International Cotton Advisory Committee (ICAC), 51st Plenary Meeting, Liverpool, September 28–October 2, 1992

Representative
Dean Ethridge, Deputy Administrator for Program Planning and Development, Agricultural Stabilization and Conservation Service, Department of Agriculture

Alternate Representative
Kenneth E. Howland, Director, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, Department of Agriculture

Advisers
Lana Bennett, Marketing Specialist, Tobacco, Cotton and Seeds Division, Foreign Agricultural Service, Department of Agriculture
Carol J. Skelly, Agricultural Economist, Fiber and Rice Analysis Division, Agricultural Stabilization and Conservation Service, Department of Agriculture
Carolyn L. Whitten, Section Leader, Commodity and Trade Analysis Branch, Economic Research Service, Department of Agriculture

Private Sector Advisors
Jesse S. Barr, Assistant Director of Economic Services, National Cotton Council, Memphis, Tennessee
James E. Echols, President, American Cotton Shippers Association, Memphis, Tennessee
Neal P. Gillen, Executive Vice President and General Counsel, American Cotton Shippers Association, Washington, DC
John K. Henley, Director, Cotlook Ltd., Memphis, Tennessee
William E. May, Vice President for Foreign Operations and Administration, American Cotton Shippers Association, Washington, DC

United States Delegation to the 67th Session of the Legal Committee, International Maritime Organization (IMO), London, September 28–October 2, 1992

Representative
David J. Kantor, Captain, Chief, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Alternate Representative
Mark J. Yost, Lieutenant Commander, Maritime & International Law Division, Office of Chief Counsel, United States Coast Guard, Department of Transportation

Advisers
Melinda Chandler, Attorney, Office of the Legal Adviser, Department of State
Bruce B. Davidson, Commander, Deputy Director, International Law Division, United States Navy, Department of Defense
Michael D. Morrissette, Chief, Hazard Evaluation Section, Hazardous Materials Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security & Environmental Protection, United States Coast Guard, Department of Transportation
Kim G. Santos, Branch Chief, Office of Automated Commercial Systems, Customs Service, Treasury Department

Private Sector Advisers
Ernest J. Corrado, President, American Institute of Merchant Shipping, Washington, DC
Neil D. Hobson, Chairman, Maritime Law Association Committee on Transportation of Hazardous Substances, Milling, Benson, Woodward, Hillyer, Pierson & Miller, New Orleans, Louisiana
Michael P. Walls, Assistant General Counsel, Chemical Manufacturers Association, Washington, DC

United States Delegation to the First Annual Meeting of the North Pacific Marine Science Organization (PICES), Victoria British Columbia, Canada, October 12–17, 1992

Representative
William Aron, Director, Alaska Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Alternate Representative
Vera Alexander, Dean, School of Fisheries and Ocean Sciences, University of Alaska, Fairbanks, Alaska

Advisers
William A. Erb, Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Glenn A. Flittner, Director, Office of Research and Environmental Information, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce
John Hunter, Chief, Coastal Fisheries Resource Division, Southwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce
Linda Jones, Deputy Director, Northwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce
Gary Stauffer, Director, Resource Assessment and Conservation Engineering Division, Alaska Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce
Sidney D. Stillwaugh, National Oceanographic Data Center Liaison Office, National Oceanic and Atmospheric Administration, National Environmental Satellite, Data, and Information Service, Department of Commerce
William L. Sullivan, Jr., Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Robin L. Tuttle, Office of International Affairs, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce
Usha Varanasi, Director, Environmental Conservation Division, Southwest Fisheries Science Center, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce

Private Sector Advisers
Douglas M. Eggers, Chief Fisheries Scientist, Division of Commercial Fisheries, Alaska Department of Fish and Game
Michael M. Mullin, Marine Life Research Program, Scripps Institution of Oceanography, University of California, La Jolla, California

Representative

Stephen M. Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

Philip J. Lorre, Chairman, Federation of American Controlled Shipping, New York, New York

Donald L. O’Hare, Sea-Land Corporation, Iselin, New Jersey

United States Delegation to the 33rd Session of the Marine Environment Protection Committee (MEPC), International Maritime Organization (IMO), London, October 26-30, 1992

Representative

Robert T. Nelson, Vice Admiral, Vice Commandant, United States Coast Guard, Department of Transportation

Alternate

Arthur E. Henn, Rear Admiral, Chief, Office of Marine Safety, Security and Environmental Protection, United States Coast Guard, Department of Transportation

Advisers

Joseph J. Angelo, Chief, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Brian Berringer, Merchant Vessel Inspection and Documentation Division, United States Coast Guard, Department of Transportation

Robert Blumberg, Office of Marine Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

William Chubb, Commander, Assistant Chief, Marine Environmental Protection Division, United States Coast Guard, Department of Transportation

Michael J. Donohoe, Captain, Chief, Marine Environmental Protection Division, United States Coast Guard, Department of Transportation


Representative

H. Dieter Hofink, International Intellectual Specialist, Patent and Trademark Office, Department of Commerce

Alternative Representative

Kenneth Evans, Commissioner, Plant Variety Protection Office, Department of Agriculture

Private Sector Advisers

Michael Roth, Patent Counsel, Pioneer Hi-Bred International, Inc., Des Moines, Iowa

Edward Robinson, Chairman, Intellectual Property Rights Committee, American Seed Trade Association, Waterloo, Nebraska

United States Delegation to the Meeting of the Financial and Administrative Committee, International North Pacific Fisheries Commission (INPFC), Vancouver, Canada, November 2-3, 1992

Commissioners

The Honorable Richard B. Lauber (Head of Delegation), United States Commissioner, International North
Pacific Fisheries Commission, Juneau, Alaska
The Honorable Steven Pennoyer, United States Commissioner, International North Pacific Fisheries Commission, Regional Director, National Marine Fisheries Service, Department of Commerce

Adviser
Duane Sams, Director, Commodity Alternate Representative

Yokohama, November 13-24, 1992
Tropical Timber Agreement (ITTA), (ITC), 13th Session, November 16-21, International Tropical Timber Council (ITTC), and Preparatory Committee for United States Delegation to the Intergovernmental Group of Experts on Tungsten, First Session, Standing Committee on Commodities, Trade and Development Board, United Nations Conference on Trade and Development (UNCTAD), Geneva, December 7-11, 1992

Representative
Myles R.R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative
Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers
Michael Glover, Economics Officer, United States Embassy, London
Thomas Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State


Representative
Milton Drucker, Deputy Director, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State

Alternate Representative
Duane Sams, Director, Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Advisers
Stephanie Caswell, Office of the Environment, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Robert Mowbray, Senior Natural Resources Management Specialist, United States Agency for International Development
David Harcharik, United States Forest Service, Department of Agriculture
Franklyn Moore, Environmental Protection Agency
Michael Hicks, Foreign Agricultural Service, Department of Agriculture
Kathy McNamara, Office of Materials, Machinery, and Chemicals, Department of Commerce

Private Sector Advisers
Mark Dillenbeck, World Conservation Union, Washington, DC
Robert Johnson, Herman Miller, Inc., Zeeland, Michigan


Representative
Myles R.R. Frechette, Assistant United States Trade Representative, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative
Ralph Ives, Director for Andean Affairs, Office of the United States Trade Representative, Executive Office of the President

Advisers
Michael Glover, Economics Officer, United States Embassy, London
Thomas Robinson, Director, Office of Food Policy Programs, Bureau of Economic and Business Affairs, Department of State

United States Delegation to the Negotiations Working Group (November 23-24), and Council and Committees (November 25-December 2), International Natural Rubber Organization (INRO), Kuala Lumpur, November 23-December 2, 1992

Representative
Duane Sams, Director, Commodity Policy, Office of the United States Trade Representative, Executive Office of the President

Alternate Representative
Daniel L. Holtzman, International Economist, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers
Mark R. Blitstein, Director, Goodyear Tire and Rubber Company, Akron, Ohio
Patricia A. Bovino, Cargill, Inc., New York, New York
Harold Ross Miller, Manager, Unijoyal-Goodrich Tire Company, Akron, Ohio
Stanley M. Schultz, Operations Director, Bridgestone/Firestone Inc., Singapore
Richard A. Stauffer, Manager, World Rubber Operations, Cargill, Inc., Singapore
Peter Tan, Purchasing Director, Goodyear Orient Company, Singapore


Representative
David Cammarota, Acting Chief, Metals Branch, Department of Commerce

Private Sector Adviser
Peter K. Johnson, Vice President, Refractory Metals Association, Princeton, New Jersey

United States Delegation to the Ad Hoc Group Under Resolution No. 18, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, Switzerland, January 19-26, 1993

Representative
Earl S. Barbeley, Director, Telecommunications and Information Standards, Bureau of International Communications and Information Policy, Department of State

Adviser
Douglas V. Davis, Attorney-Advisor, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers
Herbert Bertine, Department Head, AT&T Bell Laboratories, Holmdel, New Jersey
Gary Fishman, Technical Standards Director, AT&T, Bedminster, New Jersey
Otto J. Gusella, Executive Director, ECSA, Washington, DC
George Helder, Consultant, Moraga, California
Richard Hollemann, Director, Standards Practices, IBM Corporation, Purchase, New York
Ivor Knight, Vice President, Business Technology and Standards, Washington, DC
Henry Marchese, Consultant, Bedminster, New Jersey
Robert J. Smith, Director, Science and Technology, NYNEX Corporation, Cambridge, Massachusetts
Martin Sullivan, Director, BELLCORE, Red Bank, New Jersey
Representative

William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Advisers

Frank McLeland, Senior Engineer, National Communication Systems
Neil Seitz, Deputy Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce

Private Sector Advisers

William J. Buckley, Vice President, Technology, Verilink, San Jose, California
Donald Chisolm, Product Manager, Telecom Solutions, San Jose, California
William L. Edwards, Engineer, Sprint Communications, Overland Park, Kansas
Gary Fishman, Engineer, AT&T, Bedminster, New Jersey
Paul Rodman, Senior Scientist, COMSAT Labor, Clarksburg, Maryland
Anthony Zabriski, Advisory Engineer, MCI, Richardson, Texas
Stephan Walters, Bellcore, Morristown, New Jersey
Melvin Woinsky, Manager, Technology Planning, Northern Telecom, Inc., Morristown, New Jersey

United States Delegation to the XXVI Com/CitEl Meeting and the II Extraordinary Meeting of CitEl

Permanent Executive Committee (Com/CitEl), Inter-American Telecommunications Conference (CitEl), Organization of American States (OAS), Santiago, Chile, January 25-29, 1993

Representative

Gary M. Fereno, Director or CITEL and CCITT Standards Policy, Bureau of International Communications and Information Policy, Department of State

Alternate Representative

William F. Moran, Policy Specialist, National Telecommunication and Information Administration, Department of Commerce

Advisers

Rudolfo M. Baca, Attorney/Adviser, Federal Communications Commission
Doreen Bogdan, Telecommunications Policy Specialist, National Telecommunication and Information Administration, Department of Commerce

Private Sector Advisers

Raymond Crowell, Director, Strategic Planning, COMSAT Corporation, Washington, DC
Cecil Crump, Manager, International Development, AT&T, Morristown, New Jersey
David Fine, Manager, Standards & Development, Southwest Bell Corporation, Washington, DC
Thomas J. Plevyak, Manager, International Standards, Bell Atlantic Corporation, Arlington, Virginia

[FR Doc. 93–10560 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–10–M

[Public Notice No. 1902]

United States Organization for the International Telegraph & Telephone Consultative Committee Study Group D; Meetings

The U.S. Department of State announces that the US Organization for the International Telegraph Telephone Consultative Committee Study Group D will meet on June 7, and on August 16, 1993, at 9:30 a.m., in room 1205 at the Department of State, 2201 C Street NW., Washington, DC 20520.

The agenda of the June 7 meeting will include the review of U.S. contributions for the meetings of Study Group 7 and 14, and discussion of the results of the April meeting of Study Group 8, and to consider any other business within the scope of Study Group D. The meeting of August 16 will consider contributions to the September meeting of Study Group 14.

The meeting of the Panel will be closed to the public. The agenda calls for a review of the materials gathered from document searches and interviews and a discussion of those materials as they relate to the report to be prepared by the Panel. A substantial portion of this material consists of classified national security information.

Due to the exceptional circumstances created by the short duration of the Panel and the members' scheduling conflicts, the Panel's first meeting will occur before 15 days have elapsed from the date of this notice. For more information, contact Edward Pope, Secretary's Panel on El Salvador, Department of State, Washington, DC 20520, phone: 202/736-4517.


B. Lynn Pascoe,
Executive Director, Secretary's Panel on El Salvador
[FR Doc. 93–10799 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–10–M

[Public Notice 1804]

Secretary of State's Panel on El Salvador; Closed Meeting

The Department of State announces a meeting of the Secretary of State's Panel on El Salvador on Tuesday, May 18, at 1:30 p.m. in room 1406, Department of State, Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1), it has been determined the meeting will be closed to the public. The agenda calls for a review of the materials gathered from document searches and interviews and a discussion of those materials as they relate to the report to be prepared by the Panel. A substantial portion of this material consists of classified national security information.

Due to the exceptional circumstances created by the short duration of the Panel and the members' scheduling conflicts, the Panel's first meeting will occur before 15 days have elapsed from the date of this notice. For more information, contact Edward Pope, Secretary's Panel on El Salvador, Department of State, Washington, DC 20520, phone: 202/736-4517.


Earl S. Barbery,
Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee

[FR Doc. 93–10700 Filed 5–5–93; 8:45 am]
BILLING CODE 4710–46–M

[Public Notice 1804]
an open meeting on June 30, 1993, at 9:30 a.m. in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the thirty-fourth session of the Marine Environment Protection Committee (MEPC 34) of the International Maritime Organization (IMO). MEPC 34 will be held from July 5–9, 1993. Proposed U.S. positions on the agenda items for MEPC 34 will be discussed.

The major items for discussion will be the following:

1. Prevention of oil pollution. Work will continue on guidelines for implementation of Regulations 13F and 13G to Annex I of The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). This will include guidelines for structural and operational requirements for existing ships, equivalences for double-hulls for new ships, and guidelines for enhanced inspections.

2. Implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC). The working group will be addressing a variety of topics including practical application of OPRC to hazardous and noxious substances, development of model pollution response courses, promotion of research and development under OPRC, and industry cooperation in OPRC implementation.

3. Comprehensive Manual on Reception Facilities. The MEPC hopes to complete work on revision of the MARPOL 73/78 reception facility guidance that began at MEPC 32.

4. Revision of the Prevention section of the IMO Anti-Pollution Manual.

5. Follow-up action to the United States Conference on Environment and Development (UNCED) of June 1992. IMO is examining its role in implementation of Chapter 17 of Agenda 21 of UNCED.

6. Harmful marine organisms in ballast water. This subject covers control measures against the introduction of exotic species into coastal and internal waters through discharge of ballast water.

7. Enforcement of Pollution Conventions. This group will continue work on the reporting format for MARPOL 73/78 enforcement actions.

8. The future work program of the MEPC.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander M. L. McEwen, U.S. Coast Guard Headquarters (G-MEP-3), 2100 Second Street, SW., Washington, DC 20593–0001. Telephone: (202) 267–0419.


Geoffrey Ogden, Chairman, SPMP (G-MEP-3) Coordination Committee.

DEPARTMENT OF TRANSPORTATION
Office of the Secretary
[Order 93-4-50; Docket 48780]

Application of Friendship Airlines, Inc. For Certificate Authority

AGENCY: Department of Transportation

ACTION: Notice of Order Instituting the Friendship Airlines, Inc., Fitness Investigation

SUMMARY: The Department of Transportation is instituting an investigation into the fitness of Friendship Airlines, Inc., to conduct interstate and overseas air transportation operations and is setting the matter for hearing before an administrative law judge of the Department.

DATES: Petitions for leave to intervene shall be filed by May 6, 1993. Answers to those petitions shall be filed by May 13, 1993.

ADDRESSES: Petitions and answers to petitions should be filed in Docket 48780 and addressed to the Documentary Services Division (C-55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in the order.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Acting Assistant Secretary for Policy and International Affairs.

Federal Highway Administration

Environmental Impact Statement: Prince of Wales Island, AK

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 construction project on the Prince of Wales Island in Alaska.

FOR FURTHER INFORMATION CONTACT: Allan Stockman, Environmental Engineer, or Jody Thomas, Staff Environmental Engineer, Federal Highway Administration/Western Federal Lands Division, 610 East Fifth Street, Vancouver, Washington 98661. Telephone: (206) 696-7751.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the U.S. Forest Service and the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to construct the North Prince of Wales highway in the Tongass National Forest from the Coffman Cove junction to Twin Island junction near the town of Whale Pass. The proposed improvements would provide year-round state highway access to these remote communities on Prince of Wales Island. This could involve new road construction, as well as reconstruction of portions of existing Forest Development Roads (FDR) that run north and south on the east side of Prince of Wales Island. Total distance of construction is estimated to be 28.5 to 31.0 miles.

The highway improvement is considered necessary to provide the north island communities with year-round access with a state (public) highway. This would also permanently connect the communities to the other towns and activity centers on Prince of Wales Island. The existing roads on the north end of the island are currently under Forest Service (FS) jurisdiction, and were primarily built to serve timber haul. The roads are narrow and sometimes dangerous, and they are not always accessible or safe for public travel as a primary access route. Also, the FS does not have the money or authority to plow snow on their roads. Therefore snow plowing only occurs when some resource activity has need for access such as a timber sale. This can result in unreliable and inconsistent year-round access.

Alternatives under consideration are the following: (1) Taking no action in which island access and the existing roads remain status quo, (2) upgrading existing FDR 20 on the west side of Prince of Wales Island to a state highway, and (3) constructing/reconstructing a road on new alignment along the east side of the island utilizing portions of FDR 23 and 30. Under alternatives 2 and 3, ownership and maintenance of the road would be transferred to the Alaska Department of Transportation and Public Facilities who has the authority to snow plow roads for year-round public access. Incorporated and analyzed with the build alternatives will be design variations of grade and alignment.

Announcements describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. These will also be sent to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public scoping meetings will be held during the week of May 24, 1993 in the communities of Coffman Cove and Craig on the Prince of Wales Island. A public meeting is also being planned in Ketchikan, Alaska. Public notices will be given of the times and places of all these meetings.

It is important that the full range of issues related to this proposed action be addressed and that all significant issues be identified. To ensure this, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address and phone number provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: April 27, 1993.

James N. Hall,
Division Engineer, Vancouver, Washington.

[FR Doc. 93-10698 Filed 5-5-93; 8:45 am]
BILLING CODE 4910-2-M

DEPARTMENT OF THE TREASURY
Customs Service
Electronic Data Interchange for Global Trade

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of conference.

SUMMARY: This document advises the public that the Customs Service is presenting a conference entitled "EDIFACT: Technology for Global Trade" to be held in Dallas, Texas. The primary focus of the conference will be on present and future electronic data interchange applications in the area of international trade. Attendance at the conference is open to the general public.

DATES: The conference will take place on June 2-3, 1993, in the Loews Anatole Hotel, Dallas Texas. Registration requests for the conference should be received before May 20, 1993.

FOR FURTHER INFORMATION CONTACT: The EDIFACT Conference Hotline (703-440-6587), for information regarding the conference and registration procedures; the Loews Anatole Hotel (214-748-1200), for hotel reservations.

SUPPLEMENTARY INFORMATION: The rapid expansion of international trade in recent decades, coupled with the concurrent growth in electronic data processing and transmission capabilities, has given rise to the development of electronic data interchange (EDI) as a means for cutting through the jungle of paperwork and thus facilitating the unhindered flow of information which is vital to international trade transactions. EDI, which is defined internationally as "the transfer of structured data by commonly agreed message standards, from computer to computer, by electronic means", enables parties in a national or international commercial transaction to transmit all their documents (for example, invoices, purchase orders, contractual information, and shipping and payment instructions) instantly and directly to the desired location, thereby removing barriers of time and distance resulting in significant cost savings and increased efficiency. Thus, the ultimate goal of EDI is to facilitate trade by creation of a paperless environment.

In order to realize the long-term objectives of EDI, it has been recognized that common international EDI standards must be developed with regard to data elements, syntax rules and message content. To this end, government and commercial representatives, operating under the auspices of the United Nations, have studied different existing EDI standards with a view to converging them into a single international standard. As a result of these efforts, international agreement has been reached on a converged standard called EDI for Administration, Commerce and Transport (EDIFACT) which has been published by the International Standards Organization as ISO 9735.

The U.S. Customs Service has long been committed to the principle and practice of paperless commercial entry and for this reason has recognized the importance of EDIFACT to global trade in a paperless environment. In furtherance of its pioneering role in the use of EDIFACT, Customs is presenting a conference entitled "EDIFACT: Technology for Global Trade" to be held at the Loews Anatole Hotel in Dallas, Texas, on June 2-3, 1993. The
conference is intended to foster an exchange of views and ideas on a variety of complex issues involving international trade, with an emphasis on communications and EDIFACT. Speakers and panelists from industry and various government agencies who are versed in the use of EDIFACT will be featured, as well as individuals who will provide useful information regarding the North American Free Trade Agreement and the Customs Modernization Act.

Attendance at the conference is open to members of the general public at a registration fee of $550 per person, and exhibitors desiring to demonstrate their products or services may do so at a cost of $700 per booth. Since space at the conference may be limited and only a limited number of hotels room at a reduced conference rate are available, persons wishing to attend the conference are encouraged to register and obtain their hotel reservations at an early date.


Michael H. Lane,
Acting Commissioner of Customs.

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Availability of Annual Report

Under section 10(d) of Public Law 92-463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report of the Department of Veterans Affairs' Advisory Committee on Prosthetics and Special-Disabilities Programs for Fiscal Year 1992 has been issued. The Report summarizes activities of the Committee on matters relative to special disability programs, prosthetic rehabilitation technology, accomplishments which have been made, and the identification of areas where further study and improvements are required. It is available for public inspection at two locations:


and

Department of Veterans Affairs, Prosthetic and Sensory Aids Service, Techworld Room 542, 801 1 Street, NW., Washington, DC 20001.


Hayward Bannister,
Committee Management Officer.

BILLING CODE 423.
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(a)(3).

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Correction

FR Doc. 93-10197 was published beginning on page 25181 in the issue of Friday, April 30, 1993. This document was a notice of Sunshine Act meetings to be held on May 6, and May 7, 1993. It was published in the Notices section of the Federal Register. It should have appeared in the Sunshine Act Meetings section.

BILLING CODE 1506-01-O

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, May 11, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Matters relating to the Corporation's contracting activities.

Memorandum and resolution re: Study of savings bank life insurance which makes a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

Discussion Agenda

Memorandum and resolution re: Proposed amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which would implement the portions of Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 that require the Federal banking agencies to revise their risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of concentration of credit risk and the risks of nontraditional activities.

Memorandum and resolution re: Final amendments to Part 336 of the Corporation's rules and regulations, entitled "Deposit Insurance Coverage," which amendments govern the extent of insurance coverage provided by the Corporation for deposits in Corporation-insured depository institutions.

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of a new Part 363 regarding independent annual audits and reporting requirements.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898-6745 (Voice); (202) 898-3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898-6757.


Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 93-10925 Filed 5-4-93; 4:00 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, May 11, 1993, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Reports of the Office of Inspector General.

Matters relating to the Corporation's corporate and supervisory activities.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions 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)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Matters relating to the Corporation's delegations of authority.

Discussion Agenda

Matters relating to the possible closing of certain insured depository institutions:

Names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions 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)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898-6757.


Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 93-10927 Filed 5-4-93; 4:00 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that...
U.S.C. 552b), notice is hereby given that at 10:43 a.m. on Tuesday, May 4, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

- Matters relating to the probable failure of a certain insured bank.
- Recommendation concerning an administrative enforcement proceeding.
- Matters relating to an assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The following item was added to the closed portion of the meeting.

Approval of the March Board Minutes

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:
- Compliance matters pursuant to 2 U.S.C. § 437g.
- Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
- Matters concerning participation in civil actions or proceedings or arbitration.
- Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 13, 1993 at 10:00 a.m.
PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:
- Correction and Approval of Minutes.
- Report from FEC Public Disclosure Division.
- Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Press Officer, Telephone: (202) 219-4155.
Delores Hardy, Administrative Assistant.


Federal Deposit Insurance Corporation.
Robert E. Feldman, Deputy Executive Secretary.

[FR Doc. 93-10910 Filed 5-4-93; 3:47 pm]
BILLING CODE 6715-01-M

FEDERAL HOUSING FINANCE BOARD


PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., Monday, April 26, 1993.

CHANGES IN THE MEETING: The following changes were made to the closed portion of the meeting. Items deleted from the Summary Agenda portion of the meeting and placed in the discussion portion.

- FHLBank of Pittsburgh AHP
- Dividend rate swap issue disclosed in the San Francisco examination and approval of EROD/OL&E analysis and approach to its resolution
- Approval of the March Board Minutes
- The following item was added to the closed portion of the meeting.
  - Federal Home Loan Bank Presidents' 1992 Incentive Compensation Awards

The above matters are exempt under one or more of sections 552b(c), (6), (8), and (9) (A) and (B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION:
Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.
Philip L. Conover, Managing Director.

[FR Doc. 93-10810 Filed 5-4-93; 9:54 am]
BILLING CODE 6725-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

USITC SE-93-14

Emergency Notice

TIME AND DATE: May 11, 1993 at 9:30 a.m.
PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda
2. Minutes
3. Ratification List
4. Inv. No. 731-TA-645 (Certain Calcium Aluminate Cement and Cement Clinker from France)-briefing and vote.
5. Outstanding action jacket requests
   1. EC-93-006, East Asia Integration.
   6. Any items left over from previous agenda

In conformity with 19 CFR § 201.37(b), Commissioners Nuzum, Crawford, Brunsdale, Rohr, Watson, and Newquist determined that Commission business required a meeting of May 11, 1993, and affirmed that no earlier announcement of the meeting was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:
Paul R. Bardos, Acting Secretary, (202) 205-2000.

Paul R. Bardos,
Acting Secretary.

[FR Doc. 93-10869 Filed 5-4-93; 3:26 pm]
BILLING CODE 7020-03-P
DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER93-429-000]

South Carolina Electric & Gas Co.; Filing

Correction

In notice document 93-9912 appearing on page 25829 in the issue of Wednesday, April 28, 1993, the docket number should read as set forth above.

BILLING CODE 1656-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 25344; Amendment No. 23-43]

Small Airplane Airworthiness Review Program Amendment No. 3

Correction

In rule document 93-7737 beginning on page 18958 in the issue of Friday, April 9, 1993, make the following corrections:

1. On page 18958, in the third column, in the fourth paragraph, in the sixth line, "Once" should read "One".

2. On page 18960, in the first column, in the first full paragraph, in the ninth line, "than" should read "then".

3. On the same page, in the second column, in the second full paragraph, in the 13th line, "disagrees" should read "agrees".

4. On the same page, in the third column, in the fourth paragraph, in the sixth line, "100 °F," should read "110 °F,"

5. On page 18961, in the first column, in the 13th line, "replace" should read "replaced".

6. On page 18966, in the first column, in the fifth full paragraph, in the seventh line, delete "and".

7. On page 18967, in the third column, in the fifth full paragraph, in the fourth line, "FAA" should read "JAA".

8. On page 18968, in the second column, in the second full paragraph, in the first line, "had" should read "has".

9. On page 18969, in the second column, in the last paragraph, in the seventh line, "if" should read "It".

§ 23.961 [Corrected]

10. On page 18972, in the second column, in § 23.961, in the eighth line, "100 °F," should read "110 °F,"

§ 23.971 [Corrected]

11. On the same page, in the third column, in § 23.971(a), in the third line, insert a comma after "capacity".

§ 23.1091 [Corrected]

12. On page 18973, in the third column, in the section heading, "§ 23.109" should read "§ 23.1091", and in § 23.1091(c)(2), in the sixth line, "with" should read "unit".

§ 23.1191 [Corrected]

13. On page 18975, in the first column, in amendatory instruction 50, in the tenth line, "2000 ± 50 °F" should read "2000 ± 150 °F"

§ 23.1305 [Corrected]

14. On page 18976, in the first column, in § 23.1305(d)(1), in the third line, "than" should read "that".

BILLING CODE 1505-01-D
Thursday
May 6, 1993

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888
Proposed Fair Market Rents
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. N-93-3616; FR-3510-N-01]

Section 8 Housing Assistance Payments Program—Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed Fair Market Rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) periodically, but not less frequently than annually, to be effective October 1 of each year. The Department's regulations at 24 CFR part 888 provide a notice and comment process for developing FMRs. Today's document proposes the FMRs for Fiscal Year 1994 (FY 1994). The proposal would amend FMR schedules for the section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the section 8 Rental Certificate program (part 882, subpart F); the section 8 Moderate Rehabilitation program (part 882, subparts D and E); and housing assisted under the Loan Management and Property Disposition programs (part 886, subparts A and C). In addition, FMRs are used to determine payment standard schedules in the Rental Voucher program.

DATES: Comments are due July 6, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. To expedite processing, each commenter is requested to simultaneously submit a copy of its comments to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.-5:30 p.m. Eastern Time) at the above address each year.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing (202) 708-0477 (TDD: (202) 708-0850), for questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; James Tahash, Program Planning Division, Office of Multifamily Housing Management (202) 708-3944 (TDD: (202) 708-4594), for questions relating to all other Section 8 programs; for technical information regarding the development of the schedules for specific areas or the method used for calculating the FMRs, Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708-0577 (TDD: (202) 708-0770). Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the U.S. Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid low-income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards, established by local housing authorities, based on FMRs in the Rental Voucher program) established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

The FMRs proposed in this Notice govern the following Section 8 Housing Assistance Payments programs: the Section 8 Certificate program under part 882 (subparts A and B), including space rentals by owners of manufactured homes under the section 8 Rental Certificate program (part 882, subpart F), the Moderate Rehabilitation program under part 882 (subparts D and E), housing assistance for projects with HUD-insured or HUD-held mortgages under part 886 (subpart A), as well as the Property Disposition program under part 886 (subpart C). In addition, FMRs are used to establish payment standards for the Rental Voucher program (part 887).

II. Procedures for the Development of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment, analyzing the public comment, and publishing final FMRs. (See 24 CFR 888.115.) Final FY-1994 FMRs will be published on or before October 1, 1993, as required by section 8(c)(1) of the Act.

III. Fair Market Rent Schedules

This Notice proposes revised FMRs for FY 1994. For the first time, 1990 Census data on rental housing were used to revise the FMRs. This revision process, which the Department refers to as "re-benchmarking," occurs once every ten years and involves replacing the base-year FMR estimates with those developed from the new Census data and updating the new base-year estimates from the date of the Census to the mid-point of the program year the FMRs will be in effect. All FMR areas in the country have now been re-benchmarked, either with Census data or with American Housing Surveys or Random Digit Dialing surveys conducted after the date of the 1990 Census. Because of the re-benchmarking, many areas have proposed FMRs that differ from those that would have resulted from the normal updating of last year's FMRs.

Schedules at the end of this document list the FMR levels for rental housing (Schedule B) and for manufactured homes in the Section 8 Certificate program (Schedule D). FMRs for the Moderate Rehabilitation program are 120 percent of the Schedule B Fair Market Rents (see 24 CFR 882.408(a) and 888.113(e)(1)). The FMR for a Single Room Occupancy (SRO) unit in the Rental Certificate program is 75 percent of the efficiency (EFF) unit FMR listed in Schedule B. The FMR for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for the EFF unit. The payment standard for an SRO Unit in the Rental Voucher program is 75 percent of the EFF FMR listed in Schedule B.

IV. Metropolitan Area Definitions

With several exceptions discussed in the following paragraphs, the proposed FMRs incorporate the recent changes in the definitions of metropolitan areas made by the Office of Management and Budget contained in the OMB Bulletin No. 93-05, released on December 28, 1992. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions because of the close correspondence that typically exists between these definitions and housing market area definitions. FMRs are intended to be housing market-wide rent estimates that provide housing opportunities throughout the geographic----
area in which rental housing units are in direct competition.

The exceptions have been made for a number of large metropolitan areas whose revised OMB definitions encompass areas that have been determined to be larger than HUD's definitions of the housing market areas. For the Boston and New York-New Jersey metropolitan areas, the proposed FMRs continue to use the OMB definitions of the MSA/PMSAs that were in effect prior to the December 28, 1992, OMB Bulletin. The affected areas are as follows:

For the Boston area—Boston, MA; Lawrence-Haverhill, MA-NH; Lowell, MA-NH; and Salem-Gloucester, MA PMSAs and the Fitchburg-Leominster, MA; Manchester, NH; New Bedford, MA; Portsmouth-Dover-Rochester, NH-ME; and Worcester, MA MSAs.

For the New York-Northern New Jersey area—The New York, NY; Nassau-Suffolk, NY; Bergen-Passaic, NJ; Jersey City, NJ; Middlesex-Somerset-Hunterdon, NJ; Monmouth-Ocean, NJ; and Newark, NJ PMSAs.

The metropolitan area definitions for both the Boston and New York areas are still under review by OMB. HUD will evaluate changes that result from this review and may change the FMR areas shown in this publication as a result of OMB’s final decision expected in June of this year. If HUD changes the FMR area definitions after the proposed publication of this year’s FMRs, there will be an additional comment period for the affected areas.

In addition, the FMR area definitions for the following areas have been modified by deleting counties that were added to the revised OMB definitions. The decision to delete these counties was based on an evaluation conducted by HUD headquarters and field staff which determined that the revised metropolitan area definitions are larger than the current housing market areas. The counties deleted from the FMR areas are those that are the most remote from the central cities/counties of the metropolitan area and have the lowest rents, in most cases significantly below the FMR area rent averages. The proposed FMRs for the counties deleted from the OMB definitions have been calculated separately based on the Census data for each individual county. They are shown in Schedule B within their respective States under the “Metropolitan FMR Areas” listing.

<table>
<thead>
<tr>
<th>FMR area</th>
<th>Changes in previous FMR area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chicago, IL</td>
<td>Deleted DeKalb, Grundy and Kendall Counties</td>
</tr>
<tr>
<td>Cincinnati-Hamilton, OH</td>
<td>Deleted Brown County, Ohio; Galiatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.</td>
</tr>
<tr>
<td>Dallas, TX</td>
<td>Deleted Henderson County</td>
</tr>
<tr>
<td>Lafayette, LA</td>
<td>Deleted St. Landy and Arcadia Parishes</td>
</tr>
<tr>
<td>New Orleans, LA</td>
<td>Deleted St. James Parish</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>Deleted Barkley and Jefferson Counties in West Virginia; and Clarke, Culppeper, King George and Warren Counties in Virginia.</td>
</tr>
</tbody>
</table>

The FMRs for the following FMR areas in Virginia were calculated by combining the 1990 Census data for the counties with the independent cities located within the borders of the counties. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these FMR areas including the independent cities are as follows:

<table>
<thead>
<tr>
<th>FMR area (county)</th>
<th>Independent cities included</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegheiny ....</td>
<td>Clifton Forge and Covington</td>
</tr>
<tr>
<td>Augusta ....</td>
<td>Staunton and Waynesboro</td>
</tr>
<tr>
<td>Carroll ..........</td>
<td>Galax</td>
</tr>
<tr>
<td>Frederick ....</td>
<td>Winchester</td>
</tr>
<tr>
<td>Greensville ......</td>
<td>Emporia</td>
</tr>
<tr>
<td>Halifax ....</td>
<td>South Boston</td>
</tr>
<tr>
<td>Henry ........</td>
<td>Martinsville</td>
</tr>
<tr>
<td>Montgomery ....</td>
<td>Radford</td>
</tr>
<tr>
<td>Rockbridge .....</td>
<td>Buena Vista and Lexington</td>
</tr>
<tr>
<td>Rockingham ....</td>
<td>Harrisonburg</td>
</tr>
<tr>
<td>Wise ........</td>
<td>Norton</td>
</tr>
</tbody>
</table>

V. Method Used to Develop FMRs

FMR Standard: FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 45th percentile rent, the dollar amount below which 45 percent of the standard quality rental housing units rent. The 45th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Public housing units and newly built units less than two years old are excluded.

Data Sources: HUD uses the most accurate and current data available to develop the FMR estimates. Three sources of survey data have been used as the basis for making base-year estimates of the FMRs. They are: (1) The 1990 Census; (2) the Random Digit Dialing (RDD) telephone surveys conducted since the Census; and (3) the post-1990 Census American Housing Surveys available up to the time the FMR estimates were prepared. The base-year FMRs have been updated using Consumer Price Index (CPI) data for rents and utilities or the HUD Regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 95 metropolitan FMR areas. RDD Regional rent change factors are developed annually for the metropolitan and nonmetropolitan areas of each of the 10 HUD Regions (a total of 20 separate factors). The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

The decennial Census provides statistically reliable rent data for use in establishing base-year FMRs. AHS’s are conducted by the Bureau of the Census for HUD and have comparable accuracy to the decennial Census. These surveys enable HUD to develop between-census revisions for 44 of the largest metropolitan areas on revolving schedule of 11 areas annually. The RDD telephone survey technique is based on a sampling procedure that uses computers to select statistically random samples of rental housing, dial and keep track of the telephone numbers and tabulate the responses. HUD uses a contractor to conduct RDD surveys. RDD surveys are conducted for two purposes: (1) For developing the FMR estimates for selected individual FMR areas; and (2) for developing the HUD Regional gross rent change factors. The HUD Regional surveys are conducted annually. Approximately 60 individual FMR areas are revised each year on the basis of RDD surveys.

Areas With FMRs Based on 1990 Census Data

1. For FMR areas where the base-year estimates were developed from the 1990 Census, the 45th percentile gross rent of standard quality units occupied by recent movers was calculated separately for each bedroom size. HUD’s use of the full Census for the first time resulted in improved accuracy over FMR estimates previously developed using the 1980 Census Public Use Sample. Census data on rent levels are now available for all
counties and for minor civil divisions, which are the component parts of metropolitan areas in the New England states. This level of geographic detail enabled direct calculation of FMR estimates for all MSA/PMSA, metropolitan county and nonmetropolitan county FMR areas. The 1980 Public Use Sample was not large enough to permit calculation of the local bedroom-size rent differentials, and it was aggregated into county groupings for counties with less than 100,000 population.

For lightly populated nonmetropolitan counties, exceptions were made to the above procedure to protect against unrealistically low FMRs being set as the result of insufficient sample sizes. The first type of exception involved areas with less than 100 two-bedroom cases that had a 45th percentile rent below the state-wide minimum comparable rent of areas with 100 or more cases. The base-year FMR estimates for these areas were set at the lower of the state-wide minimum or the upper end of the confidence interval of the census-based rent for the area. The second exception was for areas with local bedroom-size intervals below the normal range. For these areas, the bedroom intervals selected were the minimums determined after excluding outliers from the bedroom ratio distributions of all metropolitan areas. The selected minimums were: efficiency units that are included in the Census AHS which was developed from national survey data became available in 1991, and these data for the respective HUD Region metropolitan or nonmetropolitan area in which the area is located were used to update the estimates for 1991 and 1992. The 3.0 percent annual projection factor used for CPI areas was also used for non-CPI areas for the 15 months from January 1993 to April 1994.

The use of the full Census and other changes in the calculation procedures have resulted in significant revisions for a large number of FMR areas this year. For example, where all nonmetropolitan counties in a county group previously had the same FMRs, each county now has a separate FMR. At least half, and often more, of these counties have proposed decreases in their FMRs. The availability of data samples that are large enough to calculate the bedroom-size rent differentials on the basis of local rather than national data also has had a major impact on the one-bedroom FMRs.

Because a majority of FMR areas have one-bedroom to two-bedroom ratios that are less than the national average of 85 percent, many have proposed reductions in their one-bedroom FMRs. Finally, the rent inflation factors developed from recent years' CPI and RDD surveys are much lower than those for previous years. This has resulted in smaller rent increases since the 1990 Census and led to the decision to use the 3.0 percent annual rent change projection factor in place of the 4.8 percent factor previously used.

Areas With FMRs Based on Local RDD Survey Data

1. HUD uses the RDD surveys to obtain statistically reliable FMR estimates for selected areas. The RDD technique involves drawing large, random samples of one- and two-bedroom units occupied by recent movers. Both one- and two-bedroom units are used because there are consistent relationships between the 45th percentile one-bedroom and two-bedroom FMRs in local housing markets and a more accurate two-bedroom FMR estimate can be obtained by expanding the sample base to include information on one-bedroom rents. The one-bedroom rents are adjusted by the average two-bedroom to one-bedroom ratio for the area being surveyed in order to convert the one-bedroom survey rents into two-bedroom equivalent rents.

2. RDD surveys exclude public housing units, newly built units and non-cash rental units. They do not exclude substandard units because there is no practical way to determine housing quality from telephone interviews. However, has shown that the slightly downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slightly upward bias that results from surveying only units with telephones. The error net bias results in FMRs which are slightly higher than they should be.

3. On average, about 8,000 telephone numbers need to be contacted to achieve the target survey sample level of at least 400 eligible responses. The RDD surveys have a high degree of statistical accuracy. There is a 95 percent likelihood that the 45th percentile recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual 45th percentile rent value. Virtually all of the estimates will be within five percent of the actual 45th percentile value.

4. The RDD base-year 45th percentile rent estimates obtained from the surveys conducted in preparation for the FY 1994 proposed FMRs were trended to the mid-point of FY 1994 using essentially the same procedure as described in step 3 of the preceding section on Census-based FMR calculations. Either CPI or RDD data are used (depending on whether a local CPI survey is available) to update the estimates through 1992. The 15-month rent change projection factor is added to being the FMR estimates to April 1994.

5. The proposed FMRs include RDD surveys completed this year for nine FMR areas.

Three areas—the Dubuque, IA and Manchester, NH MSAs and Marshall County, a nonmetropolitan FMR area in Iowa—have proposed decreases in their FMRs for all unit sizes.
The Orlando, FL MSA has a larger than normal increase proposed for all unit sizes. Five areas have a mixture of proposed increases and decreases for the various bedroom-size categories. The Denver, CO PMSA has decreases in the efficiency and one-bedroom unit sizes and increases in the remaining unit sizes. The Richland-Kennewick-Pasco, WA MSA and the San Antonio, TX MSA have increases for all unit sizes except for the one-bedroom units. The Yuma, AZ MSA has decreases for all unit sizes except for the three bedroom size. Cherokee County, NC has proposed decreases in the one-, two- and three-bedroom categories and increases in the efficiency and four-bedroom units.

Areas With FMRs Based on Metropolitan Area AHS Data

1. American Housing Surveys cover 44 of the largest metropolitan areas, which contain half of the nation’s rental housing stock. The surveys are conducted on a four-year cycle, 11 areas each year. HUD used the AHS data to calculate the 45th percentile rent from the distribution of two-bedroom units occupied by recent movers. The bedroom size differentials for other size units were based on the decennial Census intervals for the area. Public housing units, newly constructed units and units that fail a housing quality test were excluded from the distribution before the calculation. The resulting estimate became the base-year rent for the area. The FY 1994 FMRs incorporated the results of the 1991 AHSs. The 1990 AHSs were included in last year’s FMRs. All of the pre-1990 Census AHSs were revised with the Census.

2. The areas with base-year rent estimates based on AHS data were trended to the mid-point of Fiscal Year 1994 using either CPI or RDD survey data on rent changes through 1992 and the 15-month rent change projection factor to bring them to April 1994. The proposed FMRs include AHSs for 10 FMR areas.

The St. Louis, MO-IL MSA and the Chicago, IL PMSA have increases proposed for all unit sizes. Seven areas have a mixture of proposed increases and decreases for the various bedroom-size categories. The Baltimore, MD, Columbus, OH, Seattle, WA and Tacoma, WA FMR areas have decreases in the efficiency and one-bedroom categories and increases in the two-, three- and four-bedroom categories. The San Diego, CA MSA has decreases in the efficiency, one- and two-bedroom categories and increases in the three- and four-bedroom unit categories. The Brazoria, TX PMSA has a decrease in the one-bedroom unit size, but increases in all other bedroom sizes. The following is a list of the HUD regions showing the states included in each:

<table>
<thead>
<tr>
<th>HUD region</th>
<th>Nonmetro part (per-cent)</th>
<th>States included</th>
</tr>
</thead>
<tbody>
<tr>
<td>I ..........</td>
<td>1.0</td>
<td>Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.</td>
</tr>
<tr>
<td>II .......</td>
<td>2.1</td>
<td>New York, New Jersey, Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.</td>
</tr>
<tr>
<td>III ......</td>
<td>5.0</td>
<td>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, Virgin Islands.</td>
</tr>
<tr>
<td>IV ......</td>
<td>2.1</td>
<td>Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.</td>
</tr>
<tr>
<td>V ......</td>
<td>2.3</td>
<td>Arkansas, Louisiana, Oklahoma, New Mexico, Texas.</td>
</tr>
<tr>
<td>VI ......</td>
<td>2.1</td>
<td>Iowa, Kansas, Missouri, Nebraska.</td>
</tr>
<tr>
<td>VII ......</td>
<td>1.4</td>
<td>Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.</td>
</tr>
<tr>
<td>VIII ......</td>
<td>4.0</td>
<td>Arizona, California, Hawaii, Nevada, Pacific Islands.</td>
</tr>
<tr>
<td>IX ......</td>
<td>1.1</td>
<td>Alaska, Idaho, Oregon, Washington.</td>
</tr>
</tbody>
</table>

The proposed FMRs for the Pacific Islands and the Virgin Islands have been adjusted using the respective nonmetropolitan RDD rent change factors indicated in the table above. For FMR purposes, the Pacific Islands include Guam, the Mariana Islands, and the Trust Territories. Based on a prior consultation with the Caribbean office of HUD, the FMRs in Puerto Rico will remain at the current levels.

Manufactured Home Space Rents

The proposed FMRs for Manufactured Home Spaces have been updated for one more year to April 1, 1994, using the respective HUD Regional RDD adjustment factors, which were adjusted to exclude the major part of the cost of utilities contained in these estimates. The FMRs have not been re-benchmarked because no data are available in the 1990 Census on manufactured home space rentals, and no other source of reliable data has been found that can be used for this purpose. The Manufactured Home Owners Assistance program was established in 1978 to provide assistance to families who owned a manufactured home but were unable to meet the rising costs of space rentals. Originally, the Manufactured Home Space FMRs were established based on AHS data for the nonmetropolitan parts of states and HUD field office surveys of the metropolitan areas. Over the years, the FMRs for many of these areas were revised and those for additional individual areas were established on the basis of local surveys submitted as public comments. Because the very small amount of program activity does not justify the expected costs to obtain survey data, HUD is considering alternatives to establishing FMRs for this program. One alternative being considered is to replace the FMRs with a rent reasonableness test that assures that the Manufactured Home Space rental does not exceed that required to rent a space in a modest, nonluxury park. Modest rent would be defined within the context of the local FMR area in which the park is located. Implementation of this proposal would require a legislative change, since the current law requires that FMRs, including those for Manufactured Home Spaces, be established and published in the Federal Register. HUD invites comments on this proposal and other suggestions on whether Manufactured Home Space FMRs are needed and how they might be established.

V. Request for Comments

The Department seeks public comment on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the methodology used) to
justify any proposed changes. Changes may be proposed in all or any of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

PHAs that plan to use the RDD survey technique may obtain a copy of the "PHA Guide to Conducting a Fair Market Rent (FMR) Telephone Survey" by calling HUD USER on 1-800-245-2691. This package contains information on: (1) How to decide whether to conduct a rent survey; (2) selecting a contractor; and (3) monitoring the contract. In addition, there are example copies of a request for bids letter and a contract package, the survey questionnaire and interviewer training manual, and a detailed explanation of the methodology. After a contract is awarded, these surveys can normally be completed within two to three months. The hardware and the timing of staff utilization require that these surveys be conducted by contractors staffed with professional statisticians experienced in this field.

Well-constructed RDD surveys are the preferred method; however, they are not mandated where not cost effective or where alternative surveys with comparable reliability are available and have been determined to be representative of prevailing rent levels in the FMR area. The survey samples must be representative of rental housing stock of the entire FMR area. Preferably, samples should be randomly drawn. If this is not a feasible alternative, care should be taken to ensure that the selected sample is not biased toward units of a particular type, age or geographic location. The decennial Census should be used as a starting point guide and as a means of verification for determining whether non-randomly drawn samples are representative of the FMR area rental housing stock.

Local rental housing surveys must show the 45th percentile gross rent (rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units rank ordered by gross rent. An explanation of how contract rents were converted to gross rents needs to be included. The surveys must exclude units built within two years prior to the survey date and samples must not be drawn solely from vacant units. Since the FMR standard data base uses only standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, the Department will accept surveys of all units and apply an appropriate adjustment. Commenters must specify the date the rent data were collected so that the Department can apply a trending factor to update the estimate to April 1, 1994. Survey data that are trended to the April 1, 1994 "as of date" of the FMRs must include information on the date the survey was conducted, the amount of the trending factor and the source of the trending data. The Department will evaluate all information provided with the comments before making a final decision on the trending adjustment.

Rent surveys that cover only two-bedroom units are acceptable if rent proposals for other size units are consistent with the HUD differentials established on the basis of the 1990 Census data for the area. When three- and four-bedroom units are surveyed, the following procedure must be used to determine appropriate FMR proposals: (1) Determine the 45th percentile rents for the three- and four-bedroom units surveyed, (2) multiply the 45th percentile three-bedroom rent by 1.087 to determine the three-bedroom FMR, and (3) multiply the four-bedroom rent by 1.077 to determine the four-bedroom FMR. The use of these factors will produce the same upward adjustments in the rent differentials by bedroom size as those applied to the rent differentials for three- and four-bedroom units in the HUD methodology.

VI. Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4370) is unnecessary, since the statutory required establishment and review of fair market rents is categorically excluded from the Department's regulations implementing the National Environmental Policy Act at 24 CFR 50.20(1). The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this document before publication and by approving it certifies that the Notice does not have a significant economic impact on a substantial number of small entities, because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program. The General Counsel, as the Designated Official under Executive Order No. 12611, Federalism, has determined that this proposal would not involve the preemption of State law by Federal Statue or regulation and would not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in the Code of Federal Regulations, are proposed to be amended as follows:


Henry G. Cisneros,
Secretary.

Section 8 Fair Market Rent Schedules, for Use in the Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program, and Housing Voucher Program Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for the Section 8 Certificate program (Schedule B) are established, for Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), other HUD-designated metropolitan FMR areas, for nonmetropolitan counties and county equivalents in the United States, Puerto Rico, the Virgin Islands and the Pacific Islands. FMRs also are established for nonmetropolitan parts of counties in the New England states.

b. FMRs for the areas in Virginia shown in the table below are established by combining the 1990 Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas including the independent cities are as follows:
<table>
<thead>
<tr>
<th>Virginia nonmetropolitan county FMR area</th>
<th>Virginia independent cities included with county</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegheny</td>
<td>Clifton Forge and Covington.</td>
</tr>
<tr>
<td>Augusta</td>
<td>Staunton and Waynesboro.</td>
</tr>
<tr>
<td>Carroll</td>
<td>Galax.</td>
</tr>
<tr>
<td>Frederick</td>
<td>Winchester.</td>
</tr>
<tr>
<td>Greensville</td>
<td>Emporia.</td>
</tr>
<tr>
<td>Halifax</td>
<td>South Boston.</td>
</tr>
<tr>
<td>Henry</td>
<td>Martinsville.</td>
</tr>
<tr>
<td>Montgomery</td>
<td>Radford.</td>
</tr>
<tr>
<td>Rockbridge</td>
<td>Buena Vista and Lexington.</td>
</tr>
<tr>
<td>Rockingham</td>
<td>Harrisonburg.</td>
</tr>
<tr>
<td>Wise</td>
<td>Norton.</td>
</tr>
</tbody>
</table>

d. FMRs for Manufactured Home spaces in the Section 8 Certificate program (Schedule D) are established for MSAs, PMSAs, HUD-designated metropolitan counties, and for selected nonmetropolitan counties and the residual nonmetropolitan part of each State.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210-32-M
### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

#### A L A B A M A

<table>
<thead>
<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Counties of FMR AREA within STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anniston, AL MSA</td>
<td>208 279 352 430 555</td>
<td>Calhoun</td>
</tr>
<tr>
<td>Birmingham, AL MSA</td>
<td>335 378 440 595 661</td>
<td>Blount, Jefferson, St. Clair, Shelby</td>
</tr>
<tr>
<td>Columbus, GA-AL MSA</td>
<td>324 362 431 565 613</td>
<td>Russell</td>
</tr>
<tr>
<td>Decatur, AL MSA</td>
<td>212 315 398 514 614</td>
<td>Lawrence, Morgan</td>
</tr>
<tr>
<td>Dothan, AL MSA</td>
<td>292 299 370 510 518</td>
<td>Dale, Houston</td>
</tr>
<tr>
<td>Florence, AL MSA</td>
<td>270 281 375 491 525</td>
<td>Colbert, Lauderdale</td>
</tr>
<tr>
<td>Gadsden, AL MSA</td>
<td>232 294 330 430 542</td>
<td>Etowah</td>
</tr>
<tr>
<td>Huntsville, AL MSA</td>
<td>327 384 474 630 749</td>
<td>Limestone, Madison</td>
</tr>
<tr>
<td>Mobile, AL MSA</td>
<td>303 334 388 521 611</td>
<td>Baldwin, Mobile</td>
</tr>
<tr>
<td>Montgomery, AL MSA</td>
<td>361 387 456 621 748</td>
<td>Autauga, Elmore, Montgomery</td>
</tr>
<tr>
<td>Tuscaloosa, AL MSA</td>
<td>309 331 441 605 640</td>
<td>Tuscaloosa</td>
</tr>
</tbody>
</table>

#### NONMETROPOLITAN COUNTIES

<table>
<thead>
<tr>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Bibb</th>
<th>Butler</th>
<th>Cherokee</th>
<th>Choctaw</th>
<th>Clay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barbour</td>
<td>159 227</td>
<td>290 402</td>
<td>475</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bullock</td>
<td>173 188</td>
<td>218 273</td>
<td>358</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chambers</td>
<td>167 268</td>
<td>304 387</td>
<td>499</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chilton</td>
<td>246 249</td>
<td>320 400</td>
<td>448</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clarke</td>
<td>223 225</td>
<td>296 391</td>
<td>486</td>
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<td></td>
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<tr>
<td>Cleburne</td>
<td>163 224</td>
<td>299 400</td>
<td>419</td>
<td></td>
<td></td>
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<tr>
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<td>146 199</td>
<td>265 332</td>
<td>372</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covington</td>
<td>215 242</td>
<td>272 378</td>
<td>446</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cullman</td>
<td>230 272</td>
<td>324 437</td>
<td>531</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dekalb</td>
<td>163 223</td>
<td>297 373</td>
<td>489</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fayette</td>
<td>213 236</td>
<td>289 371</td>
<td>404</td>
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<tr>
<td>Geneva</td>
<td>209 211</td>
<td>265 369</td>
<td>435</td>
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<tr>
<td>Hale</td>
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<td>265 332</td>
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<tr>
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<td>259 273</td>
<td>329 411</td>
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<td>444 577</td>
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<td>388 485</td>
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<td>Marion</td>
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<td>372</td>
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<tr>
<td>Monroe</td>
<td>161 220</td>
<td>293 408</td>
<td>410</td>
<td></td>
<td></td>
</tr>
<tr>
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**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
**STATE**

**METROPOLITAN FMR AREAS**

<table>
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<tr>
<th>Anchorage, AK MSA</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR 5 BR 6 BR 7 BR 8 BR</th>
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**NONMETROPOLITAN COUNTIES**

| Aleutian East     | 482 543 611 763 1001                         | Aleutian West                     |
| Benkol             | 621 778 984 1232 1379                        | Bristol Bay                       |
| Dillingham         | 601 610 812 1016 1138                        | Fairbanks North Star              |
| Haines             | 448 555 632 859 885                          | Juneau                            |
| Kenai Peninsula    | 352 449 541 752 887                          | Ketchikan Gateway                 |
| Kodiak Island      | 647 711 923 1154 1496                        | Lake & Peninsula                  |
| Matanuska-Susitna  | 346 398 516 718 847                         | Nome                              |
| North Slope        | 718 737 910 1285 1474                        | Northwest Arctic                  |
| Pr.Wales-Outter Ketchikan | 337 533 613 851 901       | Sitka                             |
| Skagway-Yukutat-Angoon | 412 418 542 678 760       | Southeast Fairbanks                |
| Valdez-Cordova     | 503 589 662 874 1040                        | Wade Hampton                      |
| Wrangel-Petersburg | 366 534 600 835 840                          | Yukon-Koyukuk                     |

**METROPOLITAN FMR AREAS**

| Las Vegas, NV-AZ MSA | 438 519 618 858 1014 | Mohave                           |
| Phoenix-Mesa, AZ MSA | 331 400 502 697 822   | Maricopa, Pinal                  |
| Tucson, AZ MSA      | 301 365 486 724 798  | Pima                             |

**NONMETROPOLITAN COUNTIES**

| Apache             | 247 278 312 425 512 | Cochise                          |
| Coconino           | 397 430 558 749 899 | Gila                             |
| Graham             | 254 292 360 501 552 | Greenlee                         |
| La Paz             | 295 333 374 520 613 | Navajo                           |
| Santa Cruz         | 323 385 475 594 717 | Yavapa                           |

**METROPOLITAN FMR AREAS**

| Fayetteville-Springdale-Rogers, AR MSA | 255 318 419 566 586 | Benton, Washington               |
| Fort Smith, AR-OK MSA                  | 275 279 367 491 514 | Crawford, Sebastian              |
| Little Rock-North Little Rock, AR MSA  | 343 380 452 624 728 | Faulkner, Lonoke, Pulaski, Saline |
| Memphis, TN-AR-MS MSA                  | 337 392 462 642 674 | Crittenden                       |
| Pine Bluff, AR MSA                     | 261 311 409 515 670 | Jefferson                        |
| Texarkana, TX-Texarkana, AR MSA        | 282 344 420 555 588 | Miller                           |

**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

### ARKANSAS continued

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### CALIFORNIA

**METROPOLITAN FMR AREAS**

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<td>626 717 909 1209 1409</td>
<td>Ventura</td>
</tr>
<tr>
<td>Visalia-Tulare-Porterville, CA MSA</td>
<td>344 367 477 664 759</td>
<td>Tulare</td>
</tr>
<tr>
<td>Yolo, CA PMSA</td>
<td>443 506 624 868 1024</td>
<td>Yolo</td>
</tr>
<tr>
<td>Yuba City, CA MSA</td>
<td>307 352 452 629 633</td>
<td>Sutter, Yuba</td>
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<table>
<thead>
<tr>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
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<tbody>
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<td>Alpine</td>
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<td>359 415 554 770 908</td>
<td>Colusa</td>
<td>317 322 429 566 704</td>
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<tr>
<td>Del Norte</td>
<td>298 408 543 755 891</td>
<td>Glenn</td>
<td>289 355 438 562 614</td>
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<td>Humboldt</td>
<td>277 363 503 700 827</td>
<td>Imperial</td>
<td>326 407 501 697 703</td>
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<tr>
<td>Inyo</td>
<td>302 407 522 684 731</td>
<td>Kings</td>
<td>334 387 484 673 793</td>
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<td>Lake</td>
<td>332 421 562 708 921</td>
<td>Lassen</td>
<td>356 360 469 629 876</td>
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<tr>
<td>Madera</td>
<td>374 466 595 900 973</td>
<td>Mendoc</td>
<td>414 485 608 846 852</td>
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<td>Modoc</td>
<td>317 322 429 536 601</td>
<td>Mono</td>
<td>445 532 708 984 1162</td>
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<tr>
<td>Nevada</td>
<td>376 513 685 952 1103</td>
<td>Plumas</td>
<td>321 344 458 628 641</td>
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<td>San Benito</td>
<td>437 514 643 895 1049</td>
<td>Sierra</td>
<td>265 369 480 668 787</td>
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<td>Sequoyah</td>
<td>306 334 444 577 729</td>
<td>Tehama</td>
<td>304 322 429 597 704</td>
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<tr>
<td>Trinity</td>
<td>327 331 430 551 705</td>
<td>Tuolumne</td>
<td>326 444 592 823 971</td>
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</table>

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
<table>
<thead>
<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Counties of FMR AREA within STATE</th>
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<tbody>
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<td>Boulder-Longmont, CO PMSA</td>
<td>366 439 563 782 923</td>
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<td>307 353 472 657 776</td>
<td>El Paso</td>
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<td>Denver, CO PMSA</td>
<td>332 408 544 755 891</td>
<td>Adams, Arapahoe, Denver, Douglas, Jefferson</td>
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<td>Fort Collins-Loveland, CO MSA</td>
<td>311 383 472 657 776</td>
<td>Larimer</td>
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<tr>
<td>Greeley, CO PMSA</td>
<td>269 327 420 583 689</td>
<td>Weld</td>
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<tr>
<td>Pueblo, CO MSA</td>
<td>242 304 404 522 639</td>
<td>Pueblo</td>
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<th>NONMETROPOLITAN COUNTRIES</th>
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<td>Alamosa</td>
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<td>Baca</td>
<td>224 227 303 422 497</td>
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<td>Chaffee</td>
<td>287 291 388 532 587</td>
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<tr>
<td>Clear Creek</td>
<td>345 411 466 649 765</td>
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<tr>
<td>Costilla</td>
<td>205 331 373 519 563</td>
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<tr>
<td>Custer</td>
<td>205 328 373 514 611</td>
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<tr>
<td>Dolores</td>
<td>202 326 365 457 512</td>
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<tr>
<td>Elbert</td>
<td>390 434 493 617 810</td>
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<td>Garfield</td>
<td>385 412 521 651 854</td>
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<td>Grand</td>
<td>423 428 542 678 820</td>
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<td>Hinsdale</td>
<td>331 374 419 584 587</td>
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<tr>
<td>Jackson</td>
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<td>Kit Carson</td>
<td>213 290 387 485 542</td>
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<td>La Plata</td>
<td>331 365 481 669 790</td>
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<td>Lincoln</td>
<td>276 279 373 466 611</td>
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<tr>
<td>Mesa</td>
<td>216 299 373 519 611</td>
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<tr>
<td>Moffat</td>
<td>255 297 376 523 617</td>
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<tr>
<td>Montrose</td>
<td>235 279 373 466 560</td>
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<tr>
<td>Otero</td>
<td>279 391 509 707 804</td>
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<tr>
<td>Park</td>
<td>279 391 509 707 804</td>
</tr>
<tr>
<td>Pitkin</td>
<td>530 724 965 1274 1447</td>
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<tr>
<td>Rio Blanco</td>
<td>276 373 519 570</td>
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<td>Routt</td>
<td>331 427 563 783 923</td>
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<tr>
<td>San Juan</td>
<td>214 345 388 540 556</td>
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<tr>
<td>Sedgwick</td>
<td>164 224 299 374 471</td>
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<tr>
<td>Teller</td>
<td>307 418 558 775 781</td>
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<td>Yuma</td>
<td>198 270 360 500 503</td>
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<table>
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<tr>
<th>NONMETROPOLITAN COUNTRIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
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<tbody>
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<td>Archuleta</td>
<td>272 384 432 601 709</td>
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<td>Bent</td>
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<tr>
<td>Cheyenne</td>
<td>205 280 374 467 614</td>
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<tr>
<td>Conejos</td>
<td>172 278 312 391 485</td>
</tr>
<tr>
<td>Crowley</td>
<td>172 269 312 415 512</td>
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<tr>
<td>Delta</td>
<td>276 279 373 499 522</td>
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<tr>
<td>Eagle</td>
<td>491 534 712 991 1169</td>
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<tr>
<td>Fremont</td>
<td>229 301 401 558 658</td>
</tr>
<tr>
<td>Gilpin</td>
<td>328 470 596 786 871</td>
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<tr>
<td>Gunnison</td>
<td>317 334 428 596 703</td>
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<tr>
<td>Huerfano</td>
<td>219 279 373 481 611</td>
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<tr>
<td>Kiowa</td>
<td>192 312 351 446 501</td>
</tr>
<tr>
<td>Lake</td>
<td>328 332 444 554 692</td>
</tr>
<tr>
<td>Las Animas</td>
<td>256 218 365 509 600</td>
</tr>
<tr>
<td>Logan</td>
<td>205 279 373 499 522</td>
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<tr>
<td>Mineral</td>
<td>258 290 327 413 537</td>
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<tr>
<td>Montezuma</td>
<td>235 322 373 519 570</td>
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<tr>
<td>Morgan</td>
<td>272 276 369 500 604</td>
</tr>
<tr>
<td>Durbin</td>
<td>254 348 463 588 750</td>
</tr>
<tr>
<td>Phillips</td>
<td>229 233 310 413 453</td>
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<tr>
<td>Prowers</td>
<td>248 251 337 457 552</td>
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<tr>
<td>Rio Grande</td>
<td>205 279 373 496 522</td>
</tr>
<tr>
<td>Saguache</td>
<td>201 295 364 456 529</td>
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<tr>
<td>San Miguel</td>
<td>463 559 735 919 1184</td>
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<tr>
<td>Summit</td>
<td>414 496 636 885 1044</td>
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<td>Washington</td>
<td>260 306 373 466 611</td>
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</tbody>
</table>

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
<table>
<thead>
<tr>
<th>Metropolitan FMR Areas</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Components of FMR AREA within STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridgeport, CT PMSA</td>
<td>533 692 833 1042 1300</td>
<td>Fairfield county towns of Bridgeport, Easton, Fairfield Monroe, Shelton, Stratford, Trumbull</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New Haven county towns of Ansonia, Beacon Falls, Derby, Milford, Oxford, Seymour</td>
</tr>
<tr>
<td>Danbury, CT PMSA</td>
<td>631 754 942 1244 1433</td>
<td>Fairfield county towns of Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Sherman</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Litchfield county towns of Bridgewater, New Milford, Washington</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New Haven county towns of Southbury</td>
</tr>
<tr>
<td>Hartford, CT PMSA</td>
<td>446 554 709 887 1078</td>
<td>Litchfield county towns of Barkhamsted, Harwinton</td>
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<td></td>
<td></td>
<td>New Hartford, Plymouth, Winchester</td>
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<tr>
<td></td>
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<td>Middlesex county towns of Cromwell, Durham, East Haddam</td>
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<td></td>
<td></td>
<td>East Hampton, Haddam, Middlefield, Middletown, Portland</td>
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<td></td>
<td></td>
<td>New London county towns of Colchester, Lebanon</td>
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<td></td>
<td></td>
<td>Tolland county towns of Andover, Bolton, Columbia</td>
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<tr>
<td></td>
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<td>Coventry, Ellington, Hebron, Mansfield, Somers, Stafford Tolland, Vernon, Willington</td>
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<tr>
<td></td>
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<td>Windham county towns of Ashford, Chaplin, Windham</td>
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<tr>
<td></td>
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<td>Middlesex county towns of Clinton, Killingworth</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New Haven county towns of Bethany, Branford, Cheshire</td>
</tr>
<tr>
<td></td>
<td></td>
<td>East Haven, Guilford, Hamden, Madison, Meriden</td>
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<td></td>
<td></td>
<td>New Haven, North Branford, North Haven, Orange</td>
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<tr>
<td></td>
<td></td>
<td>Wallingford, West Haven, Woodbridge</td>
</tr>
<tr>
<td>New Haven-Meriden, CT PMSA</td>
<td>518 636 786 1007 1165</td>
<td>New Haven county towns of Bozrah, East Lyme, Franklin</td>
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<tr>
<td></td>
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<td>Griswold, Grotos, Groton, Ledyard, Lisbon, Montville, New London</td>
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<td>North Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Waterford</td>
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<td></td>
<td></td>
<td>Windham county towns of Canterbury, Plainfield</td>
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<td></td>
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<td>Fairfield county towns of Darlen, Greenwich, New Canaan</td>
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<td>Norwalk, Stamford, Weston, Westport, Wilton</td>
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<tr>
<td></td>
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<td>Litchfield county towns of Bethlehem, Thomaston</td>
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<tr>
<td></td>
<td></td>
<td>Watertown, Woodbury</td>
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<tr>
<td></td>
<td></td>
<td>New Haven county towns of Middlebury, Naugatuck, Prospect, Waterbury</td>
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<td>Waterbury, Wolcott</td>
</tr>
</tbody>
</table>

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT continued

NONMETROPOLITAN COUNTIES

Hartford............................. 343 555 625 868 1024
Litchfield............................ 398 542 723 904 1028
Middlesex............................. 589 668 892 1240 1463
New London.......................... 500 612 695 897 1139
Tolland............................... 343 555 625 868 874
Windham.............................. 394 482 625 782 981

DELAWARE

METROPOLITAN FMR AREAS

Dover, DE MSA........................ 398 444 503 669 760
Wilmington-Newark, DE-MD PMSA... 407 538 626 851 1026

NONMETROPOLITAN COUNTIES

Sussex............................... 357 361 483 643 676

DIST. OF COLUMBIA

METROPOLITAN FMR AREAS

Washington, DC-MD-VA.............. 633 719 844 1149 1385

FLORIDA

METROPOLITAN FMR AREAS

Daytona Beach, FL MSA.............. 347 430 551 732 777
Fort Lauderdale, FL PMSA........... 475 559 690 960 1132
Fort Myers-Cape Coral, FL MSA.... 411 474 571 795 830
Fort Pierce-Port Lucie, FL MSA... 420 462 600 779 840
Fort Walton Beach, FL MSA........ 351 391 444 618 729
Gainesville, FL MSA................ 314 371 481 670 790
Jacksonville, FL MSA............... 369 413 498 658 731
Lakeland-Winter Haven, FL MSA.... 329 370 452 578 663
Melbourne-Titusville-Palm Bay, FL MSA. 350 438 548 734 855
Miami, FL PMSA..................... 471 590 737 1011 1173
Naples, FL MSA...................... 394 555 668 928 1036
Ocala, FL MSA....................... 313 354 433 599 703
Orlando, FL MSA..................... 447 509 606 795 971

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<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Counties of FMR AREA within STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panama City, FL MSA</td>
<td>318 343 419 582 624</td>
<td>Bay</td>
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<tr>
<td>Pensacola, FL MSA</td>
<td>330 372 418 580 685</td>
<td>Escambia, Santa Rosa</td>
</tr>
<tr>
<td>Punta Gorda, FL MSA</td>
<td>345 417 556 772 911</td>
<td>Charlotte</td>
</tr>
<tr>
<td>Sarasota-Bradenton, FL MSA</td>
<td>370 470 596 766 835</td>
<td>Manatee, Sarasota</td>
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<tr>
<td>Tallahassee, FL MSA</td>
<td>378 417 549 719 867</td>
<td>Gadsden, Leon</td>
</tr>
<tr>
<td>Tampa-St. Petersburg-Clearwater, FL MSA</td>
<td>369 439 543 722 874</td>
<td>Hernando, Hillsborough, Pasco, Pinellas</td>
</tr>
<tr>
<td>West Palm Beach-Boca Raton, FL MSA</td>
<td>487 572 707 940 1160</td>
<td>Palm Beach</td>
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</table>

<table>
<thead>
<tr>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
</tr>
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<tbody>
<tr>
<td>Baker</td>
<td>209 339 382 478 555</td>
<td>Bradford</td>
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<tr>
<td>Calhoun</td>
<td>199 217 290 400 475</td>
<td>Citrus</td>
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<td>260 288 330 458 541</td>
<td>Desoto</td>
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<td>Dixie</td>
<td>232 260 293 408 481</td>
<td>Franklin</td>
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<td>Gilchrist</td>
<td>195 270 355 445 583</td>
<td>Glades</td>
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<td>205 280 374 468 523</td>
<td>Hamilton</td>
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<td>235 382 428 535 600</td>
<td>Hendry</td>
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<td>304 337 448 562 628</td>
<td>Holmes</td>
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<tr>
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<td>343 461 592 741 829</td>
<td>Jackson</td>
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<tr>
<td>Jefferson</td>
<td>184 246 328 449 538</td>
<td>Lafayette</td>
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<td>Levy</td>
<td>260 264 330 412 535</td>
<td>Liberty</td>
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<td>229 257 290 402 449</td>
<td>Monroe</td>
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<td>Okeechobee</td>
<td>244 395 444 555 622</td>
<td>Putnam</td>
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<td>Sumter</td>
<td>296 324 376 470 527</td>
<td>Suwannee</td>
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<td>Taylor</td>
<td>258 291 388 485 617</td>
<td>Union</td>
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<td>Wakulla</td>
<td>185 280 337 469 552</td>
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<tr>
<td>Washington</td>
<td>161 256 294 368 412</td>
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<tr>
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<td>EFF 1 BR 2 BR 3 BR 4 BR</td>
<td>Counties of FMR AREA within STATE</td>
</tr>
<tr>
<td>--------------------------</td>
<td>--------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Albany, GA MSA</td>
<td>272 288 383 532 536</td>
<td>Dougherty, Lee</td>
</tr>
<tr>
<td>Athens, GA MSA</td>
<td>340 364 473 643 775</td>
<td>Clarke, Madison, Oconee</td>
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<tr>
<td>Atlanta, GA</td>
<td>454 506 589 784 949</td>
<td>Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, Columbus, Richmond</td>
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<td>Augusta-Aiken, GA-SC MSA</td>
<td>325 389 458 623 738</td>
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<td>Carroll County, GA</td>
<td>303 307 410 570 673</td>
<td>Carroll</td>
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<td>316 370 444 573 654</td>
<td>Cattooga, Dade, Walker</td>
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<td>324 362 431 565 613</td>
<td>Chattahoochee, Harris, Muscogee</td>
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<tr>
<td>Macon, GA MSA</td>
<td>336 375 435 602 618</td>
<td>Bibb, Houston, Jones, Peach, Tiggles</td>
</tr>
</tbody>
</table>

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<th>Counties of FMR AREA within STATE</th>
</tr>
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<tbody>
<tr>
<td>Pickens County, GA</td>
<td>211 287 384 533 538</td>
<td>Pickens</td>
</tr>
<tr>
<td>Savannah, GA MSA</td>
<td>338 421 489 657 685</td>
<td>Bryan, Chatham, Effingham</td>
</tr>
<tr>
<td>Spalding County, GA</td>
<td>329 332 445 560 623</td>
<td>Spalding</td>
</tr>
<tr>
<td>Walton County, GA</td>
<td>317 342 440 612 721</td>
<td>Walton</td>
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</table>

<table>
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**HAWAII**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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**IOWA METROPOLITAN FMR AREAS**

| Cedar Rapids, IA MSA     | 249 352 451 628 673 | Linn                     | 246 306 405 543 570 |
| Davenport-Moline-Rock Island, IA-IL MSA | 338 400 513 683 718 | Dallas, Polk, Warren     |
| Des Moines, IA MSA        | 257 305 406 517 631 | Dubuque                  |
| Dubuque, IA MSA           | 301 385 494 687 811 | Johnson                  |
| Iowa City, IA MSA         | 284 388 491 643 721 | Pottawattamie            |
| Omaha, NE-IA MSA          | 237 301 402 522 615 | Woodbury                 |
| Waterloo-Cedar Falls, IA MSA | 227 303 379 528 620 | Black Hawk               |

**NONMETROPOLITAN COUNTIES**

| Adair                    | 195 262 349 443 489 | Adams                    |
| Allamakee                | 198 249 307 426 503 | Appanoose                |
| Audubon                  | 170 257 309 387 454 | Benton                   |
| Boone                    | 250 264 378 496 588 | Bremer                   |
| Buchanan                 | 264 267 348 435 493 | Buena Vista              |
| Butler                   | 257 260 324 431 454 | Calhoun                  |
| Carroll                  | 192 262 349 481 505 | Cass                     |
| Cedar                    | 195 313 355 444 497 | Cerro Gordo              |
| Cherokee                 | 210 213 284 395 388 | Chickasaw                |
| Clarke                   | 258 262 349 484 516 | Clay                     |
| Clayton                  | 224 249 315 406 517 | Clinton                  |
| Crawford                 | 232 249 327 426 456 | Davis                    |
| Decatur                  | 199 227 303 420 424 | Delaware                 |
| Des Moines               | 220 286 383 500 562 | Dickinson                |
| Emmet                    | 197 238 304 407 498 | Fayette                  |
| Floyd                    | 272 275 349 437 505 | Franklin                 |

**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### Schedule B - Fair Market Rents for Existing Housing

**Iowa** continued

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**Kansas**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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| KENTUCKY                                           |        |
| METROPOLITAN FMR AREAS                            |        |
| Cincinnati, OH-KY-IN                               |        |
| Clarksville-Hopkinsville, TN-KY MSA               |        |
| Evansville-Henderson, IN-KY MSA                   |        |
| Gallatin County, KY                                |        |
| Grant County, KY                                   |        |
| Huntington-Ashland, WV-KY-DH MSA                  |        |
| Lexington, KY MSA                                  |        |
| Owensboro, KY MSA                                  |        |
| Pendleton County, KY                               |        |

| NONMETROPOLITAN COUNTIES                           |        |
| Adair                                              | 160    |
| Anderson                                           | 285    |
| Barren                                             | 242    |
| Bell                                               | 180    |
| Breckinridge                                       | 157    |
| Caldwell                                           | 146    |
| Carlisle                                          | 230    |
| Carter                                             | 176    |
| Clay                                               | 151    |
| Crittenden                                         | 145    |
| Edmonson                                           | 145    |
| Estill                                             | 177    |
| Floyd                                             | 228    |
| Fulton                                             | 240    |
| Graves                                             | 183    |

| NONMETROPOLITAN COUNTIES                           |        |
| Allen                                              | 168    |
| Ballard                                            | 145    |
| Bath                                               | 157    |
| Boyle                                              | 284    |
| Breithnitt                                         | 148    |
| Butler                                             | 145    |
| Callaway                                           | 185    |
| Carroll                                            | 236    |
| Casey                                             | 145    |
| Clinton                                            | 148    |
| Cumberland                                         | 155    |
| Eillott                                            | 195    |
| Fleming                                            | 164    |
| Franklin                                           | 232    |
| Garrard                                            | 223    |
| Grayson                                            | 151    |

| Counties of FMR AREA within STATE                  |        |
| Boone, Campbell, Kenton                            | 651    |
| Christian                                          | 542    |
| Henderson                                          | 527    |
| Gallatin                                           | 484    |
| Grant                                              | 525    |
| Boyd, Greenup                                      | 478    |
| Bourbon, Clark, Fayette, Jessamine, Madison, Scott | 485    |
| Builditt, Jefferson, Oldham                        | 485    |
| Daviess                                            | 485    |
| Pendleton                                          | 461    |

| Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. |

| Proposed Rules                                    |        |

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### MAINE

#### METROPOLITAN FMR AREAS

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#### Components of FMR AREA within STATE

Penobscot county towns of Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Old Town

Aroostook county towns of Androscoggin

Cumberland county towns of Cape Elizabeth, Cape

York county towns of Buxton, Hollis, Limington

Old Orchard Beach

**Towns within non-metropolitan counties**

- Durham, Leeds, Livermore, Livermore Falls, Niantic
- Baldwin, Bridgton, Brunswick, Harpswell, Harpswell, Naples, New Gloucester, Pownal, Saco

**Other towns**

- Alton, Argyle, Bradford, Bradley, Burlington, Carmel
- Carroll, Charleston, Chester, Clifton, Corinna, Corinth
- Dexter, Dixmont, Drew, East Central Penobscot
- East Millinocket, Edinburg, Enfield, Etna, Exeter
- Garland, Grand Falls, Greenbush, Greenfield, Howland
- Hudson, Kingsport, Limestone, Lakeville, Lee, Levant
- Lincoln, Lowell, Mattawamkeag, Medfield, Medway
- Millinocket, Mount Chase, Newburgh, Newport
- North Penobscot, Passadumkeag, Potter, Plymouth
- Prentice, Sebec, Springfield, Stacyville, Stegate
- Summit, Twombly, Webster, Whitney, Winn, Woodville

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
<table>
<thead>
<tr>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Towns within non metropolitan counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington</td>
<td>242 331 442 552 619</td>
<td>Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro</td>
</tr>
<tr>
<td>York</td>
<td>378 435 581 726 813</td>
<td>Championship, Cumberland, Kennebunkport, Kennebunkport, Limerick, Lyman, Newfield, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MARYLAND</th>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Counties of FMR AREA WITHIN STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baltimore, MD.</td>
<td>404 494 603 796 911</td>
<td>Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city</td>
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</tr>
<tr>
<td>Columbia, MD.</td>
<td>523 703 818 1081 1350</td>
<td>Columbia</td>
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<tr>
<td>Cumberland, MD-WV MSA</td>
<td>228 287 374 493 541</td>
<td>Allegany</td>
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<td>Hagerstown, MD PMSA</td>
<td>260 399 473 591 700</td>
<td>Washington</td>
<td></td>
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<tr>
<td>Washington, DC-MD-VA</td>
<td>633 719 844 1149 1385</td>
<td>Calvert, Charles, Frederick, Montgomery, Prince George's</td>
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<td>Wilmington-Newark, DE-MD PMSA</td>
<td>407 538 626 851 1026</td>
<td>Cecil</td>
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<table>
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<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
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<td>Caroline</td>
<td>222 339 435 570 610</td>
<td>Dorchester</td>
<td>232 391 456 570 638</td>
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<td>Garrett</td>
<td>229 286 353 442 579</td>
<td>Kent</td>
<td>312 384 512 640 772</td>
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<td>St. Mary's</td>
<td>439 534 600 835 955</td>
<td>Somerset</td>
<td>337 380 427 593 700</td>
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<tr>
<td>Talbot</td>
<td>408 431 576 720 944</td>
<td>Wicomico</td>
<td>346 402 517 657 723</td>
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<tr>
<td>Worcester</td>
<td>258 375 470 653 657</td>
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<th>MASSACHUSETTS</th>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Components of FMR AREA WITHIN STATE</th>
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</thead>
<tbody>
<tr>
<td>Barnstable-Yarmouth, MA MSA</td>
<td>450 603 805 1007 1127</td>
<td>Barnstable county towns of Barnstable, Brewster, Chatham, Dennis, Eastham, Harwich, Mashpee, Orleans, Sandwich, Yarmouth</td>
<td></td>
</tr>
</tbody>
</table>

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
<table>
<thead>
<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR</th>
<th>2 BR</th>
<th>3 BR</th>
<th>4 BR</th>
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<tr>
<td>Brockton, MA PMSA</td>
<td>408</td>
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<td>658</td>
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<td>Fitchburg-Leominster, MA MSA</td>
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<td>522</td>
<td>677</td>
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<td>Lawrence-Haverhill, MA-NH PMSA</td>
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<td>Lowell, MA-NH PMSA</td>
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<td>668</td>
<td>836</td>
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<tr>
<td>New Bedford, MA MSA</td>
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<td>694</td>
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<td>Pittsfield, MA MSA</td>
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<td>579</td>
<td>724</td>
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<tr>
<td>Providence-Fall River-Warwick, RI-MA PMSA</td>
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<td>539</td>
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<tr>
<td>Springfield, MA MSA</td>
<td>375</td>
<td>451</td>
<td>586</td>
<td>732</td>
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</tbody>
</table>

**Note:** The FMR$ for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

Components of FMR AREA within STATE

Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon Stoughton, Walpole, Wellesley, Westwood, Weymouth Wrentham
Plymouth county towns of Carver, Duxbury, Hanover Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke Plympton, Rockland, Scituate Suffolk county towns of Boston, Chelsea, Revere, Winthrop Worcester county towns of Berlin, Blackstone, Bolton Harvard, Hopkinton, Lancaster, Mendon, Milford, Millville Southborough, Upton
Middlesex county towns of Billerica, Chelmsford, Dracut Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough Westford
Bristol county towns of Acushnet, Dartmouth, Fairhaven Freetown, New Bedford Plymouth county towns of Marion, Mattapoisett, Rochester Berkshire county towns of Adams, Cheshire, Dalton Hinsdale, Lanesborough, Lee, Lenox, Pittsfield, Richmond Stockbridge
Bristol county towns of Attleboro, Fall River North Attleborough, Rehoboth, Seekonk, Somerset, Swansea Westport
Norfolk county towns of Worcester county towns of Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham
Essex county towns of Beverly, Danvers, Essex, Gloucester Hamilton, Ipswich, Manchester, Marblehead, Middleton Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield Wenham
Franklin county towns of Sudbury
Hampden county towns of Agawam, Chicopee, East Longmeadow Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery
SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

<table>
<thead>
<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Components of FMR AREA within STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Springfield, Wilbraham</td>
<td></td>
<td>Hampshire county towns of Amherst, Belchertown, Easthampton, Granby, Hadley, Hatfield, Huntington, Northampton, Southampton, South Hadley, Ware</td>
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</table>

<table>
<thead>
<tr>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Towns within non metropolitan counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barnstable</td>
<td>437 598 797 996 1115</td>
<td>Bourne, Falmouth, Provincetown, Truro, Wellfleet</td>
</tr>
<tr>
<td>Berkshire</td>
<td>360 438 516 708 847</td>
<td>Alford, Becket, Clarksburg, Egremont, Florida, Great Barrington, Hancock, Monterey, Mount Washington, New Ashford, New Marlborough, North Adams, Otis, Peru</td>
</tr>
<tr>
<td>Dukes</td>
<td>487 572 696 870 1086</td>
<td>Sandwichfield, Sauvie, Sheffield, Tisbury, Williamstown, Windsor</td>
</tr>
<tr>
<td>Franklin</td>
<td>578 587 782 977 1095</td>
<td>Berkley, Dighton, Taunton</td>
</tr>
<tr>
<td>Hampden</td>
<td>392 534 712 948 1169</td>
<td>Ashfield, Bernardston, Buckland, Charlemont, Colrain, Conway, Deerfield, Erving, Gill, Greenfield, Hawley, Heath, Leverett, Leyden, Monroe, Montague, New Salem, Northfield, Orange, Rowe, Shelburne, Shutesbury, Warren</td>
</tr>
<tr>
<td>Hampshire</td>
<td>488 481 616 770 930</td>
<td>Wendell, Whately, Blandford, Brimfield, Chester, Granville, Tolland, Wales, Holland</td>
</tr>
<tr>
<td>Nantucket</td>
<td>437 455 507 756 850</td>
<td>Chesterfield, Cummington, Goshen, Middlefield, Pelham, Plainfield, Westhampton, Worthington</td>
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<table>
<thead>
<tr>
<th>MICHIGAN</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
<th>Counties of FMR AREA within STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ann Arbor, MI MSA</td>
<td>431 522 644 845 947</td>
<td>Lenawee, Livingston, Washtenaw</td>
</tr>
<tr>
<td>Benton Harbor, MI MSA</td>
<td>347 352 462 578 648</td>
<td>Berrien</td>
</tr>
<tr>
<td>Detroit, MI MSA</td>
<td>342 466 562 703 787</td>
<td>Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne</td>
</tr>
</tbody>
</table>

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### Metropolitan FMR Areas

<table>
<thead>
<tr>
<th>Metro Area</th>
<th>EFF 1</th>
<th>BR 2</th>
<th>BR 3</th>
<th>BR 4</th>
<th>BR 5</th>
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<tr>
<td>Flint, MI MSA</td>
<td>326</td>
<td>372</td>
<td>485</td>
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<td>Genesee, Saginaw</td>
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<tr>
<td>Grand Rapids-Muskegon-Holland, MI MSA</td>
<td>354</td>
<td>409</td>
<td>505</td>
<td>632</td>
<td>707</td>
<td>Allegan, Kent, Muskegon, Ottawa</td>
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<td>Jackson, MI MSA</td>
<td>254</td>
<td>365</td>
<td>462</td>
<td>578</td>
<td>648</td>
<td>Jackson</td>
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<tr>
<td>Kalamazoo-Battle Creek, MI MSA</td>
<td>321</td>
<td>386</td>
<td>487</td>
<td>610</td>
<td>682</td>
<td>Calhoun, Kalamazoo, Van Buren</td>
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<tr>
<td>Lansing-East Lansing, MI MSA</td>
<td>342</td>
<td>403</td>
<td>518</td>
<td>678</td>
<td>768</td>
<td>Clinton, Eaton, Ingham</td>
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<tr>
<td>Saginaw-Bay City-Midland, MI MSA</td>
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<td>347</td>
<td>462</td>
<td>578</td>
<td>648</td>
<td>Bay, Midland, Saginaw</td>
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### Nonmetropolitan County FMR Areas

<table>
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<tr>
<th>County</th>
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<th>BR 3</th>
<th>BR 4</th>
<th>BR 5</th>
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<td>459</td>
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<td>Cass</td>
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<td>Clare</td>
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<td>Delta</td>
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<td>481</td>
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<td>Emmet</td>
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</table>

**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
<table>
<thead>
<tr>
<th>METROPOLITAN FMR AREAS</th>
<th>EFF 1 BR</th>
<th>2 BR</th>
<th>3 BR</th>
<th>4 BR</th>
<th>Counties of FMR AREA within STATE</th>
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<tbody>
<tr>
<td>Duluth-Superior, MN-WI MSA</td>
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<td>Minneapolis-St. Paul, MN-WI MSA</td>
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<td>957</td>
<td>819</td>
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<td>725</td>
<td>Dimond</td>
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<td>St. Cloud, MN MSA</td>
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<td>367</td>
<td>459</td>
<td>593</td>
<td>Benton, Stearns</td>
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<table>
<thead>
<tr>
<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR</th>
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<th>3 BR</th>
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<th>NONMETROPOLITAN COUNTIES</th>
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<td>Beltrami</td>
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<td>Carlton</td>
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<td>473</td>
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<td>Chippewa</td>
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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
**SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING**

**MINNESOTA continued**

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**MISSISSIPPI**

**METROPOLITAN FMR AREAS**

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**COUNTIES OF FMR AREA within STATE**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

#### MISSISSIPPI continued

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#### MISSOURI

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<th>NONMETROPOLITAN COUNTIES</th>
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**Montana**

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<th>Counties of FMR AREA within STATE</th>
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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

### MONTANA continued

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### NEBRASKA

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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042893
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**Nevada**

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**New Hampshire**

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<td>Nashua, NH PMSA</td>
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<td>Portsmouth-Exeter-Rochester, NH-ME MSA</td>
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## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

### NEW HAMPSHIRE cont'd

**NONMETROPOLITAN COUNTRIES**

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<th>Towns within non metropolitan counties</th>
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### STRAFFORD

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### METROPOLITAN FMR AREAS

**Counties of FMR AREA within STATE**

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<td>Essex, Morris, Sussex, Union</td>
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<td>Burlington, Camden, Gloucester, Salem</td>
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<td>Mercer</td>
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<td>Cumberland</td>
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### NEW JERSEY

### METROPOLITAN FMR AREAS

**Counties of FMR AREA within STATE**

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<td>Las Cruces, NM MSA</td>
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<th>NONMETROPOLITAN COUNTIES</th>
<th>EFF 1 BR 2 BR 3 BR 4 BR</th>
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**New York Metropolitan FMR Areas**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW YORK continued

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NORTH CAROLINA

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### North Carolina

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### North Dakota

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**COUNTIES OF FMR AREA WITHIN STATE**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

### OHIO continued

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### OKLAHOMA

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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**Oregon FMR Areas**

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**SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING**

**OREGON continued**

**METROPOLITAN FMR AREAS**

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**NONMETROPOLITAN COUNTIES**

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**PENNSYLVANIA**

**METROPOLITAN FMR AREAS**

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**Rhode Island**

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### SOUTH CAROLINA

#### METROPOLITAN FMR AREAS

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### SOUTH DAKOTA

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#### NONMETROPOLITAN COUNTIES

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#### NONMETROPOLITAN COUNTIES

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

042693
### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

#### SOUTH DAKOTA continued

| NONMETROPOLITAN COUNTIES | EFF 1 BR | 2 BR | 3 BR | 4 BR | COUNTRIES | EFF 1 BR | 2 BR | 3 BR | 4 BR |
|---------------------------|---------|-----|-----|-----|-----------|---------|-----|-----|-----|-----|
| Corson                    | 159     | 215 | 287 | 369 | 402       | Custer  | 199 | 272 | 363 | 505 |
| Daviess                   | 236     | 270 | 360 | 482 | 532       | Day     | 239 | 243 | 320 | 450 |
| Deuel                     | 184     | 251 | 337 | 421 | 470       | Dewey   | 198 | 277 | 360 | 450 |
| Douglas                   | 225     | 229 | 306 | 418 | 427       | Edmunds | 198 | 270 | 360 | 500 |
| Fall River                | 267     | 270 | 360 | 454 | 591       | Faulk   | 226 | 310 | 413 | 517 |
| Grant                     | 198     | 270 | 360 | 493 | 503       | Gregory | 218 | 248 | 327 | 409 |
| Haakon                    | 198     | 320 | 360 | 500 | 591       | Hamlin  | 266 | 262 | 302 | 377 |
| Hand                      | 171     | 235 | 301 | 396 | 424       | Hanson  | 240 | 328 | 437 | 548 |
| Harding                   | 198     | 320 | 360 | 450 | 503       | Hughes  | 261 | 293 | 392 | 545 |
| Hutchinson                | 164     | 233 | 287 | 364 | 470       | Hyde    | 182 | 295 | 331 | 437 |
| Jackson                   | 180     | 291 | 328 | 426 | 474       | Jerauld | 145 | 235 | 265 | 366 |
| Jones                     | 191     | 260 | 348 | 469 | 487       | Kingsbury | 218 | 243 | 300 | 375 |
| Lyman                     | 206     | 278 | 312 | 434 | 481       | Lawrence | 209 | 286 | 381 | 529 |
| McPherson                 | 186     | 258 | 341 | 426 | 478       | McCoak  | 153 | 218 | 280 | 450 |
| Meade                     | 255     | 277 | 360 | 500 | 591       | Marshall | 222 | 239 | 285 | 364 |
| Miner                     | 149     | 243 | 272 | 364 | 433       | Mellette | 255 | 287 | 322 | 423 |
| Perkins                   | 172     | 235 | 312 | 434 | 512       | Moody   | 194 | 254 | 318 | 423 |
| Roberts                   | 161     | 245 | 291 | 364 | 408       | Potter  | 194 | 265 | 352 | 476 |
| Shannon                   | 171     | 276 | 310 | 431 | 434       | Sandborn | 198 | 288 | 360 | 450 |
| Stanley                   | 198     | 320 | 360 | 500 | 522       | Solly   | 172 | 264 | 313 | 405 |
| Todd                      | 260     | 266 | 353 | 443 | 496       | Tripp   | 190 | 259 | 346 | 444 |
| Turner                    | 167     | 244 | 304 | 398 | 426       | Union   | 241 | 258 | 345 | 432 |
| Walworth                  | 234     | 317 | 360 | 497 | 591       | Yankton | 198 | 310 | 360 | 490 |
| Ziebach                   | 198     | 270 | 360 | 450 | 591       |          |       |     |     |     |

#### TENNESSEE

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<th>4 BR</th>
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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### Schedule B - Fair Market Rents for Existing Housing

#### Tennessee Continued

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Note: The FMR for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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**Note:** The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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### VERMONT

#### METROPOLITAN FMR AREAS

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| Chittenden county towns of Burlington, Charlotte, Colchester, Essex, Hinesburg, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Williston, Winooski |
| Franklin county towns of Fairfax, Georgia, St. Albans, St. Albans, Swanton, Grand Isle county towns of Grand Isle, South Hero |

**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042893
**SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING**

**VERMONT continued**

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**VIRGINIA**

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Note: The FMR for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

Towns within non metropolitan counties

Bolton, Buel, Huntington, Underhill, Westford

Bakersfield, Berkshire, Enosburg, Fairfield, Fletcher, Franklin, Highgate, Montgomery, Richford, Sheldon

Alburg, Isle La Motte, North Hero

Counts of FMR AREA within STATE

Albemarle, Fluvanna, Greene, Charlottesville city

Clarke

Culpeper

Pittsylvania, Danville city

Scott, Washington, Bristol city

King George

Amherst, Bedford, Campbell, Bedford city, Lynchburg city

Gloucester, Isle of Wight, James City, Mathews, York

Chesapeake city, Hampton city, Newport News City

Norfolk city, Poquoson city, Portsmouth city

Suffolk city, Virginia Beach city, Williamsburg city

Charles City, Chesterfield, Dinwiddle, Goochland, Hanover

Henrico, New Kent, Powhatan, Prince George

Colonial Heights city, Hopewell city, Petersburg city

Richmond city

Botetourt, Roanoke, Roanoke city, Salem city

Warren

Arlington, Fairfax, Loudoun, Prince William, Spotsylvania

Stafford, Alexandria city, Fairfax city

Falls Church city, Fauquier, Fredericksburg city

Manassas city, Manassas Park city
## SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. G42893
### WASHINGTON

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### WEST VIRGINIA

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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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#### WYOMING

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### SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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**GUAM**

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**PUERTO RICO**

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<td>320 390 460 575 645</td>
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<td>Aguas Buenas, Barceloneta, Bayamon, Canovanas, Carolina, Cuatro, Ceiba, Comier, Corozal, Dorado, Fajardo, Florida, Guaynabo, Humacao, Yuncos, Las Piedras, Loiza, Luquillo, Manati, Morovis, Naguabo, Naranjito, San Juan, Toa Alta, Toa Baja, Trujillo, Vega Alta, Vega Baja, Yabuco</td>
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**Note** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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### Virgin Islands

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**Note:** The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.
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<td>MSA: Montgomery, AL</td>
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<td>MSA: Tuscaloosa, AL</td>
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<td>EXCEPTION COUNTY: MARSHALL</td>
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<td>EXCEPTION COUNTY: KETCHikan</td>
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<td>MSA: Tucson, AZ</td>
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<td>MSA: Yuma, AZ</td>
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<td>MSA: Fayetteville-Springdale-Rogers, AR</td>
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<td>MSA: Fort Smith, AR-OK</td>
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<tr>
<td>MSA: Little Rock-North Little Rock, AR</td>
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<td>MSA: Texarkana, TX-Texarkana, AR</td>
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<td>EXCEPTION COUNTY: BENTON</td>
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<td>MSA: Chico-Paradise, CA</td>
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<tr>
<td>PMSA: Los Angeles-Long Beach, CA</td>
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<tr>
<td>MSA: Merced, CA</td>
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<td>MSA: Modesto, CA</td>
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NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
## SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION B EXISTING HOUSING PROGRAM)

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<tr>
<th>MSA/County</th>
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<tr>
<td>Riverside-San Bernardino, CA</td>
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<td>Santa Rosa, CA</td>
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<td>Vallejo-Fairfield-Napa, CA</td>
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<td>Visalia-Tulare-Porterville, CA</td>
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<td>Yuba City, CA</td>
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<td>NON METRO STATE: COLORADO</td>
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**NOTE:** To identify counties (and New England towns) in each MSA, see Schedule B.
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NON METRO STATE: CONNECTICUT

PMAS: Bridgeport, CT
- Danbury, CT: 168
- Hartford, CT: 225
- New Britain, CT: 172
- New Haven-Meriden, CT: 185
- New London-Norwich, CT: 167
- Stamford-Norwalk, CT: 158
- Waterbury, CT: 211

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
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<td>MSA: Tallahassee, FL</td>
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<td>MSA: Tampa-St. Petersburg-Clearwater, FL</td>
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<td>MSA: West Palm Beach-Boca Raton, FL</td>
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<td>NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B</td>
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### SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

<table>
<thead>
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<th>Exception County</th>
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**Non-Metro State: Hawaii**
- MSA: Honolulu, HI
  - N/A
  - N/A

**Non-Metro State: Idaho**
- MSA: Boise City, ID
  - 129
  - 167

**Non-Metro State: Illinois**
- MSA: Bloomington-Normal, IL
  - 118
  - 137
- MSA: Champaign-Urbana, IL
  - 111
  - 111
- PMSA: Chicago, IL
  - 268
  - 287
- MSA: Davenport-Moline-Rock Island, IA-IL
  - 150
  - 150
- MSA: Decatur, IL
  - 108
  - 108
- MSA: Peoria-Pekin, IL
  - 205
  - 224
- MSA: Rockford, IL
  - 202
  - 214
- MSA: St. Louis, MO-IL
  - 109
  - 128
- MSA: Springfield, IL
  - 131
  - 140
- Exception County: De Kalb
  - 119
  - 128
- Exception County: Grundy
  - 268
  - 287
- Exception County: Kendall
  - 268
  - 287

**Non-Metro State: Indiana**
- MSA: Bloomington, IN
  - 65
  - 69
- PMSA: Cincinnati, OH-KY-IN
  - 132
  - 139
- MSA: Elkhart-Goshen, IN
  - 96
  - 96
- MSA: Evansville-Henderson, IN-KY
  - 88
  - 94
- MSA: Fort Wayne, IN
  - 81
  - 111
- PMSA: Gary, IN
  - 129
  - 149
- MSA: Indianapolis, IN
  - 104
  - 120
- MSA: Kokomo, IN
  - 96
  - 109
- MSA: Lafayette, IN
  - 89
  - 132
- MSA: Louisville, KY-IN
  - 94
  - 103
- MSA: Muncie, IN
  - 70
  - 79
- MSA: South Bend, IN
  - 109
  - 115
- MSA: Terre Haute, IN
  - 69
  - 86

**Note:** To identify counties (and New England towns) in each MSA, see Schedule B
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Non Metro State: Iowa

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**Note:** To identify counties (and New England towns) in each MSA, see Schedule B
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<td>MSA: Monroe, LA</td>
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| EXCEPTION COUNTY: ACADIA   | 85     | 101    |
| EXCEPTION COUNTY: GRANT    | 82     | 97     |
| EXCEPTION COUNTY: ST JAMES | 86     | 101    |
| EXCEPTION COUNTY: ST LANDRY| 86     | 101    |
| EXCEPTION COUNTY: WEBSTER  | 86     | 101    |

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<td>MSA: Lewiston-Auburn, ME</td>
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<td>MSA: Portland, ME</td>
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<td>MSA: Portsmouth-Dover-Rochester, NH-ME</td>
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<td>PMSA: Salem-Gloucester, MA</td>
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**NOTE:** To identify counties (and New England towns) in each MSA, see Schedule B.
### SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

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<td>PMSA: Flint, MI</td>
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<td>MSA: Jackson, MI</td>
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<td>MSA: Kalamazoo-Battle Creek, MI</td>
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<td>MSA: Lansing-East Lansing, MI</td>
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**NOTE:** TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
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NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
### Schedule D - Fair Market Rents for Manufactured Home Spaces (Section B Existing Housing Program)

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<td>PMSA: Philadelphia, PA-NJ</td>
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<td>PMSA: Vineland-Millville-Bridgeton, NJ</td>
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**Note:** To identify counties (and New England towns) in each MSA, see Schedule B.
### Schedule D - Fair Market Rents for Manufactured Home Spaces (Section 8 Existing Housing Program)

<table>
<thead>
<tr>
<th>MSA: Las Cruces, NM</th>
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#### Exception County: Sandoval

**Non Metro State: New York**

<table>
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<tr>
<th>MSA: Albany-Schenectady-Troy, NY</th>
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<th>PMSA: Nassau-Suffolk, NY</th>
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#### Exception County: Westchester

**Non Metro State: North Carolina**

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<table>
<thead>
<tr>
<th>MSA: Charlotte-Gastonia-Rock Hill, NC-SC</th>
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<th>MSA: Goldsboro, NC</th>
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<table>
<thead>
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<th>MSA: Greensboro-Winston-Salem-High Point, NC</th>
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<tbody>
<tr>
<td></td>
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<table>
<thead>
<tr>
<th>MSA: Hickory-Morganton, NC</th>
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<table>
<thead>
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<th>MSA: Raleigh-Durham-Chapel Hill, NC</th>
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#### Exception County: Brunswick

#### Exception County: Currituck

#### Exception County: Haywood

#### Exception County: Madison

**Non Metro State: North Dakota**

<table>
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<table>
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**Non Metro State: Ohio**

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**Note:** To identify counties (and New England towns) in each MSA, see Schedule B.
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<tr>
<td>Cleveland-Lorain-Elyria, OH</td>
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<td>EXCEPTION COUNTY: LE FLORE</td>
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<td>EXCEPTION COUNTY: MAYES</td>
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<td>NON METRO STATE: OREGON</td>
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<td>Johnstown, PA</td>
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Note: To identify counties (and New England towns) in each MSA, see Schedule B.
### SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

<table>
<thead>
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<th>MSA: Lancaster, PA</th>
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<td>MSA: Reading, PA</td>
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<td>MSA: State College, PA</td>
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<td>EXCEPTION COUNTY: PIKE</td>
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<td>EXCEPTION COUNTY: SUSQUEHANNA</td>
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<thead>
<tr>
<th>NON METRO STATE: RHODE ISLAND</th>
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<tbody>
<tr>
<td>PMSA: Fall River, MA-RI</td>
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<tr>
<td>MSA: New London-Norwich, CT-RI</td>
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<td>PMSA: Providence-Fall River-Warwick, RI-MA</td>
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<table>
<thead>
<tr>
<th>NON METRO STATE: SOUTH CAROLINA</th>
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<td>MSA: Augusta-Aiken, GA-SC</td>
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<td>MSA: Charleston-North Charleston, SC</td>
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<td>MSA: Charlotte-Gastonia-Rock Hill, NC-SC</td>
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<td>MSA: Columbia, SC</td>
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<td>MSA: Florence, SC</td>
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<td>MSA: Greenville-Spartanburg-Anderson, SC</td>
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<td>MSA: Sumter, SC</td>
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<th>NON METRO STATE: SOUTH DAKOTA</th>
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<td>MSA: Rapid City, SD</td>
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<td>MSA: Sioux Falls, SD</td>
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<td>MSA: Sioux Falls, SD</td>
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<td>MSA: Aberdeen, SD</td>
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<thead>
<tr>
<th>NON METRO STATE: TENNESSEE</th>
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<td>MSA: Clarksville-Hopkinsville, TN-KY</td>
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<td>MSA: Johnson City-Kingsport-Bristol, TN-VA</td>
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<td>MSA: Knoxville, TN</td>
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<td>MSA: Memphis, TN-AR-MS</td>
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<td>MSA: Nashville, TN</td>
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<table>
<thead>
<tr>
<th>NON METRO STATE: TEXAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSA: Tyler, TX</td>
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</table>

**NOTE:** TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE **B**.
## SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

<table>
<thead>
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**Note:** To identify counties (and New England towns) in each MSA, see Schedule B.
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NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
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Non Metro State: Wyoming

| MSA: Casper, WY          | 269              | 291              |

Note: To identify counties (and new England towns) in each MSA, see Schedule B.
SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

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NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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[FR Doc. 93–10538 Filed 5–5–93; 8:45 am]
BILLING CODE 4210–23–C
Thursday
May 6, 1993

Part III

Department of Education

34 CFR Part 612
Prevention Programs in Higher Education; Final Rule
Drug Prevention Programs in Higher Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Drug Prevention Programs in Higher Education. These final regulations remove a reporting requirement as an element of eligibility. The Secretary makes this change to increase the number of applications for Analysis projects.

EFFECTIVE DATE: These regulations take effect 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.


SUPPLEMENTARY INFORMATION: The Drug Prevention Programs in Higher Education provide assistance to institutions of higher education (IHEs) and consortia of IHEs for projects designed to develop, implement, operate, and improve educational programs in drug abuse prevention (including rehabilitation referral) for students enrolled in IHEs. The programs support National Education Goal 8 that specifically calls for every school in America to be free of drugs and violence and to offer a disciplined environment conducive to learning.

Under Analysis and Dissemination competitions, the Secretary funds projects to analyze and disseminate successful project designs, policies, and results of projects funded under Institution-Wide Program competitions and Special Focus Program competing projects. More specifically, Analysis projects have been funded to analyze overall results of Institution-Wide projects and cross-cutting features of Institution-Wide projects. Institution-Wide projects are comprehensive in scope. They are designed to prevent or eliminate the use of illegal drugs and alcohol by students in institutions of higher education. To that end, they provide training in drug abuse education and prevention to students, faculty, and staff. Special Focus projects address one or more specific approaches or problem areas related to drug abuse education and prevention for students enrolled in institutions of higher education.

The Secretary makes revisions to existing regulations because of the low number of applications received under three previous competitions for Analysis awards, and the desirability of increasing the number of applications submitted by knowledgeable applicants with previous experience in conducting Institution-Wide or Special Focus projects.

Under the previous § 612.2(c), an applicant that had received an award in a competition for Analysis projects was not eligible to receive a subsequent award in that competition until the applicant had submitted every report required under the prior project. These final regulations remove the reporting requirement as an element of eligibility for subsequent Analysis projects.

Note, however, that under 34 CFR 75.217(d)(3) the Secretary determines the order in which applications are selected for grants by considering, among other factors, information concerning the applicant's use of funds under a previous award under this program. In applying this provision, the Secretary intends that an applicant that has an award for an existing Analysis project does not receive a new award for an identical Analysis project. However, in the case of an applicant conducting an Analysis project in which, for example, the final reports of a cohort of Institution-Wide projects are being analyzed, the Secretary's application of this provision will not prohibit the applicant from receiving a new award to analyze the final reports of a different cohort of Institution-Wide projects. The differences in cohorts will render these projects separate and distinct and, therefore, allowable.

On September 25, 1992, the Secretary published a notice of proposed rulemaking for this program in the Federal Register (57 FR 44350).

There are no differences between the NPRM and these final regulations.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations; however, no comments were received. The Secretary has made no changes in these regulations since publication of the NPRM.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department’s specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 612

Colleges and universities. Drug abuse, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: Drug Prevention Programs in Higher Education, 84.183)


Richard W. Riley,
Secretary of Education.

The Secretary amends part 612 of chapter VI of title 34 of the Code of Federal Regulations as follows:

PART 612—DRUG PREVENTION PROGRAMS IN HIGHER EDUCATION

1. The authority citation for part 612 continues to read as follows:
Authority: 20 U.S.C. 3211, unless otherwise noted.

2. Section 612.2 is amended by revising paragraph (c) to read as follows:

§612.2 Who is eligible to receive an award?

(c) If an applicant has received an award in a competition, the applicant may not receive a new award in that competition in a subsequent year until—

(1) The Secretary determines that the applicant will satisfactorily complete the project previously supported; and

(2) Except for Analysis projects as described in §612.21(d), the applicant has submitted every report that it must submit in connection with the prior project.
Thursday
May 6, 1993

Part IV

Department of Education

34 CFR Part 630
Fund for the Improvement of Postsecondary Education; Final Rule
DEPARTMENT OF EDUCATION

34 CFR Part 630
RIN: 1840–AB75

Fund for the Improvement of Postsecondary Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Fund for the Improvement of Postsecondary Education. These amendments are needed to implement provisions of the Higher Education Amendments of 1992. These amendments conform the existing regulations to the new statutory requirements and make minor technical changes.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.


SUPPLEMENTARY INFORMATION: These regulations implement the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992. The amendments revise the Innovative Projects for Community Service Program by removing the focus on student financial assistance and emphasizing creative ways to involve college students in community service. The authorization for the program was moved from title X to title XI, part B, subpart 1. The amendments also authorize planning grants to develop and test innovative techniques in postsecondary education as well as a program of special projects in areas of national need, including international exchanges, campus climate and culture, and evaluation and dissemination. In describing eligible parties, the amendments change the term "institutions of postsecondary education" to "institutions of higher education."

Planning grants are available only to institutions of higher education. Eligible parties for the other programs include institutions of higher education, combinations of those institutions, and other public and private nonprofit institutions and agencies.

Two of the three exceptions to the Education Department General Administrative Regulations (EDGAR) listed in § 630.4 have been deleted because they are no longer applicable. This program supports the National Education Goals through awards for teacher education, curriculum reform, lifelong learning, and student volunteerism. It particularly addresses Goal 2 (High School Completion), Goal 3 (Student Achievement and Citizenship), Goal 4 (Science and Mathematics), and Goal 5 (Adult Literacy and Lifelong Learning).

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. These amendments, however, merely incorporate required statutory changes into the existing regulations and make minor technical changes. They do not establish substantive policy. Therefore, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these regulations would not have significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small nonprofit institutions of higher education and other small public and private nonprofit institutions and agencies. The regulations will impose only the minimal requirements necessary to ensure the proper expenditure of program funds. The regulations will not impose excessive regulatory burden and will not have a significant economic impact on the small entities affected.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department’s specific plans and actions for this program.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 630

Colleges and universities, Education, Grant programs—education.

(Catalog of Federal Domestic Assistance Number 84.116 Fund for the Improvement of Postsecondary Education)


Richard W. Riley,

Secretary of Education.

The Secretary amends part 630 of title 34 of the Code of Federal Regulations as follows:

PART 630—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

1. The authority citation for part 630 is revised to read as follows:

Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a, unless otherwise noted.

2. Section 630.2 is revised to read as follows:

§630.2 Eligible parties.

Institutions of higher education, combinations of institutions of higher education, and other public and private nonprofit institutions and agencies are eligible to receive an award, except planning grants. Only institutions of higher education may receive a planning grant award.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a)

3. Section 630.4 is revised to read as follows:
§ 630.4 Regulations that apply to this program.

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except for § 75.201(a) (Unweighted Selection Criteria).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 630.


4. Section 630.5 is amended by revising the definitions of "Combination of institutions of postsecondary education" and "Community service" in paragraph (b) and the authority citation to read as follows:

§ 630.5 Definitions that apply to this program.

(b) * * *

Combination of institutions of higher education means a group of institutions of higher education that have entered into a joint agreement for the purpose of carrying out a common objective, or a public or nonprofit private agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

Community service means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solutions of particular problems related to the needs of those residents. This term does not include partisan or non-partisan political activity, lobbying, direct solicitation of donations, religious proselytizing, conduct of religious services or instruction, pro-union or anti-union activity, or activities that result in the displacement of employed workers or impair existing contracts for service.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a, 1141)

5. Section 630.11 is amended by revising paragraph (c), adding new paragraphs (d) and (e), and revising the authority citation to read as follows:

§ 630.11 Types of competitions.

(c) Innovative Projects for Community Service competition. In this competition the Secretary supports innovative projects to encourage student participation in community service projects, including literacy projects.

(d) Planning Grants competition. In this competition the Secretary supports projects to develop and test innovative techniques in postsecondary education. No grant may exceed $20,000.

(e) Special Projects competition. In this competition the Director of the Fund supports innovative projects concerning one or more areas of particular national need identified by the Director.

(Authority: 20 U.S.C. 1135–1135a–2, 1135a–11, 1137–1137a)

[FR Doc. 93–10656 Filed 5–5–93; 8:45 am]
United States Sentencing Commission

Amendments to the Sentencing Guidelines for United States Courts; Notice
Amendments to the Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of submission to Congress of amendments to the sentencing guidelines.

SUMMARY: Pursuant to its authority under section 994(p) of title 28, United States Code, the Commission on April 28, 1993, submitted to the Congress for review a report containing amendments to the sentencing guidelines, policy statements, and official commentary together with reasons for the amendments.

DATES: Pursuant to 28 U.S.C. 994(p), as amended by section 7109 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988), the Commission has specified an effective date of November 1, 1993, for these amendments. Comments regarding amendments that the Commission should specify for retroactive application to previously sentenced defendants should be received no later than July 31, 1993.

ADDRESSES: Comments should be sent to: United States Sentencing Commission, One Columbus Circle NE., suite 2–500, South Lobby, Washington, DC 20002–8002, Attn: Public Information.

FOR FURTHER INFORMATION CONTACT: Mike Courlander, Public Information Specialist, telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent agency in the judicial branch of the U.S. Government, is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to review periodically and revise guidelines previously promulgated and authorizes it to submit guideline amendments to the Congress no later than the first day of May each year. See 28 U.S.C. 994(o), (p). Absent action of Congress to the contrary, the amendments become effective on the date specified by the Commission (i.e., November 1, 1993) by operation of law. Notice of the amendments submitted to the Congress on April 29, 1993, was published in the Federal Register of December 31, 1992 (57 FR 62832). A public hearing on the proposed amendments was held in Washington, DC, on March 22, 1993. After review of the hearing testimony and additional public comment, the Commission promulgated the amendments, each having been approved by at least four voting Commissioners.

In connection with its ongoing process of guideline review, the Commission welcomes comment on any aspect of the sentencing guidelines, policy statements, and official commentary. Specifically, the Commission solicits comment on which, if any, of the amendments submitted to the Congress that may result in a lower guideline range should be made retroactive to previously sentenced defendants under Policy Statement 1B1.10.


William W. Wilkins, Jr., Chairman.

Amendments to the Sentencing Guidelines

Pursuant to section 994(p) of title 28, United States Code, as amended by section 7109 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988), the United States Sentencing Commission reports to the Congress the following amendments to the sentencing guidelines, and the reasons therefor. As authorized by this section, the Commission specifies an effective date of November 1, 1993, for these amendments.

Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary

1. Amendment: Section 1B1.11(b) is amended by inserting the following additional subdivision:

"(3) If the defendant is convicted of two offenses, the first committed before, and the second after, a revised edition of the Guidelines Manual became effective, the revised edition of the Guidelines Manual is to be applied to both offenses, even if the revised edition results in an increased penalty for the first offense. Because the defendant completed the second offense after the amendment to the guidelines took effect, the ex post facto clause does not prevent determining the sentence for that count based on the amended guidelines. For example, if a defendant pleads guilty to a single count of embezzlement that occurred after the most recent edition of the Guidelines Manual became effective, the guideline range applicable in sentencing will encompass any relevant conduct (e.g., related embezzlement offenses that may have occurred prior to the effective date of the guideline amendments) for the offense of conviction. The same would be true for a defendant convicted of two counts of embezzlement, one committed before the amendments were enacted, and the second after. In this example, the ex post facto clause would not bar application of the amended guideline to the first conviction; a contrary conclusion would mean that such defendant was subject to a lower guideline range than if convicted only of the second offense. Decisions from several appellate courts addressing the analogous situation of the constitutionality of counting pre-guidelines criminal activity as relevant conduct for a guidelines sentence support this approach. See United States v. Yamas, 887 F.2d 697 (8th Cir. 1989) (upholding inclusion of pre-November 1, 1987, drug quantities as relevant conduct for the count of conviction, noting that habitual offender statutes routinely augment punishment for an offense of conviction based on acts committed before a law is passed); cert. denied, 493 U.S. 1017 (1990); United States v. Allen, 886 F.2d 143 (8th Cir. 1989) (similar); see also United States v. Casacca, 901 F.2d 29 (4th Cir. 1990) (similar).

Moreover, the approach set forth in subsection (b)(3) should be followed regardless of whether the offenses of conviction are the type in which the conduct is grouped under § 3D1.2(d). The ex post facto clause does not distinguish between
groupable and nongroupable offenses, and unless that clause would be violated, Congress' directive to apply the sentencing guidelines in effect at the time of sentencing must be followed. Under the guideline sentencing system, a single sentencing range is determined based on the defendant's overall conduct, even if there are multiple counts of conviction (see §§2D1.1-3D1.5, 3G1.2). Thus, if a defendant is sentenced in January 1992 for a bank robbery committed in October 1988 and one committed in November 1991, the November 1991 Guidelines Manual should be used to determine a combined guideline range for both counts. See generally United States v. Stephenson, 921 F.2d 438 (2d Cir. 1990) (holding that the Sentencing Commission and Congress intended that the applicable version of the guidelines be applied as a "cohesive and integrated whole" rather than in a piecemeal fashion).

Consequently, even in a complex case involving multiple counts that occurred under several different versions of the Guidelines Manual, it will not be necessary to compare more than two manuals to determine the applicable guideline range—the manual in effect at the time the last offense of conviction was completed and the one in effect at the time of sentencing.

Reason for Amendment: This amendment expands policy statement §B1.11 (Use of Guidelines Manual in Effect on Date of Sentencing) to address what has become a frequently asked, hotly question and troublesome application issue—the application of amended guidelines to multiple count cases in which the effective date of guideline revision(s) occur between offenses of conviction. The issue has also produced litigation before several appellate courts. See United States v. Castro, 972 F.2d 1107 (9th Cir. 1992), cert. denied, 113 S. Ct. 1350 (1993); United States v. Seligsohn, 881 F.2d 1418 (3d Cir. 1989), rev'd (1992); United States v. Hartzog, 983 F.2d 604 (4th Cir. 1993). This amendment extends the Commission's "one book" rule to multiple count cases and provides a basic rationale for the policy.

2. Amendment: Chapter One, part B, is amended by inserting at the end:


The sentencing guidelines do not apply to a defendant sentenced under the Federal Juvenile Delinquency Act (18 U.S.C. 5031-5042). However, the sentence imposed upon a juvenile delinquent may not exceed the maximum of the guideline range applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor sufficient to warrant an upward departure from that guideline range. United States v. R.L.C., 112 S. Ct. 1329 (1992). Therefore, a necessary step in ascertaining the maximum sentence that may be imposed upon a juvenile delinquent is the determination of the guideline range that would be applicable to a similarly situated adult defendant.".

3. Amendment: The Commentary to §2A1.1 captioned Background is deleted as follows:

"Background: The maximum penalty authorized by 18 U.S.C. 1111 for first degree murder is death or life imprisonment. Whether a mandatory minimum term of life imprisonment is applicable to every defendant convicted of first degree murder under 18 U.S.C. 1111 is a matter of statutory interpretation for the courts. The discussion in application Note 1, supra, regarding circumstances in which a downward departure may be warranted is relevant in the event the penalty provisions of 18 U.S.C. 1111 are construed to permit a sentence less than life imprisonment, or in the event the defendant is convicted under a statute that expressly authorizes a sentence of less than life imprisonment, or in the event the defendant was a participant in the commission of the offense. In United States v. E. L. M., 647 F.2d 1058 (9th Cir.), cert. denied, 454 U.S. 1121 (1981), the defendant was convicted under a state statute with a mandatory minimum term of life imprisonment. The court held that a mandatory minimum term of life imprisonment is not applicable to a defendant convicted of first degree murder under 18 U.S.C. 1111. The United States Supreme Court's decision in United States v. R.S., 112 S. Ct. 1219 (1992), requires calculation of the guideline range in order to determine the maximum sentence imposable on a juvenile delinquent."

4. Amendment: Section 2A3.1 is amended by redesigning subsection (c) as subsection (d); and by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder)."

Section 2A3.1(b)(2) is amended by deleting "otherwise, (B) if the victim was under the age of sixteen" and inserting in lieu thereof "or (B) if the victim had attained the age of twelve years but had not attained the age of sixteen years."

Section 2A4.2 is amended by inserting the following additional subsection:

"(b) Cross Reference

(1) If the defendant was a participant in the kidnapping offense, apply §2A4.1 (Kidnapping; Abduction; Unlawful Restraint)."

The Commentary to §2A4.2 is amended by inserting the following immediately before "Background":

"Application Note: 1. A 'participant' is a person who is criminally responsible for the commission of the offense, but need not have been convicted."

Section 2B3.1 is amended by inserting the following additional subsection:

"(c) Cross Reference

(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder)."

The Commentary to section 2B3.1 captioned "Application Notes" is amended by deleting Note 6 as follows:

"6. If the defendant was convicted under 18 U.S.C. 2113(e) and in committing the offense or attempting to flee or escape, a participant killed any person, apply section 2A1.1 (First Degree Murder). Otherwise, if death results, see Chapter Five, Part K (Departures)."

and by renumbering the remaining notes accordingly.

Section 2B3.2(c) is amended by deleting "Reference" and inserting in lieu thereof "References"; by renumbering subdivision (1) as subdivision (2); and by inserting the following additional subdivision:

"(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder)."
Section 2B3.3 is amended by inserting the following additional subsection:

“(c) Cross References
(1) If the offense involved extortion under color of official right, apply section 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe: Extortion Under Color of Official Right).

(2) If the offense involved extortion by force or threat of injury or serious damage, apply section 2B3.2 (Extortion by Force or Threat of Injury or Serious Damage).”.

Section 2D1.1 is amended by inserting the following additional subsection:

“(c) Cross Reference
(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).”.

Section 2E2.1 is amended by inserting the following additional subsection:

“(c) Cross Reference
(1) If a victim was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the territorial or maritime jurisdiction of the United States, apply section 2A1.1 (First Degree Murder).”.

Reason for Amendment: This amendment adds cross references to sections 2A3.1, 2B3.1, 2B3.2, 2D1.1, and 2E2.1 to address the circumstance in which a victim is murdered during the offense. In addition, an editorial change in section 2A3.1(b)(2) is made to conform the phraseology used in this subsection to that used elsewhere in the guidelines. Furthermore, a cross reference is added to section 2A4.2 to address the circumstance in which the defendant was a participant in the underlying kidnapping offense. Finally, cross references are added to section 2B3.3 to ensure the selection of the appropriate guideline for the offenses covered by the statutes referenced to this section.

5. Amendment: The Commentary to section 2A3.1 captioned “Application Notes” is amended by inserting the following additional note:

“5. If the defendant was convicted (A) of more than one act of criminal sexual abuse and the counts are grouped under section 3D1.2 (Groups of Closely-Related Counts), or (B) of only one such act but the court determines that the offense involved multiple acts of criminal sexual abuse of the same victim or different victims, an upward departure would be warranted.”.

Reason for Amendment: This amendment authorizes an upward departure where the offense involved multiple acts of criminal sexual abuse that do not result in an increase in offense level under the multiple count rules in Chapter Three, Part D (Multiple Counts).

6. Amendment: The Commentary to section 2A4.1 captioned “Background” is amended in the third paragraph by deleting:

“or to facilitate the commission of another offense. Should the application of this guideline result in a penalty less than the result achieved by applying the guideline for the underlying offense, apply the guideline for the underlying offense (e.g., § 2A3.1, Criminal Sexual Abuse),”.

and inserting in lieu thereof:

“(subsection (b)(1)) or involves another federal, state, or local offense that results in a greater offense level (subsections (b)(7) and (c)(1)).”.

The Commentary to Section 2K1.3 captioned “Application Notes” is amended in Note 4 by inserting “(federal, state, or local)” immediately following “offense.”.

The Commentary to Section 2K1.3 captioned “Application Notes” is amended in Note 8 by inserting “(which may be a federal, state, or local offense)” immediately before “is”.

The Commentary to Section 2K2.1 captioned “Application Notes” is amended in Note 7 by inserting “(federal, state, or local)” immediately following “offense”.

The Commentary to Section 2K2.1 captioned “Application Notes” is amended in Note 14 by inserting “(which may be a federal, state, or local offense)” immediately before “is”.

The Commentary to Section 2K2.1 captioned “Application Notes” is amended by inserting the following additional note:

“19. The enhancement under subsection (b)(4) for a stolen firearm or a firearm with an altered or obliterated serial number applies whether or not the defendant knew or had reason to believe that the firearm was stolen or had an altered or obliterated serial number.”.

Reason for Amendment: This amendment clarifies the references to “other offense” and “another offense” in Section 2A4.1(b)(7), and to “felony offense,” “another offense,” and “other offense” in Sections 2K1.3 and 2K2.1, refer to federal, state, or local offenses. In addition, this amendment clarifies that the enhancement in Section 2K2.1 (b)(4) applies whether or not the defendant knew or had reason to believe the firearm was stolen or had an altered or obliterated serial number.

7. Amendment: Section 2A5.2(a)(1) is amended by deleting “defendant intentionally endangered” and inserting in lieu thereof “offense involved intentionally endangering”.

Section 2A5.2(a)(2) is amended by deleting “defendant recklessly endangered” and inserting in lieu thereof “offense involved recklessly endangering”.

Section 2A6.1(b)(1) is amended by deleting “defendant engaged in” and inserting in lieu thereof “offense involved”.

Section 2A6.1(b)(2) is amended by deleting “defendant’s conduct” and inserting in lieu thereof “offense”.

Reason for Amendment: This amendment deletes language that could be construed as a limitation on the scope of conduct for which a defendant is accountable under Section 18 U.S.C. 27150 (Relevant Conduct) and replaces it with terminology consistent with that used in other offense guidelines.

8. Amendment: Section 2B1.1 is amended in the title by inserting “Transferring, Transmitting, or Possessing Stolen Property” at the end thereof.

Section 2B1.1(b)(2) is amended by inserting “(A)” immediately following “II”; and by inserting “or the taking of such item was an object of the offense; or (B) the stolen property received, transported, transferred, transmitted, or possessed was a firearm, destructive device, or controlled substance,” immediately following “taken.”.

Section 2B1.1(b)(4) is amended by inserting “(A)” immediately following “II”; and by inserting “or the taking of such item was an object of the offense; or (B) the stolen property received, transported, transferred, transmitted, or possessed was undelivered United States mail,” immediately following “taken.”.

Section 2B1.1(b)(5) is amended by inserting “(A)” immediately before “II”;

and by inserting “(B) if the offense involved receiving stolen property, and the defendant was a person in the business of receiving and selling stolen property, increase by levels,” immediately following “levels.”.


The Commentary to Section 2B1.1 captioned “Application Notes” is amended by inserting the following additional note:

“14. If the offense involved theft or embezzlement from an employee pension or welfare benefit plan (a violation of 18 U.S.C. 664) and the defendant was a fiduciary of the benefit plan, an adjustment under Section 3B1.3 (Abuse of Position of Trust or Use
of Special Skill) will apply. "Fiduciary of the benefit plan" is defined in 29 U.S.C. 1002(21)(A) to mean a person who exercises any discretionary authority or control in respect to the management of such plan or exercises authority or control in respect to management or disposition of its assets, or who renders investment advice for a fee or other direct or indirect compensation with respect to any money or other property of such plan, or has any authority or responsibility to do so, or who has any discretionary authority or responsibility in the administration of such plan.

If the offense involved theft or embezzlement from a labor union (a violation of 29 U.S.C. 501(c)) and the defendant was a union officer or occupied a position of trust in the union as set forth in 29 U.S.C. 501(a), an adjustment under 2BL3 (Abuse of Position of Trust or Use of Special Skill) will apply.

Section 2B2.1 is amended in the title by inserting "or a Structure Other than a Residence" at the end thereof.

Section 2B2.1(a) is amended by deleting "17" and inserting in lieu thereof "(1) 17, if a residence; or (2) 12, if a structure other than a residence.".

The Commentary to Section 2B2.1 captioned "Statutory Provision" is amended by deleting "Provision: 18 U.S.C. 1153 and inserting in lieu thereof "Provisions: 18 U.S.C. 1153, 2113(a), 2115, 2117, 2118(b). For additional statutory provision(s), see appendix A (Statutory Index)."

Section 2B3.3 is amended in the title by inserting "or "Trademark" at the end thereof.

The Commentary to Section 2B5.3 captioned "Statutory Provisions" is amended by deleting "2319" and inserting in lieu thereof "2318-2320".

The Commentary to Section 2B5.3 captioned "Background" is amended by inserting "and trademark" immediately following "copyright".

Section 2D3.2 is amended in the title by deleting "Manufacture of Controlled Substances in Excess of or Unauthorized by Registration Quota; Attempt or Conspiracy" and inserting in lieu thereof "Regulatory Offenses Involving Controlled Substances; Attempt or Conspiracy".

The Commentary to Section 2D3.2 captioned "Statutory Provisions" is amended by deleting "842(b), 843(a)(3)" and inserting in lieu thereof "842(a)(2), (a)(3), (a)(10), (b), 843(b)(5), 854, 861".

The Commentary to Section 2D3.2 captioned "Background" is amended by deleting "This offense is a misdemeanor" and inserting in lieu thereof "These offenses are misdemeanors".

Section 2E3.1 is amended in the title by deleting "Engaging in a Gambling Business" and inserting in lieu thereof "Gambling Offenses".

Section 2E3.1(a) is amended by deleting "12" and inserting in lieu thereof:

"(12) if the offense was (A) engaging in a gambling business; (B) transmission of wagering information; or (C) committed as part of, or to facilitate, a commercial gambling operation; or (2) 6, otherwise.".


Section 2E3.1 is amended in the title by inserting "; Prohibited Payments or Lending of Money by Employer or Agent to Employees, Representatives, or Labor Organizations" at the end thereof.

Section 2E3.1(b)(1) is amended by inserting "or labor organizations" immediately following "plan".


The Commentary to section 2E5.1 captioned "Background" is amended by inserting "or labor organizations" immediately following "plans"; and by deleting the last sentence as follows:

"A more severe penalty is warranted in a bribery where the payment is the primary motivation for an action to be taken, as opposed to graft, where the prohibited payment is given because of a person's actions, duties, or decisions without a prior understanding that the recipient's performance will be directly influenced by the gift.".

Section 2E5.3 is amended in the title by inserting "; Failure to Maintain and Falsification of Records Required by the Labor Management Reporting and Disclosure Act" at the end thereof.

Section 2E5.3(a)(2) is amended by deleting "relating to the operation of an employee benefit plan, apply section 252.2" and inserting in lieu thereof "apply 251.1".


The Commentary to section 2F5.3 captioned "Background" is amended by inserting the following additional sentence as the second sentence:

"It also covers failure to maintain proper documents required by the LMRDA or falsification of such documents.".

Section 2F1.1 is amended in the title by inserting "; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearers Obligations of the United States" at the end thereof.

The Commentary to section 2F1.1 captioned "Statutory Provisions" is amended by inserting "471-473, 500, 510," immediately following "289,"; and by inserting ", 2314, 2315" immediately following "1344".

Section 2F1.3 is amended in the title by inserting "; Bribery of Witness" at the end thereof.

Section 2F1.3(b)(2) is amended by deleting "perjury or subornation of perjury" and inserting in lieu thereof "perjury, subornation of perjury, or witness bribery".

The Commentary to section 2F1.3 captioned "Statutory Provisions" is amended by inserting "201 (b)(3), (4), immediately before "1621".

The Commentary to section 2F1.3 captioned "Application Notes" is inserted in Note 3 by inserting "; subornation of perjury, or witness bribery" immediately following "perjury".

The Commentary to section 2F1.3 captioned "Background" is amended by deleting "perjury and subornation of perjury" and inserting in lieu thereof "perjury, subornation of perjury, or witness bribery".

Section 2K1.1 is amended in the title by inserting "; Improper Storage of Explosive Materials" at the end thereof.

The Commentary to section 2K1.1 captioned "Statutory Provisions" is amended by deleting "842(k), 844(b)" and inserting in lieu thereof "842(j), (k), 844(b). For additional statutory provision(s), see appendix A (Statutory Index)".

Section 2K2.4 is amended in the title by deleting "Firearms or" and inserting "Firearm," in lieu thereof; and by inserting "; Explosive" immediately following "Ammunition".

Section 2K2.4(a) is amended by inserting "section 844(b)," immediately before "section 924(c);" and by inserting a comma immediately following "section 924(c)."
amended by inserting "844(h),esium immediately before "924(c),."
The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 2 in the first paragraph by deleting "a firearm" and inserting in lieu thereof "an explosive or firearm.

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 4 by deleting "section 924(c)" wherever it occurs and inserting in lieu thereof in each instance "section 844(h), section 924(c),".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 5 by deleting "844(h), 924(c),; and section 844(h), section 924(c),". and inserting ""Application Notes" Iscaptioned "844(h), section 924(c)," in lieu thereof in each instance "section 844(h), section 924(c),".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 6 by deleting "immediately before "firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 7 by deleting "immediately before "924(c)".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 8 by deleting "immediately before "firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 9 by deleting "immediately before "firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 10 by deleting "immediately before "firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 11 by deleting "immediately before "firearm".

The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 12 by deleting "immediately before "firearm".

Section 2L2.1 is amended in the title by deleting "Documents" and inserting in lieu thereof "a Document; and by inserting "; or a United States Passport,, immediately following "Status,

Section 2L2.2 is amended in the title by deleting "Documents" and inserting in lieu thereof "documents as one set.

The Commentary to section 2L2.2 captioned "Statutory Provisions" is amended by inserting "1542, 1544," immediately following "1427,".

The Commentary to section 2L2.2 captioned "Statutory Provisions" is amended by inserting "1542, 1544," immediately following "1427,".

The Commentary to section 2L2.2 captioned "Statutory Provisions" is amended by inserting "1542, 1544," immediately following "1427,".

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in the line referenced to 18 U.S.C. 1153 by deleting “2B2.2”; 
in the line referenced to 18 U.S.C. 1163 by deleting “2B1.2”; 
in the line referenced to 18 U.S.C. 1301, 1302, 1303, 1304, 1306, and 1511 by deleting “2E3.3” and inserting in lieu thereof “2E3.1”; 
in the line referenced to 18 U.S.C. 2154 by deleting “2M2.2” and inserting in lieu thereof “2M2.1”; 
in the line referenced to 18 U.S.C. 2156 by deleting “2M2.4” and inserting in lieu thereof “2M2.3”; 
in the line referenced to 18 U.S.C. 2197 by deleting “2B5.2”; 
in the line referenced to 18 U.S.C. 2276 by deleting “2B2.2” and inserting in lieu thereof “2B2.1”; 
in the line referenced to 18 U.S.C. 2312 and 2313 by deleting “2B1.2”; 
in the line referenced to 18 U.S.C. 2314 and 2315 by deleting “2B1.2, 2B2.2”; 
in the line referenced to 18 U.S.C. 2316 and 2317 by deleting “2B1.2”; 
in the line referenced to 18 U.S.C. 2318 and 2320 by deleting “2B5.4” and inserting in lieu thereof “2B5.3”; 
in the line referenced to 18 U.S.C. 1541 by deleting “2L2.3” and inserting in lieu thereof “2L2.1”; 
in the line referenced to 18 U.S.C. 1542, 1543, and 1544 by deleting “2L2.3, 2L2.4” and inserting in lieu thereof “2L2.1, 2L2.2”; 
in the line referenced to 18 U.S.C. 1704 by deleting “2B5.2.”; 
in the line referenced to 18 U.S.C. 1708 by deleting “2B1.2.”; 
in the line referenced to 18 U.S.C. 1716C by deleting “2B5.2.” and inserting in lieu thereof “2F1.1”; 
in the line referenced to 18 U.S.C. 1852 and 1854 by deleting “2B1.2.”; 
in the line referenced to 18 U.S.C. 1951 by deleting “2E1.5” and inserting in lieu thereof “2B3.1, 2B3.2, 2B3.3, 2C1.1”; 
in the line referenced to 18 U.S.C. 1953 by deleting “2E3.3” and inserting in lieu thereof “2E3.1”; 
in the line referenced to 18 U.S.C. 2113(a) by deleting “2B2.2” and inserting in lieu thereof “2B2.1”; 
in the line referenced to 18 U.S.C. 2113(c) by deleting “2B1.2.”; 
in the line referenced to 18 U.S.C. 2115, 2116, 2117, and 2118(b) by deleting “2B2.2” and inserting in lieu thereof “2B2.1”; 
in the line referenced to 20 U.S.C. 1067(a) by deleting “2B2.2.”; 
21 U.S.C. § 642(a)(9), (16) 2D3.5”; 
and inserting in lieu thereof: 
21 U.S.C. § 642(a)(2), (9), (10) 2D3.2; 
in the line referenced to 21 U.S.C. 846 by deleting “2D3.3, 2D3.4, 2D3.5”; 
in the lines referenced to 21 U.S.C. 954 and 961 by deleting “2D3.4” and inserting in lieu thereof “2D3.2”; 
in the line referenced to 21 U.S.C. 963 by deleting “2D3.3, 2D3.4, 2D3.5”; 
in the line referenced to 22 U.S.C. 4221 by deleting “2B5.2.” and inserting in lieu thereof “2F1.1.”; 
in the line referenced to 29 U.S.C. 186 by deleting “2E5.6” and inserting in lieu thereof “2E5.1.”; 
in the line referenced to 29 U.S.C. 431, 432, 433, 439, and 461 by deleting “2E5.5” and inserting in lieu thereof “2E3.3.”; 
in the line referenced to 29 U.S.C. 501(c) by deleting “2E5.4” and inserting in lieu thereof “2B1.1.”; 
by inserting at the appropriate place by title and section: “29 U.S.C. 530 2B3.2 
29 U.S.C. 1153 2B3.3”;
in the lines referenced to 49 U.S.C. 3718(b), 1472(b)(2), and 1809(b) by deleting “2K3.1” and inserting in lieu thereof “2Q1.2.”; 
and by deleting: “50 U.S.C. 783(b) 2M3.7 
50 U.S.C. 783(c) 2M3.8”.

and inserting in lieu thereof: “50 U.S.C. 783(b), (c) 2M3.3.”;

Sections 2B1.2, 2B2.2, 2B5.2, 2B5.4, 2D3.3, 2D3.4, 2D3.5, 2E1.5, 2E2.2, 2E3.3, 2E3.5, 2E4.2, 2E5.2, 2E5.3, 2E5.5, 2E5.6, 2F1.8, 2K1.2, 2K1.7, 2K3.1, 2L2.3, 2L2.4, 2M2.2, 2M2.4, 2M3.6, 2M3.7, and 2M3.8, including accompanying commentary, are deleted in their entirety.

Reason for Amendment: This amendment deletes 25 offense guidelines by consolidating them with other offense guidelines that cover similar offense conduct and have either identical or very similar characteristics. Consolidation of offense guidelines in this manner has a number of practical advantages: it shortens and simplifies the Guidelines Manual; it reduces the likelihood of inconsistency in phrasing and definitions from section to section; it reduces possible confusion and litigation as to which guideline applies to particular conduct; it reduces the number of conforming amendments required whenever similar sections are amended; and it will aid the development of case law because cases involving similar or identical concepts and definitions can be referenced under one guideline rather than different guidelines.

9. Amendment: The Commentary to Section 2B1.1 captioned “Application Notes” is amended in Note 2 by inserting the following additional sentence as the fourth sentence of the first paragraph: “Loss does not include the interest that could have been earned had the funds not been stolen.”; and by inserting the following additional paragraphs as the second and third paragraphs:“Where the offense involved making a fraudulent loan or credit card application, or other unlawful conduct involving a loan or credit card, the loss is to be determined under the principles set forth in the Commentary to Section 2F1.1 (Fraud and Deceit). In certain cases, an offense may involve a series of transactions without a corresponding increase in loss. For example, a defendant may embezzle $5,000 from a bank and conceal this embezzlement by shifting this amount from one account to another in a series of nine transactions over a six-month period. In this example, the loss is $5,000 (the amount taken), not $45,000 (the sum of the nine transactions), because the additional transactions did not increase the actual or potential loss.”.

The Commentary to Section 2B1.1 captioned “Application Notes” is amended by deleting Note 3 as follows: “3. The loss need not be determined with precision, and may be inferred from any reasonably reliable information available, including the scope of the operation.”.

and inserting in lieu thereof: “3. For the purposes of subsection (b)(1), the loss need not be determined with precision. The court need only make a reasonable estimate of the loss, given the available information. This estimate, for example, may be based upon the approximate number of victims and the average loss to each victim, or on more general factors such as the scope and duration of the offense.”.

The Commentary to Section 2B5.3 is amended by inserting the following immediately before “Background”:

“Application Note: 1. ‘Infringing items’ means the items that violate the copyright or trademark laws (not the legitimate items that are infringed upon).”.

The Commentary to § 2B6.1 captioned “Application Note” is amended in the caption by deleting “Note” and inserting in lieu thereof “Notes”; and by inserting the following additional Note:

“2. The ‘corresponding number of levels from the table in § 2F1.1 (Fraud and Deceit), as used in subsection (b)(1), refers to the number of levels corresponding to the retail value of the motor vehicles or parts involved.”.

Section 2F1.1(b)(3) is amended by inserting “not addressed elsewhere in
the guidelines” immediately following “process”.

The Commentary to Section 2F1.1 captioned “Application Notes” is amended in Note 5 by inserting the following additional sentence at the end:

“This subsection does not apply to conduct addressed elsewhere in the guidelines; e.g., a violation of a condition of release (addressed in Section 2J1.7 (Offense Committed While on Release)) or a violation of probation (addressed in §4A1.1 (Criminal History Category)).”.

The Commentary to Section 2F1.1 captioned “Application Notes” is amended in Note 7(b) in the second paragraph by inserting the following additional sentence at the end:

“Where the loss determined above significantly understates or overstates the seriousness of the defendant’s conduct, an upward or downward departure may be warranted.”.

The Commentary to Section 2F1.1 captioned “Application Notes” is amended in Note 10 by deleting “the” immediately before “primary” and inserting in lieu thereof “a”; by inserting “;” or the fraud caused or risked reasonably foreseeable, substantial non-monetary harm “immediately following “non-monetary”; by deleting “physical or psychological harm” and inserting in lieu thereof “reasonably foreseeable, physical or psychological harm or severe emotional trauma”; by deleting the period immediately following “institution” and inserting therein a new subdivision, immediately following subdivision (e), as follows:

“(f) the offense involved the knowing endangerment of the solvency of one or more victims”; and by inserting the following at the end of the last paragraph:

“In such cases, a downward departure may be warranted.”.

The Commentary to section 2F1.1 captioned “Application Notes” is amended in Note 11 by deleting the last two sentences:

“The statutes provide for increased maximum terms of imprisonment for the use or possession of device-making equipment and the production or transfer of more than five identification documents or fifteen access devices. The court may find it appropriate to enhance the sentence for violations of these statutes in a manner similar to the treatment of analogous counterfeiting offenses under Part B of this Chapter.”.

and inserting in lieu thereof:

“Where the primary purpose of the offense involved the unlawful production, transfer, possession, or use of identification documents for the purpose of violating, or assisting another to violate, the laws relating to naturalization, citizenship, or legal resident status, apply section 2L2.1 or section 2L2.2, as appropriate, rather than section 2F1.1. In the case of an offense involving false identification documents or access devices, an upward departure may be warranted where the actual loss does not adequately reflect the seriousness of the conduct.”.

Reason for Amendment: This amendment makes the definition of loss in sections 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft) and 2F1.1 (Fraud and Deceit) more consistent. Although the term “reasonably reliable information” is deleted from section 2F1.1 (there is no corresponding term in section 2F1.1), no substantive change results because the reliability of the information considered in respect to all cases is already addressed in section 6A1.3 (Resolution of Disputed Factors).

In addition, this amendment provides additional guidance for the determination of loss for cases that are referenced to section 2B1.1 but have loss characteristics closely resembling offenses referenced to section 2F1.1 and for cases in which simply adding the amounts from a series of transactions does not reflect the amount taken or put at risk.

This amendment also clarifies the meaning of the term “infringing items” in section 2B3.3 and expressly provides that the reference in section 2B6.1 to the table in section 2F1.1 is to be applied using the retail value of the stolen parts.

In addition, this amendment clarifies the operation of section 2F1.1(b)(3), which currently can be read to authorize counting conduct that is also addressed by other guideline sections. This amendment addresses this issue in a manner consistent with the Commission’s general principle on double counting.

Finally, this amendment revises the Commentary to section 2F1.1 by expanding Application Note 10 to provide guidance in cases in which the monetary loss does not adequately reflect the seriousness of the offense; and by clarifying Application Note 11 and conforming the phraseology of this note to that used elsewhere in the guidelines.

10. Amendment: Section 2B3.1(b)(1) is amended by inserting “(A)” immediately following “II”; and by inserting “or (B) the offense involved carjacking,” immediately before “increase”.

The Commentary to section 2B3.1 captioned “Statutory Provisions” is amended by inserting “, 2119” immediately following “2118(a)”.

The Commentary to § 2B3.1 captioned “Application Notes” is amended in Note 1 by inserting the following additional paragraph at the end:

“‘Carjacking’ means the taking or attempted taking of a motor vehicle from the person or presence of another by force and violence or by intimidation.”.

Appendix A (Statutory Index) is amended by inserting, at the appropriate place, the following:

“18 U.S.C. 2119 2B3.1”.

Reason for Amendment: This amendment references offenses prosecuted under 18 U.S.C. 2119 (carjacking) to the robbery guideline at section 2B3.1 and provides a specific offense characteristic for carjacking. It is to be noted that any defendant convicted under 18 U.S.C. 2119 will receive a minimum additional 5-level increase for possession of a firearm. Such defendants also are subject to prosecution under 18 U.S.C. 924(c) for possession of a firearm during and in relation to a crime of violence, an offense that carries a mandatory consecutive sentence of at least five years’ imprisonment.

11. Amendment: The Commentary to section 2D1.1 captioned “Application Notes” is amended by inserting the following additional note:

“16. Where (A) the amount of the controlled substance for which the defendant is accountable under 1B1.3 (Relevant Conduct) results in a base offense level greater than 36, (B) the court finds that this offense level overrepresents the defendant’s culpability in the criminal activity, and (C) the defendant qualifies for a mitigating role adjustment under 3B1.2 (Mitigating Role), a downward departure may be warranted. The court may depart to a sentence no lower than the guideline range that would have resulted if the defendant’s Chapter Two offense level had been offense level 36. Provided, that a defendant is not eligible for a downward departure under this provision if the defendant:

(a) Has one or more prior felony convictions for a crime of violence or a controlled substance offense as defined in section 4B1.2;

(b) Qualifies for an adjustment under §3B1.3 (Abuse of Position of Trust or Use of Special Skill);

(c) Possessed or induced another participant to use or possess a firearm in the offense;

(d) Had decision-making authority;
(e) Owned the drugs or financed any part of the offense; or
(f) Sold the controlled substance or played a substantial part in negotiating the terms of the sale.

Reason for Amendment: In a case in which a defendant's base offense level is greater than level 36 and the defendant had a minimal or minor role in the offense (and meets certain other qualifications), the quantity of the controlled substance for which the defendant is held accountable under § 1B1.3 (Relevant Conduct) may overrepresent the defendant's culpability in the criminal activity. To address this issue, this amendment adds an application note that authorizes a downward departure in the specific circumstances described and sets forth the authorized extent of any departure on this basis.

12. Amendment: The Commentary to Section 2D1.1 captioned “Application Notes” is amended in Note 1 by deleting the period at the end of the first sentence and inserting in lieu thereof: “except as expressly provided. Mixture or substance does not include materials that must be separated from the controlled substance before the controlled substance can be used. Examples of such materials include the fiberglass in a cocaine/fiberglass bonded suitcase, beeswax in a cocaine/boeswax statue, and waste water from an illicit laboratory used to manufacture a controlled substance. If such material cannot readily be separated from the mixture or substance that appropriately is counted in the Drug Quantity Table, the court may use any reasonable method to approximate the weight of the mixture or substance to be counted. An upward departure nonetheless may be warranted when the mixture or substance counted in the Drug Quantity Table is combined with other, noncountable material in an unusually sophisticated manner in order to avoid detection.”.

Reason for Amendment: This amendment is designed to resolve an inter-circuit conflict regarding the meaning of the term “mixture or substance,” as used in Section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking; Attempt or Conspiracy) by expressly providing that this term does not include portions of a drug mixture that have to be separated from the controlled substance before the controlled substance can be used. This issue has arisen, subsequent to the United States Supreme Court decision in Chapman v. United States, 111 S. Ct. 1919 (1991), in two types of cases. The first type of case involves a controlled substance bonded to, or suspended in, another substance (e.g., cocaine mixed with beeswax); however, the controlled substance is not usable until it is separated from the other substance. See, e.g., United States v. Mahecha-Onofre, 938 F.2d 623 (1st Cir.), cert. denied, 112 S. Ct. 648 (1991); United States v. Restrepo-Contreras, 942 F.2d 96 (1st Cir. 1992), cert. denied, 112 S. Ct. 955 (1992). The second type of case involves the waste produced from an illicit laboratory used to manufacture a controlled substance, or chemicals confiscated before the chemical processing of the controlled substance is completed. The waste product is typically water or chemicals used to either remove impurities or form a precipitate (the precipitate, in some cases, being the controlled substance). Typically, a small amount of controlled substance remains in the waste water; often this amount is too small to quantify and is listed as a trace amount (no weight given) in DEA reports. In these types of cases, the waste product is not consumable. The chemicals seized before the end of processing are also not usable in that form because further processing must take place before they can be used. See, e.g., United States v. Sherrod, 964 F.2d 1501 (5th Cir.), cert. denied sub nom. Cooper v. United States, 113 S. Ct. 832 (1992) (White and Blackmun, JJ., dissenting from denial of cert.), and United States v. Sewell, 113 S. Ct. 1367 (1993) (White and Blackmun, J.), opinion dissenting from denial of cert.).

13. Amendment: The Commentary to Section 2D1.1 captioned “Application Notes” is amended by inserting the following additional note:

“17. If, in a reverse sting (an operation in which a government agent sells or negotiates to sell a controlled substance to a defendant), the court finds that the government agent set a price for the controlled substance that was substantially below the market value of the controlled substance, thereby leading to the defendant’s purchase of a significantly greater quantity of the controlled substance than his available resources would have allowed him to purchase except for the artificially low price set by the government agent, a downward departure may be warranted.”

Reason for Amendment: This amendment adds an application note to the commentary of this section authorizing a downward departure if, in a reverse sting operation, the court finds that the government agent set a price for the controlled substance that was substantially below market value and thereby significantly inflated the quantity of a controlled substance purchased by the defendant beyond the amount the defendant otherwise could have afforded.

14. Section 2D1.1(c) is amended in the notes following the Drug Quantity Table by inserting the following additional paragraph at the end:

In the case of LSD on a carrier medium (e.g., a sheet of blotter paper), do not use the weight of the LSD/carrier medium. Instead, treat each dose of LSD on the carrier medium as equal to 0.4 mg of LSD for the purposes of the Drug Quantity Table.”.

The Commentary to Section 2D1.1 captioned “Application Notes” is amended by inserting the following additional note:

“18. LSD on a blotter paper carrier medium typically is marked so that the number of doses (“hits”) per sheet readily can be determined. When this is not the case, it is to be presumed that each 1/4 inch by 1/4 inch section of the blotter paper is equal to one dose.

In the case of liquid LSD (LSO that has not been placed onto a carrier medium), using the weight of the LSD alone to calculate the offense level may not adequately reflect the seriousness of the offense. In such cases, an upward departure may be warranted.”.

The Commentary to section 2D1.1 captioned “Background” is amended by inserting the following paragraphs at the end:

“Because the weights of LSD carrier media vary widely and typically far exceed the weight of the controlled substance itself, the Commission has determined that basing offense levels on the entire weight of the LSD and carrier medium would produce unwarranted disparity among offenses involving the same quantity of actual LSD (but different carrier weights), as well as sentences disproportionate to those for other, more dangerous controlled substances, such as PCP. Consequently, in involving LSD contained in a carrier medium, the Commission has established a weight per dose of 0.4 milligram for purposes of determining the base offense level. The dosage weight of LSD selected exceeds the Drug Enforcement Administration’s standard dosage unit for LSD of 0.05 milligram (i.e., the quantity of actual LSD per dose) in order to assign some weight to the carrier medium. Because LSD typically is marketed and consumed mainly on a carrier medium, the inclusion of some weight attributable to the carrier medium recognizes (A) that offense levels for most other controlled substances are based upon the weight of the mixture containing the controlled substance without regard to purity, and (B) the decision in Chapman v. United States, 111 S. Ct. 1919 (1991) (holding that the term “mixture or substance” in 21 U.S.C. 841(b)(1) includes the carrier medium in which LSD is absorbed). At the same time, the weight per dose selected is less than the weight per dose that would equate the offense level for LSD on a carrier medium with that for the same number of doses of PCP, a controlled substance that comparative assessments indicate is more likely to induce violent acts and ancillary crime than is LSD.”
(Treating LSD on a carrier medium as weighing 0.5 milligram per dose would produce offense levels equivalent to those for PCP.) Thus, the approach decided upon by the Commission will be to determine offense levels for LSD offenses with those for other controlled substances and avoid an undue influence of varied carrier weight on the applicable offense level. Nonetheless, this approach does not override the applicability of "mixture or substance" for the purpose of applying any mandatory minimum sentence (see Chapman; section 5G1.1(b))

Reason for Amendment: The Commission has found that the weights of LSD carrier media vary widely and typically far exceed the weight of the controlled substance itself (e.g., LSD is typically placed on blotter paper which generally weighs from 5 to 10 milligrams per dose; the weight of the LSD itself per dose is generally from 0.02 to 0.08 milligram; the Drug Enforcement Administration describes a standard dose of LSD as containing 0.05 milligram of LSD). As a result, basing the offense level on the entire weight of the LSD and carrier medium produces unwarranted disparity among offenses involving the same quantity of actual LSD but different carrier weights, as well as sentences that are disproportionate to those for other, more dangerous controlled substances, such as PCP, heroin, and cocaine. Under the guidelines prior to the amendment, for example, 100 grams of heroin or 500 grams of cocaine (weights that correspond to several thousand doses, the number of doses on a blotter or the purity) result in the same offense level as 125 doses of LSD on blotter paper (which has an average weight of 8 milligrams per dose) or 1 dose of LSD on a sugar cube (2000 milligrams per dose)

Consequently, in cases involving LSD contained in a carrier medium, this amendment establishes a weight per dose of 0.4 milligram to be used for purposes of determining the base offense level. The dosage weight of LSD selected by the Commission exceeds the Drug Enforcement Administration’s standard dosage unit for LSD of 0.05 milligram (i.e., the quantity of actual LSD per dose) in order to assign some weight to the carrier medium. Because LSD typically is marketed and consumed orally on a carrier medium, the inclusion of some weight attributable to the carrier medium recognizes (A) that offense levels for most other controlled substances are based upon the weight of the mixture containing the controlled substance without regard to purity, and (B) the decision in Chapman v. United States, 111 S. Ct. 1919 (1991) holding that the term "mixture or substance" in 21 U.S.C. 841(b)(1) includes the carrier medium in which LSD is absorbed. At the same time, the weight per dose selected is less than the weight per dose that would equate the offense level for LSD on a carrier medium with that for the same number of doses of PCP, a controlled substance that comparative assessments indicate is more likely to induce violent acts and ancillary crime than is LSD. Treating LSD on a carrier medium as weighing 0.5 milligram per dose would produce offense levels equivalent to those for PCP (for example, 2000 doses of LSD at 0.5 milligram per dose equals 1 gram of LSD—corresponding to the lower limit of offense level 26; similarly, 2000 doses of PCP at 5 milligrams per dose, the standard amount of actual PCP in a dose, equals 10 grams of actual PCP—corresponding to the lower limit of offense level 26). Thus, the approach decided upon by the Commission will harmonize offense levels for LSD offenses with those for other controlled substances and avoid an undue influence of varied carrier weight on the applicable offense level. Nonetheless, this approach does not override the definition of mixture or substance for purposes of applying any mandatory minimum sentence (see Chapman; Section 5G1.1(b)).

15. Amendment: Section 2D1.1(c) is amended in the notes following the Drug Quantity Table by inserting the following additional paragraph at the end:

"Cocaine base," for the purposes of this guideline, means "crack." "Crack" is the street name for a form of cocaine base, usually prepared by processing cocaine hydrochloride and sodium bicarbonate, and usually appearing in a lumpy, rocklike form."

Reason for Amendment: This amendment provides that, for purposes of the guidelines, "cocaine base" means "crack." The amendment addresses an inter-circuit conflict. Compare, e.g., United States v. Shaw, 936 F. 2d 412 (9th Cir. 1991) (cocaine base means crack) with United States v. Jackson, 936 F.2d 158 (2d Cir), cert. denied, 113 S. Ct. 864 (1992) (cocaine base has a scientific, chemical definition that is more inclusive than crack). Under this amendment, forms of cocaine base other than crack (e.g., coca paste, an intermediate step in the processing of coca leaves into cocaine hydrochloride scientifically is a base form of cocaine, but it is not crack) will be treated as cocaine.

16. Amendment: The Commentary to section 2K2.4 captioned "Application Notes" is amended in Note 2 by deleting:

"Provided, that where the maximum of the guideline range from Chapter Five, Part A (Sentencing Table) determined by an offense level adjusted under the procedure described in the preceding paragraph, if the total maximum term of imprisonment required under 18 U.S.C. 924(c) or 928(a), is less than the maximum of the guideline range that would apply to the underlying offense absent such adjustment, the procedure described in the preceding paragraph does not apply. Instead, the guideline range applicable to the underlying offense absent such adjustment is to be used after subtracting the term of imprisonment imposed under 18 U.S.C. 924(c) or 928(a) from both the minimum and maximum of such range."

Example: A defendant, to be sentenced under the robbery guideline; his unadjusted offense level from section 2B3.1 is 30, including a 7-level enhancement for discharging a firearm; no Chapter Three adjustments are applicable; and his criminal history category is Category IV. His unadjusted guideline range from Chapter Five, Part A (Sentencing Table) is 135–186 months. This defendant has also been convicted under 18 U.S.C. 924(c) arising from the possession of a weapon during the robbery, and therefore must be sentenced to an additional consecutive term of imprisonment. The defendant’s adjusted guideline range, which takes into account the conviction under 18 U.S.C. 924(c) by eliminating the 7-level weapon enhancement, is 20–87 months. Because the maximum of the defendant’s adjusted guideline range plus the five year consecutive sentence (67 months+60 months=147 months) is less than the maximum of the defendant’s unadjusted guideline range (168 months), the defendant is to be sentenced using the unadjusted guideline range after subtracting the 60 month sentence to be imposed under 18 U.S.C. 924(c) from both the minimum and maximum of the unadjusted range (e.g., 135 months – 60 months=75 months; 186 months – 60 months=126 months). A sentence imposed for the underlying offense using the guideline range determined in this manner (75–108 months) when combined with the consecutive sentence imposed under 18 U.S.C. 924(c) will produce the appropriate total term of imprisonment.

and inserting in lieu thereof:

"In a few cases, the offense level for the underlying offense determined under the preceding paragraph may result in a guideline range that, when combined with the mandatory consecutive sentence under 18 U.S.C. 844(b), 924(c), or 928(a), produces a total maximum penalty that is less than the maximum of the guideline range that would have resulted had there not been a count of conviction under 18 U.S.C. 844(b), 924(c), or 928(a) (i.e., the guideline range that would have resulted if the enhancements for possession, use, or discharge of a firearm had been applied). In such a case, an upward departure may be warranted so that the conviction under
18 U.S.C. 844(b), 924(c), or 929(a) does not result in a decrease in the total punishment. An upward departure under this paragraph shall not exceed the maximum of the guideline range that would have resulted had there not been a count of conviction under 18 U.S.C. 844(b), 924(c), or 929(a)."

Reason for Amendment: This amendment simplifies the operation of this section in order to reduce erroneous application by deleting the proviso in Application Note 2 and, in lieu thereof, authorizing an upward departure in the unusual case in which the combined sentence for an underlying offense and a firearms or explosives offense (under 18 U.S.C. 844(b), 924(c), or 929(a)) is less than the maximum of the guideline range that would have resulted if there had been no additional conviction for the firearms or explosives offense.

Amendment: Sections 2S1.3 and 2S1.4, and accompanying commentary, are deleted in their entirety and the following new section is inserted in lieu thereof:

"Section 2S1.3. Structuring Transactions to Evade Reporting Requirements; Failure to Report Cash or Monetary Transactions; Failure to File Currency and Monetary Instrument Report; Knowingly Filing False Reports

(a) Base Offense Level: 6 plus the number of offense levels from the table in section 2F1.1 (Fraud or Deceit) corresponding to the value of the funds.

(b) Specific Offense Characteristics:
(1) If the defendant knew or believed that the funds were proceeds of unlawful activity, or were intended to promote unlawful activity, increase by 2 levels.
(2) If (A) subsection (b)(1) does not apply; (B) the defendant did not act with reckless disregard of the source of the funds; (C) the funds were the proceeds of lawful activity; and (D) the funds were to be used for a lawful purpose, decrease the offense level to level 6.
(c) Cross Reference
(1) If the offense was committed for the purposes of violating the Internal Revenue laws, apply the most appropriate guideline from Chapter Two, Part T (Offenses Involving Taxation) if the resulting offense level is greater than that determined above.

Commentary


Application Note:

1. For purposes of this guideline, "value of the funds" means the amount of the funds involved in the structuring or reporting conduct. The relevant statutes require monetary reporting without regard to whether the funds were lawfully or unlawfully obtained.

Background: The offenses covered by this guideline relate to records and reports of certain transactions involving currency and monetary instruments. These reports include Currency Transaction Reports, Currency and Monetary Instrument Report, Reports of Foreign Bank and Financial Accounts, and Reports of Cash Payments Over $10,000 Received in a Trade or Business.

Appendix A (Statutory Index) is amended in the line beginning "31 U.S.C. § 5322" by deleting "2S1.4" and inserting in lieu thereof "2S1.1" and in the line beginning "31 U.S.C. § 5322" by deleting "2S1.4".

Reason for Amendment: This amendment consolidates existing sections 2S1.3 and 2S1.4 and modifies these guidelines to assure greater consistency of punishment for similar offenses and greater sensitivity to indicia of offense seriousness. The amendment links base offense levels for the reporting violations covered by these guidelines to the defendant's state of mind with respect to the source of the funds, and, in instances where the defendant knew, believed or acted with reckless disregard of the fact that the funds were the proceeds of unlawful activity, to the value of the funds involved.

18. Amendment: Chapter Two, Part T, Subpart I is amended in the title by inserting "Willful Failure to File Return, Supply Information, or Pay Tax; Fraudulent or False Returns, Statements, or Other Documents" at the end thereof.

The total amount that would have resulted had the offense been successfully completed.

Notes

(A) If the offense involved filing a tax return in which gross income was underreported, the tax loss shall be treated as equal to 28% of the unreported gross income (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.
(B) If the offense involved improperly claiming a deduction or an exemption, the tax loss shall be treated as equal to 28% of the amount of the improperly claimed deduction or exemption (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.
(C) If the offense involved improperly claiming a deduction to provide a basis for tax evasion in the future, the tax loss shall be treated as equal to 28% of the amount of the improperly claimed deduction (34% if the taxpayer is a corporation) plus 100% of any false credits claimed against tax, unless a more accurate determination of the tax loss can be made.

(2) If the offense involved failure to file a tax return, the tax loss is the amount of tax that the taxpayer owed and did not pay.

Note: If the offense involved failure to file a tax return, the tax loss shall be treated as equal to 28% of the gross income (34% if the taxpayer is a corporation) less any tax withheld or otherwise paid, unless a more accurate determination of the tax loss can be made.

(3) If the offense involved willful failure to pay tax, the tax loss is the amount of tax that the taxpayer owed and did not pay.

(4) If the offense involved improperly claiming a refund to which the claimant was not entitled, the tax loss is the amount of the claimed refund to which the claimant was not entitled.

(5) The tax loss is not reduced by any payment of the tax subsequent to the commission of the offense."

The Commentary to section 2T1.1 captioned "Application Notes" is amended by deleting Notes 1 and 4; and by renumbering the remaining notes accordingly.

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 1 (formerly Note 2) by deleting "For purposes of the guideline, the tax loss is the amount of tax that the taxpayer evaded or attempted to evade" and inserting in lieu thereof "tax loss, as defined in subsection (c)", by deleting "deficiency" and inserting in lieu thereof "figures"; and by inserting the following additional paragraphs at the end:

"Notes under subsections (c)(1) and (c)(2) address certain situations in income tax cases in which the tax loss may not be reasonably ascertained. In these situations, the "presumptions" set forth are to be used unless the government or defense provides sufficient information for a more accurate assessment of the tax loss (as defined in subsection (c)). In cases involving other types of taxes, the presumptions in the notes under subsections (c)(1) and (c)(2) do not apply.

Example 1: A defendant files a tax return reporting income of $40,000 when his income was actually $90,000. Under Note (A) to subsection (c)(1), the tax loss is treated as $14,000 ($90,000 of actual gross income minus $40,000 of reported gross income = $50,000 x 28%) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

Example 2: A defendant files a tax return reporting income of $80,000 when his income was actually $130,000. In addition, the defendant claims $10,000 in false tax credits. Under Note (A) to subsection (c)(1), the tax loss is treated as $29,800 ($130,000 of actual gross income minus $80,000 of reported gross income = $70,000 x 28% = $19,600, plus $10,000 of false tax credits) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

Example 3: A defendant fails to file a tax return for a year in which his salary was $24,000, and $2,600 in income tax was withheld by his employer. Under the note to subsection (c)(2), the tax loss is treated as $2,200 ($24,000 of gross income x 20% = $4,800, minus $2,800 of tax withheld) unless sufficient information is available to make a more accurate assessment of the tax loss (as defined in subsection (c)).

In determining the tax loss attributable to the offense, the court should use as many methods set forth in subsection (c) and this commentary as are necessary given the circumstances of the particular case. If none of the methods of determining the tax loss set forth fit the circumstances of the particular case, the court should use any method of determining the tax loss that appears appropriate to reasonably calculate the loss that would have resulted had the offense been successfully completed."

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 3 (formerly Note 5) by deleting "or local" and inserting in lieu thereof "local, or foreign".

The Commentary to section 2T1.1 captioned "Application Notes" is amended in Note 4 (formerly Note 6) by deleting "section 2T1.1" and inserting in lieu thereof "subsection"; by deleting "applied" and inserting in lieu thereof "applied,"; and by inserting "or fictitious entities" immediately following "shells."

The Commentary to section 2T1.1 captioned "Application Notes" is amended by inserting the following additional notes:

"5. A 'credit claimed against tax' is an item that reduces the amount of tax directly, in contrast to a 'deduction' that reduces the amount of taxable income.

6. 'Gross income,' for the purposes of this section, has the same meaning as it has in 26 U.S.C. 61 and 26 CFR 1.61.

7. If the offense involves both individual and corporate tax returns, the tax loss is the aggregate tax loss from the offenses taken together."

The Commentary to section 2T1.1 captioned "Background" is amended in the first paragraph by deleting "tax evaded because the chief interest protected by the statute is the collection of taxes. A greater evasion" and by inserting in lieu thereof "loss that was the object of the offense. Tax offenses, in and of themselves, are serious offenses; however a greater tax loss;" and by deleting "tax evasion" and inserting in lieu thereof "offenses."

The Commentary to section 2T1.1 captioned "Background" is amended by deleting the second paragraph.

The Commentary to § 2T1.1 captioned "Background" is amended in the second (formerly third) paragraph by deleting "evasion" wherever it appears and inserting in lieu thereof in each instance "offenses."

The Commentary to section 2T1.1 captioned "Background" is amended in the third (formerly fourth) paragraph by deleting the first two sentences.

The Commentary to section 2T1.1 captioned "Background" is amended in the fourth (formerly fifth) paragraph by deleting the last sentence.

The Commentary to section 2T1.1 captioned "Background" is amended in the fifth (formerly sixth) paragraph by deleting "tax evasion" and inserting in lieu thereof "tax offenses;" by deleting "the evasion" and inserting in lieu thereof "the offense;" and by deleting the last sentence.

Sections 2T1.2, 2T1.3, and 2T1.5, including accompanying commentary, are deleted in their entirety.

Section 2T1.4(a)(1) is amended by deleting "resulting tax loss, if any" and inserting in lieu thereof "tax loss."

Section 2T1.4(a)(2) is amended by deleting "otherwise" and inserting in lieu thereof "if there is no tax loss."

Section 2T1.4(a) is amended by deleting "section 2T1.3" and inserting in lieu thereof "section 2T1.1."

Section 2T1.4(b)(1) is amended by inserting "(A)" immediately following "if"; and by inserting "(B)" the defendant was in the business of preparing or assisting in the preparation of tax returns" immediately before ". increase."

Section 2T1.4(b)(2) is amended by deleting "nature" and inserting in lieu thereof "existence."

Section 2T1.4(b) is amended by deleting:

"(3) If the defendant was in the business of preparing or assisting in the preparation of tax returns, increase by 2 levels.".

The Commentary to section 2T1.4 captioned "Statutory Provision" is amended by inserting "(other than a violation based upon 26 U.S.C. 6050I)" immediately following "7206(2)."

The Commentary to Section 2T1.4 captioned "Application Notes" is amended by deleting Notes 3 and 4; by renumbering Notes 1 and 2 as Notes 2 and 3, respectively; and by inserting the following as Note 1:

1. For the general principles underlying the determination of tax loss, see Section 2T1.1(c) and Application Note 1 of the Commentary to Section 2T1.1 (Tax Evasion; Willful Failure to File Return, Supply Information, or Pay Tax: Fraudulent or False Returns, Statements, or Other Documents). In certain instances, such as promotion of a tax shelter scheme, the defendant may advise other persons to violate their tax obligations through
The Commentary to Section 2T1.4 captioned “Application Notes” is amended in Note 2 (formerly Note 1) by deleting:

“1. Subsection (b)(1) applies to persons who derive a substantial portion of their income through the promotion of tax fraud or tax evasion, e.g., through promoting fraudulent tax shelters.”, and inserting in lieu thereof:

“1. Subsection (b)(1) applies to persons who derive a substantial portion of their income through the promotion of tax fraud or tax evasion, e.g., through promoting fraudulent tax shelters.”

The Commentary to Section 2T1.9 captioned “Application Notes” is amended in Note 2 by deleting “Section 2T1.3 (whichever is applicable to the underlying conduct)” and inserting in lieu thereof “Section 2T1.4 (whichever guideline most closely addresses the harm that would have resulted had the conspirators succeeded in impeding, impairing, obstructing or defeating the Internal Revenue Service)”.

The Commentary to Section 2T1.9 captioned “Application Notes” is amended by inserting the following additional note:

“4. Subsection (b)(2) provides an enhancement where the conduct was intended to encourage persons, other than the participants directly involved in the offense, to violate the tax laws (e.g., an offense involving a "tax preparer" group that encourages persons to violate the tax laws, or an offense involving the marketing of fraudulent tax shelters or schemes).”.

Section 2T4.1 is amended by deleting:

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<th>Offense level</th>
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<td>(A) $2,000 or less .............</td>
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</tr>
<tr>
<td>(B) More than $2,000 ..........</td>
<td>7</td>
</tr>
<tr>
<td>(C) More than $5,000 ..........</td>
<td>8</td>
</tr>
<tr>
<td>(D) More than $10,000 ..........</td>
<td>9</td>
</tr>
<tr>
<td>(E) More than $20,000 ..........</td>
<td>10</td>
</tr>
<tr>
<td>(F) More than $40,000 ..........</td>
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</tr>
<tr>
<td>(G) More than $70,000 ..........</td>
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<td>(H) More than $120,000 ..........</td>
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</tr>
<tr>
<td>(I) More than $350,000 ..........</td>
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</tr>
<tr>
<td>(J) More than $500,000 ..........</td>
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</tr>
<tr>
<td>(K) More than $800,000 ..........</td>
<td>16</td>
</tr>
<tr>
<td>(L) More than $1,500,000 ..........</td>
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<tr>
<td>(U) More than $50,000,000,000 ..........</td>
<td>26</td>
</tr>
</tbody>
</table>

The Commentary to section 2X1.1 captioned “Application Notes” is amended in Note 1 in the third paragraph by deleting “Impair, Impede” and inserting “Impede, Impair, Obstruct.”

Section 3D1.2(d) is amended in the second paragraph by deleting “2T1.2, 2T1.3”, immediately following “sections 2T1.1.”

Appendix A (Statutory Index) is amended by inserting, at the appropriate place by title and section, the following:

“26 U.S.C. 7206 2F1.1”; “26 U.S.C. 7212(a) 2T1.12”.

Reason for Amendment: This amendment consolidates sections 2T1.1, 2T1.2, 2T1.3, and 2T1.5, thereby eliminating the confusion that has arisen in some cases regarding which guideline applies. In addition, by adopting a uniform definition of tax loss, this amendment eliminates the anomaly of using actual tax loss in some cases and an amount that differs from actual tax loss in others. Furthermore, this amendment consolidates sections 2T1.4(b)(1) and (b)(3) to reflect the substantial overlap between these subsections. Finally, this amendment adopts a revised “tax loss” table to provide increased deterrence for tax offenses.

19. Amendment: The Commentary to sections 3B1.3 captioned “Application Notes” is amended by deleting Note 1 as follows:

1. The position of trust must have contributed in some substantial way to facilitating the crime and not merely have provided an opportunity that could as easily have been afforded to other persons. This adjustment, for example, would not apply to an embezzlement by an ordinary bank teller,”

and inserting in lieu thereof:

“1. ‘Public or private trust’ refers to a position of public or private trust characterized by professional or managerial discretion (i.e., substantial discretionary judgment that is ordinarily given considerable deference). Persons holding such positions ordinarily are subject to significantly less supervision than employees
whose responsibilities are primarily non-discretionary in nature. For this enhancement to apply, the position of trust must have contributed in some significant way to facilitating the commission or concealment of the offense (e.g., by making the detection of the offense or the defendant's responsibility for the offense more difficult). This adjustment, for example, would apply in the case of an embezzlement of a client's funds by an attorney serving as a guardian, a bank executive's fraudulent loan scheme, or the criminal sexual abuse of a patient by a physician under the guise of an examination. This adjustment would not apply in the case of an embezzlement or theft by an ordinary bank teller or hotel clerk because such positions are not characterized by the above-described factors.

Notwithstanding the preceding paragraph, because of the special nature of the United States mail an adjustment for an abuse of a position of trust will apply to any employee of the U.S. Postal Service who engages in the theft or destruction of undelivered United States mail."

Reason for Amendment: This amendment reformulates the definition of the position of trust that will apply to any employee of the U.S. Postal Service who engages in the theft or destruction of undelivered United States mail, and by inserting the following additional paragraph as the second paragraph:

"With respect to the current sentencing proceeding, this guideline or commentary does not confer upon the defendant any right to attack collaterally a prior conviction or sentence beyond any such rights otherwise recognized in law (e.g., 21 U.S.C. 851 expressly provides that a defendant may collaterally attack certain prior convictions)."

The Commentary to section 4A1.2 captioned "Background" is amended by deleting the second paragraph as follows:

"The Commission leaves for court determination the issue of whether a defendant may collaterally attack at sentencing a prior conviction."

Reason for Amendment: This amendment expressly provides that the term "part of the instant offense" in subsection (a)(1) of section 4A1.2 means "relevant conduct" as defined in section 1B1.3 (Relevant Conduct) to avoid double counting and ensure consistency with other guideline provisions.

This amendment also clarifies the Commission's intent with respect to subsection (a)(1) of section 4A1.2 (Definitions and Instructions for Computing Criminal History) confers on defendants a right to attack prior convictions collaterally at sentencing, an issue on which the appellate courts have differed. Compare, e.g., United States v. Canales, 960 F.2d 1311, 1316 (5th Cir. 1992) (Section 4A1.2 commentary indicates Commission intended to grant sentencing courts discretion to entertain initial defendant challenges to prior convictions); United States v. Jacobetz, 955 F.2d 786, 805 (2d Cir.) (similar), cert. denied, 113 S. Ct. 104 (1992); United States v. Cornog, 945 F.2d 1504, 1511 (11th Cir. 1991) (similar) with United States v. Hewitt, 942 F.2d 1270, 1276 (8th Cir. 1991) (commentary indicates defendants may only challenge use of prior convictions at sentencing by showing such conviction previously ruled invalid). This amendment addresses this inter-circuit conflict in interpreting the commentary by stating more clearly that the Commission does not intend to enlarge a defendant's right to attack collaterally a prior conviction at the current sentencing proceeding beyond any right otherwise recognized in law.

21. Amendment: The Commentary to section 5G1.3 captioned "Application Notes" is amended by inserting the following additional note:

"4. If the defendant was on federal or state probation, parole, or supervised release at the time of the instant offense, and has had such probation, parole, or supervised release revoked, the sentence for the instant offense should be imposed to serve consecutively to the term imposed for the violation of probation, parole, or supervised release in order to provide an incremental penalty for the violation of probation, parole, or supervised release (in accord with the policy expressed in sections 7B1.3 and 7B1.4)."

Reason for Amendment: This amendment adds an application note to the commentary of this section to provide guidance in the case of a defendant who was on federal state probation, parole, or supervised release at the time of the instant offense and has had such term of supervision revoked prior to sentencing on the instant federal offense.

22. Amendment: The Commentary to section 6B1.2 is amended by inserting the following additional paragraph at the end:

"The Commission encourages the prosecuting attorney prior to the entry of a guilty plea or nolo contendere plea under Rule 11 of the Federal Rules of Criminal Procedure to disclose to the defendant the facts and circumstances of the offense and offender characteristics then known to the prosecuting attorney, that are relevant to the application of the sentencing guidelines. This recommendation, however, shall not be construed to confer upon the defendant any right not otherwise recognized in law."

Reason for Amendment: This amendment adds commentary to this policy statement recommending that the prosecuting attorney disclose to the defendant the facts and circumstances of the offense and offender characteristics then known to the prosecuting attorney that are relevant to the application of the guidelines in order to encourage plea negotiations that realistically reflect probable outcomes.

[FR Doc. 93-10655 Filed 5-5-93; 8:45 am] BILLING CODE 2110-40-4
Part VI

Department of the Interior

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Snoqualmie Indian Tribe; Notice of Proposed Finding
The Snoqualmie are classified culturally and linguistically as Southern Coast Salish, a subdivision of the Coast Salish of the Puget Sound region. At the time of the treaty, and for several decades before, the Snoqualmie consisted of at least 18 winter villages located along the Snoqualmie River. These villages were centered on one or several multi-family longhouses.

The Snoqualmie tribe was a single, distinct social unit, united by kinship and other ties. The tribe shared a common name and territory and was somewhat distinct from neighboring Coast Salish in terms of this language. Until the mid-1840's the Snoqualmie may not have been a single political unit in the sense of having an overall leader. Within the tribe, a distinction was made between the Upper Snoqualmie in the villages on the prairie above Snoqualmie Falls, and the Lower Snoqualmie in the villages below the Falls.

Marriage outside the village and tribe was the norm for the Snoqualmie and other Coast Salish. Puget Sound tribes traditionally were cohesive groupings within a broader network of kinship, social, and economic relationships. The social organization of these tribes has retained much of this character up to the present. The acknowledgment criteria regarding community and political influence have in this case been evaluated in the context of the particular Coast Salish social organization and culture.

After traditional settlements were disrupted by white settlers in the 1860's, the Snoqualmie reestablished three distinct settlement areas: on the Upper Snoqualmie prairie, including a settlement called Meadowbrook; in the Lower Snoqualmie area near the ancient Fall City; and at Lake Sammamish, outside but adjacent to traditional Snoqualmie territory. Community longhouses were maintained in each of these areas and much of the traditional culture was retained, including language, religion, and social organization and marriage patterns. There were few marriages with non-Indians.

Some Snoqualmie moved to the Tulalip Reservation after 1860, but most did not because of its limited land and the fact that it was outside of Snoqualmie territory. Those tribal members who moved to the reservation maintained social and political ties with those in the off-reservation settlements and the Snoqualmie remained a distinct social community. By 1914, when the tribe began a political reorganization under Jerry Kanim, the distinct tribal settlement areas had largely dispersed and more tribal members and moved to reservations. After the turn of the century the geographically distinct Snoqualmie settlements began to break up. Dispersion of the Snoqualmie continued over the next 50 years (1914–1956), although most members remained within or adjacent to traditional Snoqualmie territory. The membership narrowed in the 1940's and 1950's as many reservation residents affiliated with the Snoqualmie shifted allegiance to the reservations, which were becoming distinct social and political units. There continued to be an off-reservation centered social and political body of Snoqualmie.

Although they no longer had separate settlements, there is strong evidence that the tribe maintained a distinct social community during this period. This evidence includes continuous intermarriage with Snoqualmie or other Puget Sound Indians, closeness of kinship ties linking major family groupings, maintenance of a distinct culture, including language and religion, and the existence of strong internal political processes under the leadership of Jerry Kanim. Additional evidence of long-term social relationships and interaction is the regular tribal social gatherings held at certain holidays. Supporting evidence is the observations of knowledgeable contemporary observers, such as Charles Roblin and other Indian agents, that the Snoqualmie were a distinct social community.

There is less detailed and extensive evidence for social community for the period between 1956 and 1981 than there is for the time periods before and after. However, the available evidence is sufficient to demonstrate that a significant level of social community was maintained. The Snoqualmie did not become more widely dispersed geographically during this period, remaining within an area close enough to allow maintenance of community social relations.

There continued to be a considerable degree of close kinship ties within the tribe and kin and social linkages with other Puget Sound Indians, since intermarriage within the Snoqualmie was common until the 1920's and within Puget Sound Indian society until the 1950's. However, the degree of social interaction and social ties was somewhat diminished from previous eras. A significant, though diminishing amount of distinct culture was also maintained. The clearest evidence of this was Snoqualmie participation in the Indian Shaker Church, the Indian Smokehouse religion, and some
continued traditional religious beliefs among the older generation. Membership in the tribe required demonstration of one-fourth or more Snoqualmie blood degree, and the average blood degree in practice was higher. This demonstrates that the Snoqualmie were more than merely a group of distantly related descendants of Indians. There was more evidence for continuing political processes for the period between 1956 and 1981 than there was concerning social community. This evidence establishes that significant, noncoercive political processes continued. These provide evidence for community because they required and were based on the existence of social ties and communication in order to operate. The evidence for community from political processes was less strong between 1956 and 1970, in part because this was a low point in political activity following the death of Chief Jerry Kanim in 1956.

Considerably more detailed evidence was found for the modern Snoqualmic community, defined for the purpose of this evaluation as being from approximately 1981 to the present. There is strong evidence that significant social relationships have been maintained in the modern community. The geographical distribution of the tribe has not changed substantially from that of previous decades. About 70 percent of the membership lives within a 50-mile radius, which is close enough to allow significant social interaction. The continued existence of cultural differences among a substantial minority of the membership provides evidence that there is more than a minimal division between the Snoqualmie and non-Indians. The tribe has maintained a clear membership boundary, socially distinguishing it from non-members, reinforcing evidence from other sources that this is more than a formal organization of Snoqualmic descendants. There is limited direct evidence that informal, though not necessarily intense, social contact is maintained broadly among the membership. Kinship relationships are still close enough to provide supporting evidence that significant social relations exist. Family line groupings are socially defined and there is a significant degree of social knowledge and involvement among Snoqualmic members. This is partly expressed in their awareness of the history, character, and actions of the major family lines, which is evidence of continuing social ties as well as social contact. The available data regarding family groups and their social significance is particularly strong concerning how they manifest themselves in political contexts. Conflicts between family groups are considered a prominent political element.

The evidence of Snoqualmic political processes in the modern community, which is more clearly and extensively documented than is direct evidence of social community, demonstrates that significant social relationships and a significant degree of social contact exist. At the time of first sustained contact with Euro-Americans in the 1830's, leadership and other political processes within the Snoqualmic were exercised at the village level and/or within nonlocalized kinship groups. The Snoqualmic tribe probably did not constitute a single political unit in the sense of having an overall leader until the early or mid-1940's, when Pat Kanim became chief of the entire tribe. Kanim's authority was recognized by non-Indian governmental authorities and by the Snoqualmic themselves. Kanim was second signer of the 1855 Treaty of Point Elliott, a reflection of his importance.

After Pat Kanim's death in 1858 until 1914, the Snoqualmic were led by a variety of local leaders. Most prominent of these was Sanawa, chief of the Upper Snoqualmic under Pat Kanim. Sanawa's authority was recognized by the Federal government. He lived until 1875 and was succeeded by his son John Senaa. Political influence was also exercised through informal leaders, community meetings and the cooperative effort necessary to construct and maintain community longhouses and communal religious ceremonies. The existence and maintenance of culturally and territorially distinct communities throughout this period is further evidence that political influence through either formal or informal leaders and group decision-making processes was maintained throughout the latter part of the 19th century and the first decade of the 20th century.

Between 1914 and 1916, a political reorganization of the political system of the Snoqualmic took place. A strong chief of the entire tribe, named Jerry Kanim, was put into office and under his leadership a council and general council of the entire membership were instituted to help govern the Snoqualmic. The process by which the political reorganization took place is itself strong evidence of the exercise of political influence because it resulted from the more general community opinion, involving influential informal leaders, over an extended period of time, and reflected shared community values concerning leadership.

Kanim was a strongly influential figure within the Snoqualmic throughout his tenure from 1914 until his death in 1956. He was a strong speaker, enjoyed high prestige throughout the group, and was known for his ability to influence community opinion on political and social issues. Two critical issues that Kanim addressed throughout his tenure were seeking land for the Snoqualmic, settle upon and maintenance of fishing and hunting rights under the treaties. Land was of critical importance for the Snoqualmic because they had lost their lands during the first decade of the 20th century, and there was insufficient reservation land to allot to them. Hunting and fishing rights were of great importance because the Snoqualmic hunted and fished extensively for subsistence purposes but access to traditional hunting and fishing grounds was becoming limited because of competition with non-Indians and increasingly restrictive game and fish laws. Kanim pursued these issues with Federal, state, and local authorities throughout his tenure. Political influence is thus demonstrated because he and the Snoqualmic councils dealt with issues which were clearly of significance and concern to the Snoqualmic as a whole.

Additional strong evidence of political influence among the Snoqualmic between 1914 and 1956 is that knowledgeable governmental authorities external to the group consistently recognized Jerry Kanim's political influence and dealt with him as a leader who represented the interests and concern of the Snoqualmic. The level of exercise of political influence during Jerry Kanim's tenure very substantially exceeds the minimal requirements of the Acknowledgment regulations.

Although Jerry Kanim was not replaced as chief in the decades after his death in 1956, there continued to be leaders among the Snoqualmic who had been active during Kanim's tenure. The tribal chairman, an existing position, became the main leader of the Snoqualmic, and the tribal council and general council took a more important role. Although a Snoqualmic chief was appointed in 1986, it was not demonstrated that this individual has a significant political role.

There is clear evidence that community opinion on a variety of matters has existed and been expressed through various political processes throughout the period from 1956 up until and including the present. There is...
good evidence, consistent over a long period of time (1960’s to the present), that opinion and concern over the actions of the Snoqualmie leadership and the form that leadership have existed at large among the membership. This has been evidenced from time to time by generational differences concerning the Snoqualmie leadership and the form of government. Major family lines function within the political system to a limited degree, playing a role in formation of opinion and being one dimension along which conflicts take place. A strong example of internal political influence occurred in 1980 when community opinion was mobilized to oust the tribal chairman, whose behavior in this role violated community norms. These processes illustrate the existence of the flow of political opinion within the Snoqualmie and between leaders and members, and thus a bilateral political relationship, a requirement of criterion (c).

Political influence and a bilateral political relationship is also demonstrated by the major role played by the general council, a meeting of the general membership which is the final arbiter of political issues and conflicts within the Snoqualmie. The general council is a decisionmaking body which connects the tribal council and chairman to the Snoqualmie members, by electing these officers and by reviewing actions and issues which are considered critical or controversial.

Hunting and fishing rights have continued to be a concern addressed by the Snoqualmie council and leadership, throughout the period from 1956 to the present. It is likely that fishing remained an important part of Snoqualmie subsistence until World War II, and for some time later for some Snoqualmies. There is good evidence that fishing rights is a political issue of substantial significance and concern among a wide portion of the Snoqualmies because the effective loss of access to these rights is recent and there is continued widespread interest among the members.

There exists substantial evidence between 1956 and 1966 and strong evidence from 1968 through the present that political influence has been exercised within the Snoqualmie, that the leaders and council have a significant political connection with the membership, i.e., a bilateral political relationship, and that political issues of significance to a broad portion of the membership have been addressed.

The petitioner’s governing document describes how membership is determined and how the tribe governs its affairs and its members. Present members of this organization are predominantly lineal descendants of the Snoqualmie Indians whose ancestors have inhabited Western Washington since first sustained contact with Euro-Americans. Ninety-six percent of the petitioner’s 313 members have established or can be expected to establish descent from an ancestor identified as Snoqualmie in historical records. The remaining 4 percent of the membership consists of 11 members who have not satisfactorily established Snoqualmie descent, and 3 members who are non-Indians adopted by the tribe. Eighty-two percent of the members possess the one-eighth or more Snoqualmie blood required by the petitioner’s membership criteria. Members who possess less than one-eighth Indian blood have been adopted by the petitioner.

Twenty percent of the membership (63 members) is currently enrolled in a federally recognized tribe, leaving a substantial majority (90 percent) of the membership who are not enrolled in a federally recognized tribe. Because concurrent membership in more than one tribe or group is prohibited by the petitioner’s governing documents, these members technically do not meet the criteria for membership in the Snoqualmie Indian Tribe. The membership of the 20 percent who are enrolled in a federally recognized tribe is dispersed among seven tribes serviced by the BIA’s Puget Sound Agency, and the majority are based primarily on the member’s descent in another line from a non-Snoqualmie Indian ancestor who was affiliated with the tribe. There is no evidence that suggests that these 63 individuals represent a faction or factions who are attempting to break away from their tribes in order to establish another tribe.

No evidence was found to show that the Snoqualmie Indian Tribe has been the subject Federal legislation which has expressly terminated or forbidden a Federal relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Snoqualmie Indian Tribe meets all the criteria in 25 CFR 83.7. We therefore conclude that the tribe should be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.9(f), a report summarizing the evidence for the proposed decision will be provided to the petitioner and other interested parties, and is available to other parties upon written request. Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to: the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 2811-MIB.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120-day response period described above, the Assistant Secretary—Indian Affairs will publish the final determination of the petitioner’s status in the Federal Register as provided in 25 CFR 83.9(h).

Eddie F. Brown, Assistant Secretary—Indian Affairs.
[FR Doc. 93–10694 Filed 5–5–93; 8:45 am]
BILLING CODE 4310–02–M
Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Notice of the FY 1993 Competitive Discretionary Assistance Program and the Availability of the FY 1993 Discretionary Program Announcement Application Kit
DEPARTMENT OF JUSTICE
Office of Juvenile Justice and Delinquency Prevention

Fiscal Year 1993 Competitive Discretionary Assistance Programs and the Availability of the Fiscal Year 1993 Discretionary Program Announcement Application Kit

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

ACTION: Public announcement of the Office of Juvenile Justice and Delinquency Prevention's Fiscal Year 1993 Competitive Discretionary Assistance Programs and the availability of the Fiscal Year 1993 Discretionary Program Announcement Application Kit (hereinafter OJJDP Application Kit) for Title II, Juvenile Justice and Delinquency Prevention Programs and Title IV, Missing Children's Assistance Act, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) publishes this Notice of Competitive Discretionary Assistance Programs and announces the availability of the Juvenile Justice and Delinquency Prevention and Missing Children's Assistance Act Discretionary Program Announcement Application Kit for Fiscal Year 1993 (a separate publication available from the OJJDP's Juvenile Justice Clearinghouse).

The OJJDP Application Kit contains the discretionary program announcements, general application and administrative requirements, an application form (Standard Form 424), the OJJDP Peer Review Guideline, OJJDP Competition and Peer Review Procedures, and other supplemental information relevant to the application process. To order an OJJDP Application Kit, please call the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, (800) 638-6736.

DATES: Applicants are requested to submit the original, signed application (Standard Form 424) and four copies to OJJDP. Application forms and supplementary information will be provided upon request in the OJJDP Application Kit. Potential applicants should review the OJJDP Peer Review Guideline and the OJJDP Competition and Peer Review Procedures. These documents are provided in the OJJDP Application Kit. Applications must be received by mail or delivered to OJJDP by 5 p.m. e.d.t., on or before the date indicated in the program announcement. Those applications sent by mail should be addressed to the specific OJJDP grant manager for the program to which the applicant is applying. Applications may be hand delivered between the hours of 8 a.m. and 5 p.m., except Saturdays, Sundays, and Federal holidays. A receipt will be provided for hand-delivered applications.

ADDRESSES: Applications must be postmarked or hand delivered to OJJDP by 5 p.m. prior to or on the due date specified for the particular program. Applications may be mailed or hand delivered to: Office of Juvenile Justice and Delinquency Prevention, room 742, 833 Indiana Avenue, N.W., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Program inquiries are to be addressed to the attention of the OJJDP staff contact person identified in the specific program announcement. For general information, contact Marilyn Silver, Management Analyst, Information Dissemination Unit, (202) 307-0751. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with section 204(b)(5)(A) of Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), as amended, 42 U.S.C. 5614(b)(5)(A), OJJDP issued a Final Comprehensive Plan describing the Juvenile Justice and Delinquency Prevention Programs which OJJDP intends to fund during Fiscal Year 1993. Published January 22, 1993, at 58 FR 5860, the final plan includes activities authorized in parts C and D of title II of the JJDPA (42 U.S.C. 5651-5665b).

The 1984 Amendments to the JJDPA established Title IV, the Missing Children's Assistance Act. In accordance with Section 406(a) of Title IV of the JJDPA, Section 42, 42 U.S.C. 5776(a), OJJDP announced Final Program Priorities for grants and contracts under sections 405, 42 U.S.C. 5775, of the Missing Children's Assistance Act on March 1, 1993, at 58 FR 11944. The competitive programs identified among the Fiscal Year 1993 Final Program Priorities for section 405 are included in this Notice and in the OJJDP Application Kit.

In order to increase competition and participation in section 405 programs, the National Center for Missing and Exploited Children (NCMEC) and other direct assistance recipients under section 404, 42 U.S.C. 5773, of the JJDPA Act will not be eligible to compete for section 405 funds.

Application Requirements

All applications must be submitted in accordance with the requirements set forth in the OJJDP Application Kit. Two program announcements, Innovative Approaches in Law-Related Education and Missing Children Field-Initiated Program, require the submission of concept papers. See these Announcements for details.

Eligibility Requirements

Applications are invited from eligible public and private agencies, organizations, educational institutions, individuals, or combinations thereof. Eligibility differs from program to program. Please consult individual program announcements for specific eligibility requirements. Where eligible for an assistance award, private nonprofit organizations must agree to waive any profit or fee. Joint applications by two or more eligible applicants are welcome, as long as one organization is designated as the primary applicant and the other(s) as co-applicant(s).

Applicants must demonstrate that they have experience in the design and implementation of the type of program or program activity for which they are an applicant.

Selection Criteria

All applicants will be evaluated and rated by a peer review panel according to general selection criteria. Peer review will be conducted in accordance with the OJJDP Competition and Peer Review Policy, 28 CFR part 34, subpart B.

Selection criteria for each competitive program will determine applicants' responsiveness to minimum program application requirements, organizational capability, and thoroughness and innovativeness in responding to strategic issues related to project implementation. Each competitive program announcement will indicate additional program-specific selection criteria and/or changes in points assigned to criteria used in the peer review for that particular program.

Peer reviews will use the following criteria to rate applications unless the program announcement contains separate, program-specific selection criteria:

1. Statement of the problem. (20 points) The applicant includes a clear, concise statement of the problem addressed in this program.
2. Definition of Objectives. (20 points) The goals and objectives are clearly defined and the objectives are clear, measurable, and attainable.
3. Project Design. (20 points) The project design is sound and constitutes
an effective approach to meet the goals and objectives of this program.

The design provides a detailed implementation plan with a timeline which indicates significant milestones in the project, due dates for products, and the nature of the products to be submitted. The design contains program elements directly linked to the achievement of the project.

4. Management Structure. (15 points)
The project's management structure and staffing is adequate to successfully implement and complete the project. The management structure for the project is consistent with the project goals and tasks described in the application.

Applicant explains how the management structure and staffing assignments are consistent with the needs of the program.

5. Organizational Capability. (15 points)
The applicant organization's potential to conduct the project successfully must be documented.

Applicant demonstrates knowledge of and experience in the juvenile justice field, particularly in the area of study the project addresses. Applicant demonstrates that staff members have sufficient substantive expertise and technical experience. The applications will be judged on the appropriateness of the position descriptions, required qualifications, and staff selection criteria.

6. Reasonableness of Costs. (10 points)
Budgeted costs are reasonable, allowable, and cost effective for the activities proposed, and are directly related to the achievement of the program objectives. All costs are justified in a budget narrative that explains how costs are determined.

OJJDP has made the following changes to the Final Comprehensive Program Plan and the Missing and Exploited Children's Program for Fiscal Year 1993.

Prevention of Delinquency Through Child-Centered Community-Based Policing

The OJJDP Final Comprehensive Plan for Fiscal Year 1993 indicates that OJJDP proposed to support a competitive program to prepare training and technical assistance materials to replicate the Yale/New Haven Child-Centered Community-Based Policing Program. Fiscal Year 1993 funding was projected at $50,000.

However, OJJDP has concluded that competition at this stage of the program's development is not practical. The Child-Centered Community-Based Policing model must be documented before possible replication. This initial documentation will be completed by the Yale Child Development Center and the New Haven Police Department on a noncompetitive basis because the staff of these two entities, as the creators and sole practitioners of this program, are uniquely qualified to perform this task at this funding level.

Please direct any questions regarding this program to Peter Petreivalis, Training and Technical Assistance Division, (202) 307-5040.

Second National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children (NISMART II)

A competitive program announcement for the Second National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children (NISMART II) will be postponed until the latter part of Fiscal Year 1993. OJJDP is currently funding two other programs that are directly related to NISMART II.

A 16-month planning grant was awarded to the Research Triangle Institute in August 1992 for the purposes of conducting a thorough assessment of NISMART I, determining information needs and priorities for NISMART II, exploring additional data sources and methodologies that may improve NISMART I, and making recommendations for the design of NISMART II. Draft reports are due in August 1993 and a final report is due in November 1993.

A second program operating concurrently with the planning grant is entitled Additional Analysis and Dissemination of NISMART. Two cooperative agreements were awarded in July and September 1992 to the National Network of Runaway and Youth Services and the Family Research Laboratory of the University of New Hampshire, respectively, for the purpose of conducting additional analyses of NISMART I data files regarding runaways, throwaways, abductions, and otherwise missing or displaced children. Draft reports are due in July and September 1993. A final report, inclusive of findings from both cooperative agreements, is due in November 1993.

The findings and recommendations from these two programs are essential to developing the detailed solicitation for NISMART II applications. A separate Competitive Program Announcement for NISMART II will be published in the Federal Register later in Fiscal Year 1993.

Multi-Jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation

The Office for Victims of Crime (OVC) is implementing the Multi-Jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation Program as stated in the Final Comprehensive Plan for Fiscal Year 1993. This is a joint program between OJJDP and OVC. The purpose of this project is to develop a multi-jurisdictional task force model to combat child pornography and juvenile prostitution. The task force will implement centrally coordinated and managed investigations involving Federal, State, and local investigative agencies. OVC is currently requiring applications to be received prior to their March 23, 1993, deadline.

Announcements for OJJDP's Title II and Title IV competitive assistance programs are provided below.

FISCAL YEAR 1993 COMPETITIVE PROGRAM LISTING

Title II Programs:

Serious, Violent, and Chronic Offender Program Development ................................................................. $300,000
Accountability-Based Community (ABC) Intervention Program ................................................................. 300,000
Law-Related Education in Juvenile Justice Settings ....................................................................................... 440,000
Innovative Approaches in Law-Related Education ....................................................................................... 200,000
Hate Crime Study .............................................................. 100,000
Prevention of Hate Crimes .................................................. 50,000
Due Process Advocacy Program Development ............................... 100,000

Title IV Programs:

Investigative Case Management for Missing Children Homicides ............................................................. 150,000
A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children ................................................................. 100,000
Issues in Reaching Cases of International Parental Abductions of Children ......................................................... 200,000
Office of Justice Programs / Wednesday, May 6, 1993 / Notices 27167

Serious, Violent, and Chronic Offender Program Development Purpose

To develop a comprehensive program model design that can be implemented in State and local jurisdictions to address the problems of Serious, Violent, and Chronic Juvenile Offenders (SVJOs).
Background

The violent crime rate among juveniles has increased sharply in the past few years. Juveniles account for the bulk of all violent crimes in the United States. A small portion of juvenile offenders account for the bulk of all serious and violent juvenile crime. At the same time, the number of juveniles taken into custody has increased, as has the number of juveniles waived or transferred to the criminal justice system. Admissions to juvenile facilities reached an all-time high in 1990 (Howell, 1992).

The juvenile justice system does not have adequate programmatic resources to identify SVCJOs and to intervene effectively with them. Targeting this group of juvenile offenders will require a comprehensive, systematic approach that includes family strengthening and support, community involvement, and delinquency prevention focused on at-risk juveniles. Rehabilitative approaches for delinquent juveniles must use a system of graduated sanctions that combine accountability for delinquent behavior with intensive treatment services.

Research has documented primary causes of juvenile delinquency: (1) individual characteristics, (2) family influences, (3) school experiences, (4) peer group influences, and (5) neighborhood and community characteristics (Weis and Hawkins, 1981). Effective delinquency prevention efforts must be comprehensive, cover all five factors, and correspond to the social development process (Hawkins and Catalano, 1992). Other research has shown that more structured treatments that use behavioral techniques and teaching skills result in the largest delinquency reductions (Lipsey, 1992). In addition, there is growing evidence that small, secure facilities are more effective than training schools, cost less, and are a more humane approach to controlling and rehabilitating the SVCJO (Krisberg, 1992).

OJJDP has made it a priority to identify and provide effective programmatic responses to juveniles at risk of delinquency. OJJDP has considered a variety of approaches to prevent the development of and intervene with SVCJOs. The OJJDP-funded study, "Program of Research on the Causes and Correlates of Delinquency," (Huizingsa, Loeber, and Thornberry, 1992) has identified developmental pathways to delinquency. This information, coupled with risk and needs assessments, will provide the juvenile justice system with valuable, but currently missing data on juveniles who are moving toward serious, violent, or chronic offending. OJJDP has also developed several effective approaches to this target group. In the early 1980's, OJJDP's Violent Offender Program developed and tested a comprehensive approach to violent juvenile crime that emphasized treatment and reintegration of violent offenders (Fagan, 1980). The Intensive Supervision Program (ISP) is a program model that is being implemented in several sites as an alternative to incarceration for serious juvenile offenders (Krisberg, et al., 1989, 1990). OJJDP has also developed the Intensive Aftercare Program (IAP) for high-risk juvenile parolees (Altschuler and Armstrong, 1992).

The project will research and examine other relevant data and studies, program development efforts, and existing effective programs. Two major components provide the framework for this project: (1) Family strengthening and support, community involvement, and delinquency prevention; and (2) graduated sanctions for delinquent offenders. The first component will be designed to address: (1) individual characteristics; (2) family influences; (3) school experiences; (4) peer group influences; and (5) neighborhood and community characteristics. The graduated sanctions component will integrate sanctions with treatment programs. Each major graduated sanction will consist of sub-levels, or gradations, that take the characteristics and influences of the first component into account, while providing a continuum of care through a network of community services. At each level in the continuum, the family will be involved in treatment and rehabilitation efforts. Programs will need to use risk and needs assessment instruments that incorporate such factors as age, severity of offense, and offender history. Aftercare will be included for all residential placements, and actively involve the family and the community in supporting the juvenile and reintegrating him/her into the family and community.

A system of graduated sanctions requires a broad continuum of options. The types of programs to be identified include: (1) Immediate interventions for first-time non-serious offenders and non-serious repeat offenders; (2) intermediate sanctions for first-time serious and violent offenders and reoffenders; and (3) secure confinement for those who are likely to be amenable to treatment, but require a secure setting, including juveniles who constitute an ongoing threat to community safety.

Goal

To develop a comprehensive program model design that addresses the problem of SVCJOs by supporting family-strengthening community involvement and prevention programs for juveniles identified at risk of becoming serious, violent, and chronic juvenile offenders and by offering the option of graduated sanctions for juveniles who have committed delinquent acts.

Objectives

- To provide a review of the literature for inclusion in the comprehensive program model design on effective, promising, and/or innovative prevention and intervention programs for SVCJOs and those at risk of becoming SVCJOs;
- To provide a compendium of programs based on the literature review;
- To review and modify risk and needs assessment instruments appropriate for each level of intervention; and
- To develop a comprehensive program model design for SVCJOs and those at risk of becoming SVCJOs based on what works and is consistent with underlying theoretical constructs.

Program Strategy

The grantee will thoroughly review the literature and synthesize from it the most effective, promising, and/or innovative prevention and intervention programs and strategies for SVCJOs and those juveniles at risk of becoming SVCJOs. The following programs will be included in the comprehensive program design: (1) Support and assistance to families and community institutions; (2) delinquency prevention programs and services for at-risk juveniles; (3) immediate interventions; (4) intermediate sanctions; (5) community-based correctional facilities; (6) and training schools and other correctional institutions. The grantee will review ongoing OJJDP and other Federal agency projects related to these areas. A compendium of programs will be developed from the literature review on prevention and intervention programs that have been demonstrably effective at each stage of prevention and
intervention for SVCJOs and those at risk of becoming SVCJOs. Within the compendium, the program summaries will describe the programs’ clientele, the program components, theoretical models on which they are based, and the type of evaluation done, etc. The grantee will further analyze these programs to determine the common components that are critical for success. In addition, this compendium will identify promising and/or innovative programs that need more research and evaluation to determine their effectiveness.

The grantee will review risk and needs assessment instruments for different intervention levels and assess their applicability to prevention programs. These instruments will need to be developmentally targeted and culturally sensitive.

From the above analysis of effective, promising, and/or innovative programs, the grantee will develop a comprehensive program design that covers all the prevention and intervention strategies and underlying theory of social development and that can be implemented in any local jurisdiction. For each of the prevention and intervention strategies, the design will include a target group, descriptive program elements, components that are key to effectiveness, and examples of existing programs on which the models were based. Also, the design should include strategies to obtain input from youths and families who have been or will be affected by these programs.

The grantee will establish and convene an advisory board for this project. This board should consist of juvenile court judges, juvenile justice practitioners, social service practitioners, researchers, officials from relevant state agencies, representing relevant foundations and other funding sources, and others who can contribute to the overall quality of the project. The board will (1) review the overall project design; (2) further define the types of prevention and intervention strategies to be studied; (3) help identify effective, promising, and/or innovative programs at each level of prevention and intervention; and (4) review drafts of the grantee’s various products.

**Products**

- A comprehensive review of the literature that synthesizes the effective (evaluated), promising, and/or innovative programs for each stage of prevention and intervention for SVCJOs and those at risk of becoming SVCJOs.
- A compendium of programs, based on the above literature review, that documents programs demonstrated to be effective at each stage of prevention and intervention, including their clientele, the program’s components, theoretical models on which they are based, and the type of evaluation done, etc. In addition, this compendium will identify promising and innovative programs and strategies that need more research and evaluation to determine their effectiveness.

  - The risk and needs assessment instruments for each juvenile justice system decision, e.g., court intake, adjudication, etc. Also, an accompanying narrative should discuss the most appropriate individual(s) to make the intervention assessment, e.g., parent, teacher, counselor, judge, parole officer, police, social worker, etc.
  - A comprehensive program model design for each of the prevention and intervention strategies for SVCJOs and those at-risk of becoming SVCJOs that contains key components from effective, promising and/or innovative programs. The design should also include strategies to obtain input into the development of such programs from youths and families who will be affected by these programs.
  - A comprehensive final report will include all of the above items. A separate executive summary should also be provided.

**References**

- Krisberg, Barry, “Juvenile Justice: Improving the Quality of Care,”


**Eligibility Requirements**

This work will build upon existing research, evaluation, and program development efforts in both prevention and intervention strategies with at-risk youths and SVCJOs. OJJDP invites applications from public or private nonprofit agencies or institutions that have had prior research and program development experience with these types of strategies for at-risk youths and serious, violent and chronic offenders. In addition, eligible applicants must meet the requirements stipulated in the SUPPLEMENTARY INFORMATION section of this Notice.

**Selection Criteria**

Applicants will be evaluated according to the selection criteria outlined in the SUPPLEMENTARY INFORMATION section of this Notice.

**Award Period**

The project period will be 12 months.

**Award Amount**

Up to $300,000 has been allocated for this project.

**Due Date**

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

**Contact**

For further information contact Jonathan Build, Research and Program Development Division, (202) 307–5929.

* References will be available through the Juvenile Justice Clearinghouse, (800) 836–0738.
Accountability-Based Community (ABC) Intervention Program

Purpose

To develop a plan for a systemwide strategy of intervention, treatment, and rehabilitation for juvenile offenders that combines accountability and sanctions with increasingly intensive community-based intervention, treatment, and rehabilitation services as the juvenile's level of offending increases.

Background

This program implements section 261(a)(1) of the JJDP Act of 1974, as amended, 42 U.S.C. 5665(a)(1).

An effective juvenile justice system strategy for turning delinquent juveniles around combines accountability and sanctions with increasingly intensive intervention, treatment, and rehabilitation services. These sanctions, emphasizing discipline and responsibility, must include a spectrum of intervention from community-based day treatment to secure corrections components.

An effective system for supervising juvenile offenders incorporates the following:

- Community protection and public safety;
- Recognition of victims' rights;
- Accountability;
- Competency development;
- Individualized intervention, treatment, and rehabilitation plans;
- Integral involvement of the family in intervention, treatment, and rehabilitation efforts;
- Incorporation of private, nonprofit community-based organization resources, including the community's social institutions, as essential strategy elements;
- Use of risk and needs assessments that combine such factors as age, severity of offense, and offender history to determine the appropriate sanction for each offender, the potential risk for reoffending, and the requirements of a comprehensive intervention and treatment strategy; and
- A broad continuum of options, integrating community-based resources with sanctions.

A system of sanctions would require a design that incorporates the following:

- A day treatment or other correctional service program(s);
- A residential placement program(s);
- A residential assignment program(s) that provides a small, secure community-based treatment facility;
- An aftercare program(s); and
- An implementation plan that integrates public resources with a core of private, nonprofit community-based organizations into the entire spectrum of intervention, treatment, and rehabilitation services for juvenile offenders.

OJJDP proposes to provide funding for strategy planning to a maximum of three selected jurisdictions that are developing and/or strengthening a comprehensive, integrated juvenile justice system strategy that combines accountability and sanctions with a full spectrum of intensive community-based, public, and private services.

Goal

To plan an effective juvenile justice system strategy for intervention, treatment, and rehabilitation of delinquent juveniles that combines accountability and sanctions with increasingly intensive community-based, public and private intervention, treatment, and rehabilitation services.

Objectives

- To assess the existing continuum of intervention, treatment, and rehabilitation services in the applicant's jurisdiction;
- To define the juvenile offender population;
- To develop a program strategy and implementation plan;
- To develop an evaluation design and implementation plan;
- To integrate private nonprofit community-based organizations into the intervention, treatment, and rehabilitation services for juvenile offenders;
- To develop an aftercare program that is a formal component of all residential placements;
- To develop a resource plan to enlist the financial and/or technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and
- To develop a victim assistance component and integrate it with local victim assistance organizations.

Program Strategy

This solicitation invites applications from jurisdictions that are developing and/or strengthening a comprehensive juvenile justice system strategy that combines accountability and sanctions with a wide spectrum of intensive community-based, public, and private services.

OJJDP recommends that the plan reflect a two-year time frame for implementing the strategy.

Applicants are asked to develop comprehensive strategies that feature public and private collaboration and reflect recent research on the effectiveness of juvenile corrections programs. Applicants must provide concrete evidence that they are developing and/or strengthening a juvenile justice system strategy that incorporates the strategies described in this solicitation.

Each successful applicant will be required to include the following tasks in their plan:

- Assessment of the applicant's existing continuum of intervention, treatment, and rehabilitation services.
- The applicant will be required to complete a draft and final assessment report that:
  1. Describes the juvenile offender population;
  2. Describes gaps, weaknesses, or needs in the existing jurisdiction's program;
  3. Recommends developing and implementing program components and services that will expand the capability of the existing program; and
  4. Recommends an evaluation design.

- Identification of the population of juvenile offenders who require intervention, treatment, and rehabilitation. The applicant will be required to:
  1. Present the risk and needs assessment tool(s) utilized; and
  2. Present a plan specifying how the assessments have been or will be conducted.

- Development of a program strategy. The applicant will be required to:
  1. Produce a report that identifies training and technical assistance needs for developing and implementing the program. The report must include an estimate of training costs.
  2. Produce a final program design that:
     - Identifies the target population;
     - Describes the process and risk assessment to be used to assign juvenile offenders to the appropriate service(s);
     - Identifies and assesses existing services that enable the juvenile justice system to identify gaps in services and develop a process for incorporating services where needed;
     - Describes the process for developing public and private partnerships that will garner resources from private nonprofit community-based organizations and integrate them into the process;
     - Incorporates a plan for involving families in the continuum of services; and
     - Incorporates a plan for implementing an after-care program as a formal component of all residential placements;
     - Incorporates a plan that ensures that victim impact statements are prepared.
and presented at each stage when sanctions are determined;

— Incorporates a plan for notifying victims of all important decisions or changes in the status of cases;
— Describes specific sanctions and services for enhancing offender accountability, such as restitution, education about the impact of crime; and
— Incorporates a plan for evaluating the program.

(3) Produce a draft and final program operation manual.

(4) Produce a draft and final plan for implementing the program and supporting the evaluation.

Applicants must be specific about the tasks they can accomplish within 12 months with a $100,000 budget. The applicant must list and explain activities and products completed in the first year and provide an overview of the tasks to be accomplished and the products to be developed for years two and three.

Eligibility Requirements

Applications are invited from public agencies (such as local courts, probation, parole, or corrections) currently involved in planning a community-based juvenile justice system strategy of intervention, treatment, and rehabilitation for juvenile offenders. Applicant organizations may submit joint proposals with another eligible organization as long as one organization is designated as the primary applicant.

The applicant must demonstrate that the jurisdiction has documented risk factors.

The applicant must have a data collection system capable of accommodating components of the initiative and document a functioning coordination infrastructure (such as a task force) that incorporates public and private sector involvement for the project. In addition, eligible applicants must meet the requirements stipulated in the SUPPLEMENTARY INFORMATION section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The budget period will be 12 months.

Award Amount

Up to $300,000 has been allocated for this program; a maximum of $100,000 each for up to three urban communities with subsequent funding to be determined by OJJDP based on the availability of funds and OJJDP's priorities.

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

For further information contact Douglas C. Dodge, Special Emphasis Division, (202) 307-5914.

Law-Related Education in Juvenile Justice Settings

Purpose

To promote the use of law-related education in juvenile justice settings.

Background

Law-related education (LRE), as a specific curricula for elementary and secondary schools, has been found in schools throughout the country since 1975. OJJDP funded LRE since 1984 in response to congressional "earmarks." LRE teaches students about the foundations of our democracy and their responsibilities and rights as citizens. Through LRE, students develop social responsibility, an understanding of the fundamental values of right and wrong, and a commitment to good citizenship.

LRE has helped students develop the knowledge, skills, and attitudes necessary to function effectively in our pluralistic, democratic society based upon the rule of law. LRE is particularly successful as a teaching tool when non-traditional, interactive approaches to learning are used. It encourages students to deal with issues for which there may be no right or wrong answers through discussion, exploration, reflection, role playing or participation in mock trials or courts. Additionally, resource persons from the community are invited into the classroom to share their experiences in the law and to demonstrate how issues can be resolved. These individuals serve as positive role models for students.

In 1990, OJJDP began experimenting with LRE for at-risk youths in a variety of juvenile justice settings through the consortium of grantees implementing the national LRE program in schools. LRE was used in diversion, detention, community-based correctional programs, training schools, and group homes. Interim assessments of this effort suggest positive effects on youths. Timothy Buzzell, Ph.D., of the Center for Law-Related Education at Drake University, has reported on the findings of his 1991 study of LRE at the Iowa State Training School at El Dors, a secure facility for males between 12 and 18 years of age who have been adjudicated as delinquent. The study examined the effect LRE had on residents of the facility after a period of time. The residents showed an increased attachment to staff, improved attitudes toward pro-social behavior, improved self-concept, improved attitudes towards the law, and greater tolerance of others.

Similarly, a 1991 report conducted by James Giese, Ph.D., of the Social Science Education Consortium of Boulder, Colorado, also found overwhelming evidence of positive contributions of LRE on youths subject to the jurisdiction of the juvenile court. Some of the strong indicators included fewer discipline problems; greater understanding of the rationale for laws; greater empathy; improved attitudes about the legal system; and the ability to see police officers, judges, court workers, and attorneys as "real people." In general, juvenile court judges, administrators, and staff of facilities and programs using LRE with this target population have been extremely supportive of the effort.

Goals: To increase the capability of the juvenile justice system to implement LRE programs for their clientele.

Objectives

• To make the juvenile justice community aware of LRE;
• To develop, adapt, and disseminate LRE curricula and lesson plans specifically designed for youths under the supervision of the juvenile court or juvenile correctional authorities;
• To develop and address "crime victim rights and the impact of crime on individual crime victims and the community;
• To establish one or more demonstration sites using LRE with the target population and to conduct an assessment of its use;
• To provide training and technical assistance to teachers and others in the juvenile justice system on LRE techniques and curricula; and
• To develop an implementation model that can be adapted to the future evaluation of the effect of LRE on targeted youths that is transferable to States or local sites.

LRE is particularly successful as a teaching tool when non-traditional, interactive approaches to learning are used. It encourages students to deal with issues for which there may be no right or wrong answers through discussion, exploration, reflection, role playing or participation in mock trials or courts. Additionally, resource persons from the community are invited into the classroom to share their experiences in the law and to demonstrate how issues can be resolved. These individuals serve as positive role models for students.

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• To provide training and technical assistance to teachers and others in the juvenile justice system on LRE techniques and curricula; and
• To develop an implementation model that can be adapted to the future evaluation of the effect of LRE on targeted youths that is transferable to States or local sites.
Program Strategy

OJJDP is soliciting innovative proposals for this competitive program. It is OJJDP’s intention to fund up to two projects that complement one another and that together address the objectives noted above. A mandated program strategy is therefore not stated. However, certain elements of the proposal’s project design are necessary to meet the objectives of this solicitation. These mandatory elements are listed below:

- The inclusion of one or more traditional juvenile justice agencies which can be used as a demonstration site or to field-test curricula;
- The inclusion of teaching methods and practices that research has shown to be necessary to a successful LRE program;
- The development and/or inclusion of written curricula that take into account the various reading levels of youths held in juvenile correctional facilities;
- A written statement to cooperatively work with other successful LRE grantees in this program and that together address the objectives noted above.

Products

Depending upon which objectives the grantee pursues, written products will include the following:

- LRE curricula developed for or adapted from other curricula and focused on clients of the juvenile justice system;
- Assessment reports of demonstration sites;
- Training, technical assistance, and marketing materials developed during the course of the project period and used for the LRE Conference;
- A detailed description of an implementation model of LRE for juvenile justice settings that can be adapted to formally evaluate LRE with these targeted youths; and
- Quarterly progress reports regarding project activities.

Reference

A manual, Law-Related Education for Juvenile Justice Settings, funded by OJJDP and developed under the National Training and Dissemination Program for Law-Related Education, is available to applicants upon request.

Eligibility Requirements

Applications are invited from public agencies and private organizations that can demonstrate experience in juvenile justice and law-related education and the capability to undertake activities related to at least three of the above objectives. Private-for-profit organizations must agree to waive any profit or fees to be eligible. Pursuant to section 299(e) of the Juvenile Justice and Delinquency Prevention Act Amendments of 1992, the five grantees currently awarded OJJDP funds for LRE are ineligible for these funds.

Selection Criteria

Applications will be rated by a peer review panel on the extent to which they meet the following criteria:

1. The Problem to Be Addressed. (15 Points)

The application clearly identifies the nature and scope of the intervention proposed in this announcement, including skill levels of the target population and the characteristics commonly associated with effective LRE programs.

2. Goals and Objectives. (15 Points)

The applicant provides succinct statements demonstrating an understanding of the objectives and tasks associated with the program. Applicants must address, in detail, a minimum of three of the objectives noted above.

3. Project Design. (25 Points)

The project design is sound and meets the goals and objectives of this program. The design includes a detailed workplan with timelines for each significant project goal.

4. Project Management. (10 Points)

The project’s management structure and staffing is adequate to implement and complete the project successfully. The management plan describes a system to handle logistical activities efficiently and economically. Relationships with juvenile justice agencies are formally established in writing.

5. Organizational Capability. (20 Points)

The applicant organization’s potential to conduct the project successfully is documented. Organization experience with youths in the juvenile justice system and LRE is highly recommended. Key project staff has significant experience in the subject areas addressed in this announcement.

6. Budget. (15 Points)

The proposed budget is reasonable, allowable, and cost-effective vis-à-vis the activities undertaken.

Award Period

The grantees selected for award will be funded for 12 months.

Award Amount

A total of $420,000 is available for an anticipated two projects to be selected from this solicitation. Individual applications should not exceed $210,000. Additional funding at the end of the award period is dependent upon the performance of the grantee, availability of funds, and OJJDP priorities.

Due Date

Applications must be received by mail or delivered to OJJDP by July 6, 1993.

Contact

For further information contact Frank M. Porpato, Assistant Director, Training and Technical Assistance Division, (202) 307-5940.

Innovative Approaches in Law-Related Education

Purpose

To develop promising, innovative ideas for the delivery of law-related education.

Background

Law-related education (LRE) was originally designed as a specific curriculum for elementary and secondary schools and has been found throughout the country’s schools in various forms since 1975. It has been funded by OJJDP since 1984 in response to congressional “earmarks.” LRE teaches students about the foundations of our democracy and their responsibilities and rights as citizens. Through LRE, students develop insights which promote social responsibility, reaffirm the fundamental values of right and wrong, and inspire a commitment to good citizenship. LRE has helped students develop the knowledge, skills, understanding, and attitudes necessary to function effectively in our pluralistic, democratic society based upon the rule of law.

Although substantial federal assistance to LRE has been provided by OJJDP and the U.S. Department of Education, many imaginative and innovative approaches of researchers and practitioners are not always known to OJJDP. Through this program, OJJDP welcomes innovative proposals which address such approaches for efforts that specifically address delinquency prevention.

Goal

To support applications that will advance the practices of law-related education.
education and which support the prevention of delinquency within or outside the classroom.

Objectives

• To promote and support innovative research, development, demonstration, or training programs in the field of law-related education;
• To encourage new methods of directing LRE into delinquency prevention either within or outside the traditional classroom setting; and
• To develop knowledge that will lead to new techniques, approaches, or methods to deliver LRE for purposes of preventing delinquency.

Program Strategy

OJJDP is soliciting concept papers addressing the goals and objectives of this competitive program. OJJDP will select the most promising concept papers submitted and invite full applications of ideas relevant to the delivery of LRE in support of delinquency prevention practices. It is OJJDP’s intention to fund one or two projects. A mandated program strategy is not stated. However, certain elements of the proposal’s project design are necessary to meet the objectives of this solicitation. These mandatory elements are listed below:

1. The inclusion of teaching methods and practices that research has shown are necessary to a successful LRE program:
   (1) Extensive interaction among students;
   (2) Realistic content that includes balanced treatment of case studies and issues;
   (3) Use of outside resource persons;
   (4) Strong support from educators;
   (5) The inclusion or development of curricula that take into account the comprehension levels of the youths involved, including a range of innovative teaching aids; for example, the curriculum may be presented entirely in video format or may use computer technology; and
   • A written statement that the grantee will work cooperatively with other LRE grantees in this program including the OJJDP grantees that comprise the National Training and Dissemination Program.

2. Training, technical assistance, and marketing materials developed during the course of the project; and
3. Quarterly progress reports regarding project activities.

ConceiP Papers

Interested, eligible parties in this solicitation should submit a concept paper of no more than five double-spaced, type-written pages. The concept paper must address the goals and objectives of this program. OJJDP will select the most promising ideas submitted and invite full applications. Concept papers will be judged by the relevancy of the proposed approach to delinquency prevention practices; a determination of its uniqueness, i.e., an approach differing from those used by current or planned OJJDP projects; and the proposed project design. Those parties not selected will be notified in writing.

Eligibility Requirements

Concept papers are invited from public and private nonprofit agencies, organizations, institutions, and individuals that can document experience in LRE and the capability to undertake activities related to this solicitation. Private nonprofit organizations must waive their profit or fees to be eligible. Pursuant to section 299(e) of the JJDP Act, the five grantees currently awarded OJJDP funds for LRE are ineligible for these funds.

Selection Criteria for Applications

As noted above, OJJDP will invite full applications from the most promising concept papers submitted. Full applications will be rated by a peer panel on the extent to which they meet the following criteria:

1. Conceptualization of the problem. (15 Points)
   The problem addressed by the project is clearly stated and is based upon issues that are relevant to current LRE practices and OJJDP priorities in delinquency prevention.

2. Goals and Objectives. (15 Points)
   The applicant provides succinct statements that demonstrate understanding of the objectives and tasks associated with the project. Objectives are clear and measurable.

3. Project Design. (25 Points)
   The project design is sound and constitutes an effective approach to meet the goals and objectives of this program. The design includes a detailed workplan with timelines for each significant goal. The design contains program elements directly linked to the achievement of the project.

4. Project Management. (10 Points)
   The project’s management structure and staffing is adequate to successfully implement and complete the project. The management plan describes a system whereby logistical activities are handled efficiently and economically. Relationships with cooperating organizations are formally established in writing.

5. Organizational Capability. (20 Points)
   The applicant organization’s potential to conduct the project successfully is documented. Organizational experience with LRE is highly recommended. Key project staff has significant experience in the subject areas in their proposal.

6. Budget. (15 Points)
   The proposed budget is reasonable, allowable, and cost-effective vis-a-vis the activities undertaken.

Award Period

The grantees selected for award will be funded for 12 months.

Award Amount

A total of $200,000 is available for an anticipated two projects selected from this solicitation. Individual applications should not exceed $100,000. Additional funding at the end of the award period is dependent upon performance of the grantee, availability of funds, and OJJDP priorities.

Due Date

Concept papers must be received by mail or delivered to OJJDP by June 7, 1993. OJJDP will review these concept papers and invite selected applicants to submit full applications for competition. OJJDP will notify applicants within fifteen (15) days after the concept paper submission closing date in the Federal Register. Full applications must be received by mail or delivered to OJJDP by July 20, 1993.

Contact

For further information contact Frank M. Porpotage II, Assistant Director, Training and Technical Assistance Division, (202) 307-5940.

Hate Crime Study

Purpose

To further knowledge of juvenile hate crimes, including the characteristics of juveniles who commit hate crimes, the characteristics of hate crimes committed by juveniles, and the characteristics of the victims of juvenile hate crimes.

Background

In the United States of America all people, regardless of their race, religion, gender, ethnicity or sexual preference, share equal rights and equal protection.
of the law. The number of hate crimes—defined as offenses committed against a person or people because of their ethnicity, gender, race, religion, or sexual orientation with the intention of demeaning, degrading, terrorizing, hurting, or even killing the individual(s)—appear to have increased over the past several years.

The Civil Rights Act of 1964 created the Community Relations Service (CRS) agency within the Department of Justice. CRS provides “assistance to communities and persons therein resolving disputes, disagreements, or difficulties related to discriminatory practices based on race, color, or national origin.” From 1969 to 1990, CRS reported that the number of interracial conflict alerts rose from 400 to 546, an increase of 37 percent, while community disorder alerts increased by 17 percent.

Other sources indicate an increase in hate crimes. The National Institute Against Prejudice and Violence in Baltimore, Maryland, reported that ethno-violence on college and university campuses increased each year from 1987 to 1988. In 1987, 42 campuses reported incidents of ethno-violence. That number went up dramatically in 1989 to 103, and to 113 in 1989. The National Gay and Lesbian Task Force Policy Institute has also reported an increase in anti-gay incidents between 1990 to 1992. In Chicago, reports were up six percent; in San Francisco, 11 percent; in New York, 17 percent; in Boston, 42 percent; and in Minneapolis-St. Paul, 202 percent.

In response to growing concern over hate crimes, Congress enacted the Hate Crime Statistics Act, Public Law 101–275, 104 Stat. 140 (28 U.S.C. 534), in 1990. Through this Act, the Department of Justice was directed to “establish guidelines for the collection of such data” relating to hate crimes. In 1991 the Federal Bureau of Investigation began collecting hate crime arrest data as part of the Uniform Crime Reports. This 1991 data reported a total of 4,558 hate crime incidents that involved 4,755 offenders. Of the incidents reported, intimidation accounted for one of three offenses reported. Twelve murders were attributed to hate motivation.

Congress required OJJDP in the 1992 Amendments to the JJDP Act, section 248(b)(7), to conduct a Hate Crime Study and submit a report of the results to the Chairman of the House Committee on Education and Labor and the Chairman of the Senate Committee on the Judiciary concerning the involvement of children and youths in hate crimes.

Goal

The long-term goal of this project is to better understand hate crimes in order to develop education aimed at preventing or reducing these offenses. The immediate goals of this research are (1) to assess information currently available regarding juveniles who commit hate crimes, the nature of the crimes they commit, and the nature of their victims; and (2) to assist OJJDP in developing a research strategy to collect information required by the JJDP Act that is not currently available.

Objectives

Some of the information required by the 1992 Amendments to the JJDP Act is not currently available. From the information that is available, a detailed report will be prepared which will address the characteristics of juveniles who commit hate crimes, the characteristics of hate crimes committed by juveniles, and the characteristics of the victims of hate crimes committed by juveniles.

To produce the remainder of the required information, OJJDP has established the following objectives:

• To identify and analyze the existing Federal, State and independent data sets and research projects that provide information regarding juveniles involved in hate crimes.
• To develop a research design, including the design of a survey instrument(s), to collect the data respond required by Congress.
• To make recommendations to OJJDP on how best to implement the developed research design and data collection strategy.

Program Strategy

OJJDP will select an organization to conduct an assessment of the current knowledge of the criminal justice and juvenile justice fields concerning hate crimes involving juveniles. The grantee must accomplish four major tasks to complete this project:

• TASK I—Definition. Completion of this task will require the development of a working definition of hate crimes and related incidents. This definition should reflect the legislative definitions being developed as well as previous research definitions. These definitions will be known as “operational definitions” for this project. The definition should clarify differences between criminal acts motivated by hate and noncriminal incidents that are intimidating or threatening. The definitions developed should be suitable for designing the following data collection strategies. For other variables regarding perpetrators and victims, standard or common definitions can be used or modified.

• TASK II—Review of the Literature. This will include a review of the current literature available on hate crimes and related incidents. The project should also include a review of all pertinent data and statistics. Sources covered should, at a minimum, include all State and Federal data sources. In addition to these data sources, private organization’s databases should be reviewed and critiqued. In analyzing the literature, data, and statistics gathered, the selected organization should answer as many of the following questions concerning juveniles’ involvement with hate crimes as possible:

1. What are the characteristics of juveniles who commit hate crimes? This should include a profile of such juveniles based on their motives for committing hate crimes.
2. What is the age, sex, race, ethnicity, education level, locality, and family income of such juveniles?
3. Are juveniles who commit hate crimes familiar with organized groups, or their publications, that encourage the commission of hate crimes, i.e., the Knights of the Klu Klux Klan, Skinheads, etc.?
4. What are the characteristics of the hate crimes committed by juveniles?

Responses to this question should include the following:

(a) The types of hate crimes committed. Are the crimes typically property crimes (vandalism, destruction of property, theft, arson), nonviolent crimes (harassment, telephone misuse, cross burnings), or violent crimes (robbery, assault, murder, or rape)?
(b) The frequency with which institutions and nonganous persons, separately determined, are the targets of hate crimes;
(c) The number of persons who participated with juveniles in committing such crimes, including both adults and other juveniles;
(d) The types of law enforcement investigations conducted with respect to hate crimes that were committed by or against juveniles;
(e) The law enforcement proceedings commenced against juveniles for committing hate crimes; and
(f) The penalties imposed on juveniles as a result of these proceedings;
(g) What are the characteristics of the victims of hate crimes committed by juveniles? This should include, but not be limited to, common characteristics such as age, sex, race, ethnicity, locality of the victims, and their familiarity with the offender.

(h) What, if any, was the underlying motivation behind the attack? Was the
attack planned or spontaneous? Was it a spur-of-the-moment crime done for "thrills"? Gang-related activities should also be included.

(I) To what extent are hate crimes gang-related?

* TASK IV—Research Design and Data Collection Strategy for other Issues. The grantee should make recommendations on how to best obtain the statutorily-required answers to the questions not addressed in current research or in the data and statistics previously gathered. These recommendations should include a research design and data collection strategy. The project's research strategy and design must be developed to address the remaining issues noted above. The design effort must develop an approach that efficiently utilizes existing data collection systems and the strengths and weaknesses of previous projects. Recommendations must address the potential use of the Federal Bureau of Investigation's Hate Crime Statistics and National Incidence-Based Reporting System (NIBRS). These data collection systems presently exist without juvenile-specific data on hate crimes. The research design and strategy should use the operational definitions of hate crimes.

The grantee should assemble an advisory board with experts in survey methodology, juvenile justice information systems, hate crime data collection and statistics. These experts should have knowledge regarding database users and suppliers. The advisory board should be integrally involved in each of the project's tasks.

**Products**

The project will produce two reports:

* An interim report which includes preliminary findings and a literature review. This Interim report will provide the findings of the database and data source assessments. The operational definitions developed for the project should be included here as well.
* A final report should be prepared after the completion of the project. This report will incorporate the first and provide the basis for OJJDP's required report to Congress. This report should address the goals and objectives of the project, and the Congressional issues presented in the background section of this solicitation. A detailed response should be given for each objective and question. Furthermore, the results of TASK III (The Research Design and Data Collection Strategy) should be provided in complete detail. The final report should be accompanied by a separate executive summary.

**Eligibility Requirements**

Applications are invited from public and private nonprofit agencies, organizations, educational institutions, or combinations thereof. In order to expand the pool of eligible candidates, applications will be accepted from for-profit organizations, provided they agree to waive any profit or fee and accept only allowable costs. Applicants must demonstrate knowledge of the civil, criminal, and juvenile justice issues relating to hate crimes and related incidents, as well as knowledge and experience in research methods, design, data collection, and implementation of this type of project. In addition, eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

**Selection Criteria**

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

**Award Period**

The budget period will be 12 months.

**Award Amount**

Up to $100,000 has been allocated for this award. One grant will be awarded competitively with a budget period of twelve (12) months for the completion of this project.

**Due Date**

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

**Contact**

Jeffrey Slowikowski, Research and Program Development Division, (202) 307-0586.

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**Hate Crime Prevention: A Juvenile Justice Approach**

**Purpose**

To support programs and efforts to prevent and reduce the incidence of hate crimes by juveniles.

**Background**

According to a 1982 report by the National Institute Against Prejudice and Violence (NIAPV), attacks against people because of their religion, sexual orientation, race, or ethnicity leave deep fractures in the fragile surface of our social structure. Violence and intimidation debilitates the lives of its victims and disrupts the stability of communities. Physical assaults and murder are the most brutal of crimes which include vandalism, arson, verbal harassment, and other aggressive acts.

Alarming studies find the spread of ethno-violence or hate crimes is epidemic. In 1992, it was estimated that over one million college students suffered hate crimes attacks. NIAPV estimates that at least ten percent of the U.S. population, or more than 25 million people, are annually victimized by some form of ethno-violence.

A 1987 report by the National Criminal Justice Association also reported that the number of crimes committed each year is unknown because many incidents go unreported, and many go unreported. Violence and intimidation debilitates the lives of its victims and disrupts the stability of communities. Physical assaults and murder are the most brutal of crimes which include vandalism, arson, verbal harassment, and other aggressive acts.

A study by NIAPV reported that youth problems are often magnified by the fact that we live in a violent society. Violence as a response to stress, fear, insult, or even the need for recreation seems to become more acceptable with each generation. Educators, social services, and correction workers agree that there is a need to provide education and basic conflict mediation skills for youths as a way of prevention and treatment for offenders. Surveys suggest that criminal justice agencies have not recognized the seriousness of hate crimes among juveniles. Some say that these incidents are seen as juvenile pranks, harmless vandalism, or private
matters between the involved parties. In some instances, criminal justice personnel ignore the hate component of an incident because they feel that a crime is a crime, regardless of motivation.

OJJDP recognizes the need to provide assistance in addressing the prevention and treatment of hate crimes committed by juveniles. This effort will seek to document current educational and treatment efforts and to make this information available to the field in the form of a curriculum that can be used by practitioners.

**Goals**

- To assist the field in the implementation of programs to prevent hate crimes; and
- To assist the field in the development of effective treatment sanctions as an alternative to incarceration for perpetrators of hate crimes.

**Objectives**

- To identify and assess existing training and educational curriculum materials;
- To develop a multipurpose curriculum that is appropriate for general educational, institutional, or other placement settings; and
- To develop sentencing options as alternatives to incarceration for perpetrators of juvenile hate crimes.

**Program Strategy**

OJJDP solicits proposals from applicants to assist in the development of an educational curriculum designed to prevent and offer guidance to youths who commit hate crimes. Applicants should be creative in their implementation approach. The project will cover a one-year budget period. However, the program could expand and develop into a demonstration initiative. OJJDP will base their decision to expand on the results of the “Hate Crime Study” funded under a separate OJJDP initiative. Up to $50,000 is available for this award.

Applicants are to develop their own strategy and budget for achieving the objectives identified in this initiative. The strategy and implementation plan must not exceed one year and must include at a minimum the following tasks:

- The successful applicant will perform a survey to identify and assess the educational programs and curriculum used in the field to educate youths about the events of bias-related crimes;
- The successful applicant must prepare a detailed report on the survey and assessment with specific reference to program models which may offer dispositional alternatives for judges who adjudicate juveniles who commit hate crimes; and
- The successful applicant will produce a multipurpose curriculum that is appropriate for educational, institutional, or other placement settings.

OJJDP encourages applicants to identify any other tasks that they can perform which will improve the overall effort and that can be performed during the allowed timeframe with the available funds. The applicant must list and explain activities and the products that will be produced during this initiative.

**Eligibility Requirements**

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

**Selection Criteria**

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

**Products**

- The report on the survey and assessment; and
- The multipurpose curriculum.

**Due Process Advocacy Program Development**

**Purpose**

To develop approaches for improving due process and the quality of representation for juvenile delinquents in the juvenile justice system.

**Background**

Section 261(a)(3) of the JDDP Act, as amended, states that the Administrator shall make grants for “establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.” For several years, OJJDP has supported a successful program to provide court-appointed special advocates for abused and neglected children. However, OJJDP has not funded a program designed to ensure due process and improve the quality of legal representation to alleged or adjudicated noncriminal or criminal-type offenders.

Although the Supreme Court’s decisions of In Re Gault, 387 U.S. 1 (1967), and other cases, have established a series of due process rights guaranteed to juvenile offenders, including the right to counsel, these rights are not always made available. For example, studies show that in a majority of cases, juveniles are not represented by counsel at the adjudicatory hearing (Feld, 1986 and 1981). “Moreover, many juveniles who receive out-of-home placement and even secure confinement were adjudicated delinquent and sentenced without the assistance of counsel” (Feld, 1988). In sum, there are major problems with access to and availability of counsel, and even when juveniles are represented, substantial questions are raised about the quality of that representation.

While studies indicate that represented youths fare worse in the system when the ultimate outcome of a case is considered (Feld 1988), these studies do not examine in any detail the quality of the representation received or such factors as the qualifications of the lawyers or whether the lawyers are trained to represent these youths in the juvenile court.

OJJDP believes that strategies to increase access and availability of counsel, the development of effective training for juvenile advocacy, increased emphasis on juvenile law and advocacy courses in law schools, and other strategies will make a difference in the due process protections that juvenile offenders receive. These developments would positively affect the ultimate
dispositions for juvenile offenders that are involved in juvenile misbehavior or criminal activity.

This effort will establish a base for a multyear program that will improve juvenile offenders' access to legal services and will improve the quality of those services at the preadjudication and adjudicatory points in juvenile justice system proceedings.

OJJDP, through this request for applications, seeks an organization or agency to cooperate with OJJDP to develop a strategy to meet the goals and objectives of this effort. OJJDP will make $100,000 available for the first year and at least that sum for each of two additional years. The task of the applicant(s) is to develop the most cost-effective and comprehensive plan to increase access to legal services and improve the quality of legal services for juvenile offenders. The applicant must detail how it would implement this program, what resources would be used, key staff responsible for the development, and the timeframes for accomplishing the key tasks.

Goals
- To increase juvenile offenders' access to legal services; and
- To improve the quality of preadjudicated, adjudicated, and dispositional advocacy for juvenile offenders.

Objectives
- To develop strategies for a program that can be made available to State and local bar associations and other relevant organizations so they can develop approaches to increase availability of defense counsel;
- To develop comprehensive training materials and a training program that can be delivered through State or local bar associations and other relevant organizations to train lawyers, judges, and others who may assist defense lawyers;
- To test this program in several States and make appropriate adjustments in the materials and training program;
- To develop a marketing or distribution process so that the program can be transferred to State and local bar associations and other relevant organizations;
- To finalize the training materials and training program and distribute it to States and local bar associations and other relevant organizations.

Program Strategy

OJJDP expects that the program period will be up to three years with initial funding of $100,000 for the first year. Applicants must provide a comprehensive discussion of the first year's activities that are designed to achieve the goals and objectives of this program and then outline a plan for the succeeding year(s).

Applicants should address how they will develop strategies for increasing availability of defense counsel. Applicants must also discuss how they will creatively address enhancing the quality of representation for juveniles in States and localities.

Applicants must be specific about the tasks they can accomplish in the first year with the available funds. The applicant must list and explain the activities to be accomplished and products to be produced in the first year and provide an overview of the tasks to be accomplished and the products developed for the subsequent year(s).

Applicants must establish an advisory committee which will provide comments and recommendations regarding the strategies, activities, and products for this program.

Products

Applicants should describe what they believe are the most appropriate products to be developed under this initiative to achieve the goals and objectives. Applicants should describe the nature of the products and how they will be used to transfer knowledge to State and local levels and other relevant organizations.

References


Eligibility Requirements

Applications are invited from public and private non-profit organizations that can demonstrate knowledge of and experience with survey research, training and technical assistance and legal services for juvenile offenders in this country. Joint proposals by two applicants are welcome, provided one organization is designated as the primary applicant and the other as co-applicant. The primary applicant must serve as the fiscal agent for the grant. In addition, eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period

The program period for the Due Process Advocacy Development program is three years. One cooperative agreement will be awarded with an initial 12-month budget period.

Award Amount

Up to $100,000 has been allocated for the initial award budget period. Support for the remaining two project budget periods will be determined by the performance of the grantee, the program development needs as determined by OJJDP, and the availability of funds.

Due Date

Applications must be received by mail or delivered to OJJDP by July 8, 1993.

Contact

For further information contact
Douglas C. Dodge, Special Emphasis Division, (202) 307–1150.

Investigative Case Management for Missing Children Homicides

Purpose

The purpose of this project is to improve the investigative procedures in cases of homicides of abducted children.

Background

Approximately 150 murders of abducted, missing children are investigated in the U.S. each year. The investigative procedures for missing child homicides are unique because these children are special, vulnerable, and often targeted victims who have been abducted and killed by unusually dangerous and frequently repeated rapists or killers. The case of a missing child causes the community to put uncommon pressure on law enforcement for a quick, sure solution—especially if the missing incident has suspicious overtones, or the child's body is found. These circumstances, coupled with family and community pressure, can often lead to the use of hasty, unproductive investigative procedures that may hamper, delay, and possibly prevent a successful investigation to find the child or to apprehend the abductor or killer.

Over the past two years the National Center for Missing and Exploited Children (NCMEC), Case Management and Information Analysis Unit, has
received more than 200 child homicide case summaries from local law enforcement agencies on investigations in which missing children have been murdered and a subsequent arrest and conviction has resulted. These 200 cases span ten years, and in most of these cases, NCMEC assisted local authorities and parent-child murder investigations.

Local law enforcement authorities have also offered NCMEC information on the investigative techniques of other cases that have not been analyzed. It is anticipated that these two groups of cases will be the ones that are initially analyzed in this effort. There is a recognized need in the field for a tested instructional guide for the investigation of missing children homicides.

The product of this investigative analysis of missing child homicides will be a useful additional tool to the NCMEC’s “Investigator’s Guide to Missing Child Cases.”

**Goal**

To improve investigative procedures in the murders of abducted children to manage, conduct, and solve individual and serial child murder investigations more effectively and quickly and thereby increase the probability of apprehending the abductor and/or murderer.

**Objectives**

- To identify and assess the organization of investigative resources, the gathering and examination of evidence, and the use of helpful forensic techniques that will aid the productive investigative procedures of local law enforcement officials;
- To develop an investigative process to determine if two or more children were murdered by the same person(s) in order to enhance the coordination of murder investigations among law enforcement agencies;
- To create a resource management guide for missing child homicide investigations;
- To assist the OJJDP training activities through the National Law Enforcement Training Program (NCMEC) and the Missing and Exploited Children Comprehensive Action Program (M/CAP) to implement a training and technical assistance program for missing child homicide investigations for State and local law enforcement; and
- To develop a national volunteer technical assistance program for local investigations through the NCMEC’s Project ALERT (America’s Law Enforcement Retiree Team). This program will provide the on-site technical assistance of volunteer veterans to local jurisdictions in child murder investigations. Project ALERT is comprised of a retired veteran law enforcement investigators. NCMEC provides specialized training, travel, and subsistence allowances for these investigators, where their assistance has been requested, to furnish on-site investigative technical assistance in missing children cases, especially where foul play and a homicide may be involved.

**Program Strategy**

The applicant’s initial work task priority over the three-year project period will be to seek out and work with law enforcement and criminal justice organizations throughout the United States to secure their cooperation and investigative case file information on successful abducted and missing child murder investigations.

(1) The first year’s activity will be to gather the relevant cases; assemble the case file information into formats for survey and analysis; and, where possible, interview the investigators of the selected cases.

(2) The second major work task will be to analyze the collected information and investigator interviews of approximately 400 case files of successful murder investigations of missing children. The applicant will examine the characteristics of these single or serial child murder investigations that may have contributed to a notable conclusion to the investigative process and determine if two or more murders were committed by the same person(s). These data and their analyses will provide the first rigorous investigative field examination to determine the critical factors that help solve singular and/or serial child or mixed age murder cases and have led to the apprehension, prosecution, and conviction of missing child abductor murderers. The second task (during the second year of the project) will be to develop an investigative information base for subsequent modeling of the investigative techniques. This will be translated into a working draft of the investigative guide.

(3) The third and fourth tasks of the project will start and take place during the latter part of the second year of the project and continue into the third year of the project. These tasks are:

- To field test the draft investigative guide through monitoring of selected abduction homicide cases;
- With the assistance of OJJDP, through the National Law Enforcement Training Program, NCMEC, M/CAP, and Project ALERT personnel, to replicate the training and use of the investigative techniques developed by the project at a national level.

**Products**

1. A missing child homicide investigation guide that will include information on how an investigator organizes the vital first steps of an investigation, including the following:
   - An investigator ascertains what information sources should be employed, contacted, requested to assist, when, and in what order;
   - An investigator eliminates clues and evidence that have little chance of providing fruitful investigative results;
   - An investigator best uses and deploys resources assigned to the investigation; and
   - An investigator identifies the most relevant evidence that case experience has shown to be most useful in solving crimes.

2. The applicant, after analyzing the cases involved in this investigative analysis project, will develop and provide documented instructional material that will be reviewed, edited, and published by OJJDP through NCMEC for national training and technical assistance purposes.

3. The investigative manual will enable trainers to train Federal, State, and local law enforcement on improved technique for the investigation of missing children homicides.

**Eligibility Requirements**

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

**Selection Criteria**

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

**Award Period**

The program period for the cooperative agreement supporting the Investigative Case Management for Missing Children Homicides program is three (3) years. One cooperative agreement will be awarded with an initial budget period of 12 months.

**Award Amount**

Up to $150,000 has been allocated for the first budget period of twelve months. Commensurate financial support for the remaining two project budget periods will be determined by the performance of the grantee and program development needs as determined by the Administrator of OJJDP and/or the availability of funds.
A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children

Purpose
To study the factors related to employing a private investigator by the searching parent in cases of parentally abducted children.

Background
According to the recent study, "Obstacles to the Recovery and Return of Parentally Abducted Children," sponsored by the OJJDP, a private investigator was employed in less than 30 percent of parental abduction cases. In most cases, a combination of factors motivated the parent to hire a private investigator. First, the parent overwhelmingly desired to do everything possible to recover the missing child. Second, the parent felt dissatisfaction with the local law enforcement efforts. For the searching parent who used a private investigator, the level of satisfaction with this decision varied. The majority of parents who hired private investigators reported little or no satisfaction with the efforts of the investigators. However, one-third of the parents reported being very satisfied with the investigator's efforts. The study did not reveal the factors that distinguished those satisfied from those not satisfied. Also, the factors that led parents to select one private investigator over another were unclear. Previous research did not report on particular case factors that would have influenced parental decisions to employ a private investigator.

Goals
To provide information on cases of parental abduction in which the searching parent seeks the assistance of a private investigator in locating the missing child.

Objectives
- To identify from a random sample of parental abductions those cases where parents had employed a private investigator to search for the missing child or children;
- To survey missing children clearinghouses, agencies, and related organizations to determine their policies, guidelines, and/or views on the use of private investigators;
- To list the factors parents use in selecting private investigators;
- To identify the characteristics of the parents who have employed private investigators and compare them to those searching parents who have not;
- To identify the circumstances around abduction cases in which a private investigator was employed and those in which one was not; and
- To describe the factors that led the parents to feel satisfaction or dissatisfaction with the performance of private investigators.

Program Strategy
- TASK I. The grantee should review pertinent literature concerning the issue of missing children who were parentally abducted. The grantee should identify missing children agencies or organizations, both private and public at State and Federal levels, that provide services or information in the search for missing children. The literature and advice they provide searching parents should be reviewed to identify recommendations, if any, concerning the use of private investigators. When no such statement exists regarding the use of private investigators, further inquiries should be made to the specific organization to ascertain why.
- TASK II. Task II will require the grantee to draw a sample of missing children cases that involved parental abductions. The sample should be large enough to allow for the study of cases that used private investigators. The demographic information should concentrate on the searching parents. Case information should detail particular events, evidence, and leads in the search for the missing child as well as pertinent characteristics of the abducting parent. Also, parents' data should be collected on the factors that lead to their satisfaction or dissatisfaction with their decision to employ a private investigator.

Products
- An interim report for OJJDP to determine the quality and volume of information available on this issue.
- A final report at the project's end detailing the findings of the project. The final report should include the following:
  1. The review of literature from Task I, including material concerning private investigators that the various missing children agencies distribute;
  2. The factors that influence the use of private investigators and satisfaction or dissatisfaction with them as required in Task II;
  3. The factors, presented in a hierarchy from least to most important with an accompanying narrative explanation, that affect parental satisfaction or dissatisfaction in the employment of private investigators;
  4. The conclusions and recommendations based on the data collected and ensuing analysis concerning the use of private investigators in cases of parentally abducted children;
  5. Other pertinent information not anticipated; and
  6. A separate executive summary.

Reference

Eligibility Requirements
Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

Selection Criteria
Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

Award Period
The budget period will be 12 months.

Award Amount
Up to $100,000 will be awarded for the completion of the project in the 12-month budget period.

Due Date
Applications must be received by mail or delivered to OJJDP by July 6, 1993.

Contact

Federal Register / Vol. 58, No. 86 / Thursday, May 6, 1993 / Notices 27179
encountered by searching parents whose children have been abducted by the children’s other parent are compounded by the difficulties of dealing with the multiple legal systems and cultural issues when the abduction is extended to a foreign country. As of this date, 20 countries have adopted the treaty, The Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention), a treaty designed to deter these abductions by assisting with the return of the children and the securing of visitation rights. In 1992, the State Department’s Child Custody Division, the United States’ central authority under the Hague Convention, handled 664 cases of children taken from the United States to Hague Convention countries. Of these 664 cases, 40 percent resulted in a favorable resolution, i.e., either voluntary or court-ordered return or access; 34 percent remained in process; and 20 percent resulted in no action, either because the child could not be located, the application was withdrawn, or it was determined that the Convention did not apply. Only five percent of the cases resulted in a denial of the request for return or access. The Child Custody Division estimates that when abductions are to non-Convention countries, the success rate is from 20 to 25 percent.

**Goal**

To provide OJJDP and others with information on the problems encountered by parents residing in the U.S. who seek the recovery of children taken or retained by the other parent across an international border in breach of rights of custody or of access (visitation rights). This information will help OJJDP and others develop approaches and programs to overcome those problems.

**Objectives**

- To examine the issues and obstacles encountered in the recovery of children when the foreign country is party to the Hague Convention compared to those encountered when the country is not a party to the Convention;
- To assess the effectiveness of the Hague Convention in obtaining the return of parentally abducted children; and
- To assess the problems, the origins of which are not legal, that occur when children are parentally abducted across international borders.

**Program Strategy**

Through surveys and interviews with families who have had a child abducted to another country, the project will explore: (1) the nature of these cases, (2) the processes by which parents attempt to locate and recover their children, and (3) the difficulties of negotiating with the various systems in both the United States and the country to which the child has been taken. Although legal issues will be examined, the focus of this project will not be limited to legal issues. The study sample should involve a variety of cases, including cases resolved under the Hague Convention, and cases involving non-Hague Convention countries.

An advisory group should be established to provide expert advice on potentially productive lines of investigation and on methodological and practical problems which may be encountered in collecting and analyzing data. The advisory group should be kept small (approximately three) and should be composed of individuals who have demonstrated expertise in the area of international child abductions.

**Products**

This project will produce a final report which describes the research strategies and methods employed, presents issues and obstacles identified from the data collected, and makes recommendations to solve these problems. A separate executive summary should be included with the final report.

**Eligibility Requirements**

Eligible applicants must meet the requirements stipulated in the Supplementary Information section of this Notice.

**Selection Criteria**

Applicants will be evaluated according to the selection criteria outlined in the Supplementary Information section of this Notice.

**Award Period**

The budget period will be 12 months.

**Award Amount**

Up to $200,000 has been allocated for the copy of this project in the 12-month budget period.

**Due Date**

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

**Contact**

Eric Peterson, Research and Program Development Division, (202) 307-9929.

**Criminal Justice Response to Parental Abduction Cases**

**Purpose**

This study will assess parental abduction case processing and decision making in the justice system.

**Background**

Section 404(b)(3) of the JJDP Act, as amended, 42 U.S.C. 5773(b)(3), requires OJJDP to conduct periodic national incidence studies to determine for a given year the actual number of children who are victims of parental kidnapping. In response, the National Incidence Studies of Missing, Abducted, Runaway & Throwaway Children (NISMART I) estimated that there were 354,100 family abduction cases in 1988 (Finklehor, Hotaling & Sedlak, 1990). Of these cases, 46 percent were serious in that they involved: (1) An attempt to conceal the child or to prevent contact with the child, (2) transportation of the child out of State, or (3) an attempt to keep the child indefinitely or to permanently alter custodial privileges. In one out of ten cases the child was removed from the State. In about one-third of the cases, there was an attempt to conceal the child’s whereabouts. The researchers also found that in one-half of family abductions, the caretakers did not know where the children were most of the time. Returning the child to proper custody was a greater problem than not knowing the whereabouts of the child.

A recent OJJDP study discusses the significant trauma and long-term distress experienced by the families, left-behind siblings, and children of parental abductions (Center for the Study of Trauma, Families of Missing Children: Psychological Consequences, 1992). Over 57.6 percent of the recovered children experienced symptoms of anxiety, 51.5 percent changes in eating habits, and 42.7 percent experienced nightmares.

Another OJJDP study interviewed parents and/or caretakers and found 58 children who were victims of parental abductions, many of which appeared to be serious cases. In 55 percent of the cases, the abducting parent concealed the child; in 42 percent, threatened or demanded something of the complainant parent; and in 21 percent, the child was taken to another State or foreign country. Interviews with caretakers also revealed that officers took a report nine times and transported the child only once. Seventy-one percent (71%) of the caretakers rated the length of time it took for an officer’s initial response as very good or excellent. Fifty-eight percent (58%) of the caretakers rated
police efforts to recover their child as very good or excellent.

Parental abductions frequently happen in the context of custody disputes or visitation proceedings and are generally handled by civil courts. However, every State and the District of Columbia has implemented some form of criminal custodial interference statute. Many States have re-classified parental abduction crimes as felonies, and Federal laws mandate a role for law enforcement in the reporting of missing children, including parentally abducted children. Complicating factors, however, may prevent the pursuit of criminal parental abduction charges.

Prior OJJDP-funded research identifies several obstacles to the recovery and return of parentally abducted children (Girdner & Hoff, 1992). First, many law enforcement officers are hesitant to "pick up" the child or to accompany a parent to recover a child without clear statutory authority or an order from a court of their State. Second, State laws vary as to whether parental kidnapping is considered a felony or a misdemeanor. In many States, parental abduction becomes a felony only after the child is transported across State lines. Third, in several States, it appears that law enforcement officers allocate a low priority to parental abduction investigations. Finally, training and experience in the location and recovery of parentally abducted children is limited.

The researchers also identify several obstacles to the prosecution of such cases. For instance, the prosecution of parental abduction cases received a low priority within the criminal justice system, and the lack of knowledge of applicable laws and lack of experience on the part of many attorneys and judges emerged as major obstacles. Current objectives regarding parental abduction cases are aimed at developing publications; disseminating informational and training materials to the criminal justice field; providing training for investigators and prosecutors; providing ongoing technical assistance to investigators and prosecutors on specific cases; and developing model sentencing guidelines to inform judges of potentially harmful factors in abduction cases, such as the motivation for the abduction, changing a child's name, keeping a child out of school, and telling a child that the other parent does not want them or is dead.

Even with these cumulative studies and research efforts, there appears to be a lack of knowledge regarding actual case processing and court dispositions. Are parental abductors being arrested? Which parental abduction cases get referred to the district attorney's office? Which cases get prosecuted? And what are the court dispositions of these cases? This project will track parental abduction cases from their official point of entry into the justice system to disposition and will examine the variations in dispositions of parental abduction cases. Case studies will track cases and perpetrators through initial investigation to case disposition.

**Goals**
- To provide an examination and description of the justice system processing of parental abduction cases; and
- To identify promising approaches in dealing with parental abduction cases in the justice system.

**Objectives**
- To provide a synthesis of the most recent research relevant to parental abduction case processing in the justice system;
- To develop a detailed design for conducting a multi-site study of justice system case processing;
- To develop a data collection plan and field-tested instrument;
- To conduct a multi-site study of parental abduction case decision making and processing in the justice system, using the data collection instrument and conducting other data collection activities; and
- To prepare a comprehensive report including results, implications, and descriptions of policies and organizational approaches to handling parental abduction cases.

**Program Strategy**
Applicants should familiarize themselves with recent OJJDP studies and programs. The applicant should provide the design for the study and detailed criteria for site selection. Applicants must ensure adequate representation of parental abduction cases in their proposed study. The project should be conducted in more than one site and the size of the jurisdictions should vary. The detailed design and site selection will be among the first tasks of the project.

Applicants should provide a discussion of the research questions which will serve as a basis for the data collection instrument. Issues to consider include a comparison of cases in the criminal justice system with cases handled in the civil justice system; the proportion and characteristics of cases referred to the district attorney's office; the proportion and characteristics of cases receiving sentences; the proportion of cases mediated and/or diverted from the justice system; and the proportion of cases involving physical and/or sexual abuse.

Parental abduction cases will be tracked during the 30-month project to gain an understanding of the processes, decisions, dispositions of cases, and the factors in cases that affect these decisions, including the length of the abduction, primary motivation for the abduction, and allegations of child abuse, and organizational structure and resources for handling these cases. Interviews will be conducted with justice system professionals to understand and describe each site's policies and programs.

The project should investigate the various stages of the process, including initial contact, police screening, referrals for prosecution, diversion, court proceedings, court dismissals, pleas, trials, acquittals, sentencing and final disposition. The project should address issues such as the relationship between local and Federal law enforcement, the amount of information lost in case processing, and the degree of agreement on a case between police and prosecutor. The project should emphasize both felony and misdemeanor parental abduction cases, and should also identify promising approaches to handling parental abduction cases.

The project also calls for a project advisory board comprised of at least three outside experts in the field of parental abductions. Members of the advisory board will provide both substantive and technical advice in the areas of parental abductions and research methodology. The selection of advisory board members will be coordinated with and approved by OJJDP.

**Products**
- Summary of recent research and literature. The grantee will provide a synthesis of the most recent research and literature relevant to parental abduction case processing in the justice system.
- Revised workplan. Initially, a detailed workplan should be submitted in the application, describing the project's methodology, activities, timetable for completion of tasks and activities, milestones, and products. As a product of the grant award, the grantee must submit a revised workplan which addresses all program objectives and activities and which reflects the input of OJJDP and the advisory board members. Included in the revised workplan should be a publication and dissemination strategy, outlining the
products to be published and their respective audience.

- Data collection plan and instrument.
- Case studies. Case studies from each site will include an analysis of case processing and decision making, conclusions, and recommendations for processing parental abduction cases.
- Article for publication. The grantee will provide an article-length summary of the project's results, suitable for OJJDP publication, that informs policymakers, professionals, and researchers.
- Draft final report. The report will contain an analysis of literature, a detailed summary of the work undertaken during the course of the project, and a separate executive summary.
- Final report. In the final report, the grantee will incorporate modifications recommended by OJJDP and the project advisors, as appropriate.

References
- References will be available from the Juvenile Justice Clearinghouse, (800) 638-8736.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the SUPPLEMENTARY INFORMATION section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the SUPPLEMENTARY INFORMATION section of this Notice.

Award Period

The project will be funded for a 24-month project period.

Award Amount

The award amount will not exceed $450,000 for the entire project period (24 months).

Due Date

Applications must be received by mail or delivered to OJJDP by June 21, 1993.

Contact

Pam Cammarata, Research and Program Development Division, (202) 307-5929.

Missing Children's Field-Initiated Program

Purpose

Through the Field-Initiated Program, OJJDP encourages eligible parties to develop promising, new ideas relevant to the mission of OJJDP's Missing and Exploited Children's Program. These ideas may include either a research, a demonstration, or training programs.

Background

Customarily, the Missing Children's Program has sponsored initiatives that were either mandated by Congress or by agency priorities. In both cases, applicants were limited to proposals which responded to specific requests by OJJDP. Thus, other imaginative and innovative approaches of researchers and practitioners were not presented to OJJDP. Through the Field-Initiated Program, OJJDP welcomes concept papers which address but are not limited to the Missing and Exploited Children's Program priority areas authorized in section 405(a) of the JJP Act, as amended, 42 U.S.C. 5775(a).

Eligible projects in these areas may include either a research, a demonstration, or a training program designed with the following goals:
- To determine what impact family violence has on custody decisions and noncustodial parental abductions;
- To address the needs of missing children taken into protective custody by social service agencies, including options for the successful resolution of these cases;
- To increase knowledge and develop effective intervention and investigation practices with respect to allegations of child abuse in parental abduction cases;
- To study the methodology and typology of parents who abduct their children as well as the family members and friends who assist them;
- To increase knowledge and develop public service announcements for media aimed at public education and awareness of the psychological and legal consequences of parental abduction;
- To support secondary analyses of existing missing children databases; and
- Any other issues within the scope of section 405(a) of the JJP Act.

Goal

To seek innovative concept papers from researchers and practitioners relevant to, and not already required by, the current Missing and Exploited Children’s Program plan.

Objectives

- To promote and support either a research, a demonstration, or a training program which address innovative approaches toward improving existing practices and policies related to activities identified in Section 405(a) of the Missing Children's Act;
- To encourage new methods for dealing with the current priority problems; and
- To develop knowledge that will lead to new techniques, approaches, and methods addressing the problems of missing and exploited children, and the prevention and deterrence of abduction and sexual exploitation.

Program Strategy

The Field-Initiated Program solicits innovative concept papers that define the needs and/or problems of missing children, and describe the objectives, strategy, and methodology to be employed. OJJDP will select the most promising concept papers submitted and invite full applications for competition.

Applicants should submit a concept paper of no more than ten (10) double-spaced, typed pages.

Products

The applicant must provide detailed information on the specific products which will result from the research, the demonstration, or the training program described in their concept paper.

Eligibility Requirements

Eligible applicants must meet the requirements stipulated in the SUPPLEMENTARY INFORMATION section of this Notice.

Selection Criteria

Applicants will be evaluated according to the selection criteria outlined in the SUPPLEMENTARY INFORMATION section of this Notice.

Award Period

The grant period will be up to 18 months.
Award Amount

The total amount available is $300,000. Application budgets should not exceed $100,000. Award amounts will be subject to negotiation.

Due Date

Concept papers must be received by mail or delivered to OJJDP by June 7, 1993. OJJDP will notify selected applicants within fifteen (15) days of the receipt of the concept paper. OJJDP will invite only these selected applicants to submit full applications for competition. The full application must be received by mail or delivered to OJJDP by July 20, 1993.

Contact

For further information contact Marilyn Landon, Research and Program Development Division, (202) 307-0586.

John J. Wilson,
Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

I certify that the foregoing is a true and correct copy of the original document.

Olga I. Trujillo,
Acting General Counsel, Office of Justice Programs.
[FR Doc. 93-10728 Filed 5-5-93; 8:45 am]
BILLING CODE 4410-18-P
Part VIII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Muckleshoot Indian Tribe; Notice
DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Muckleshoot Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming Between the Muckleshoot Indian Tribe and the State of Washington, enacted on February 19, 1993.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT:
Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.


Thomas Thompson,
Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–10693 Filed 5–5–93; 8:45 am]

BILLING CODE 4310–02–M
Part IX

Department of Commerce

Economic Development Administration

Economic Adjustment Assistance Programs, Availability of Funds; Notice
Economic Adjustment Assistance as Described in Public Law 102-484, Section 4305 of Division D—National Defense Authorization Act for Fiscal Year 1993; Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DOC).

ACTION: Supplementary notice.

SUMMARY: The Economic Development Administration (EDA) announces the policies and application procedures for funds available beginning in FY 1993 to support economic adjustment assistance programs and projects designed to assist substantially and seriously affected communities to facilitate their orderly transition from economic reliance on Department of Defense (DOD) spending to economic reliance on other sources of business, employment and revenue.

FOR FURTHER INFORMATION CONTACT: The appropriate EDA Regional Office or the Director, Economic Adjustment Division, Economic Adjustment Division, Economic Development Administration, room 7327, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482-2659.

SUPPLEMENTARY INFORMATION:

Funding Availability

Funds in the amount of $80.0 million are available for this program and shall remain available until September 30, 1994.

Note: EDA announced in the Federal Register of March 10, 1992 (57 FR 8544), the availability of $50.0 million for defense adjustment, such funds to remain available until obligated and expended. The Application Procedures in this notice supersede the Special Application Procedures set forth in the Notice of March 10, 1992, and apply to the unobligated balance of those original funds as well as the additional $80.0 million covered herein.

Funding Instrument

Funds will be awarded through grants under the Sudden and Severe Economic Dislocation (SSED) program under title IX of the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89-136). Application procedures, competitive selection criteria and post approval project implementation information for the SSED program are applicable to the awards of this supplemental defense adjustment assistance and are described in Part IV, of the Federal Register of January 11, 1993 (58 FR 3800), notice of Availability of Funds for FY 1993.

Eligible Applicants

Eligible applicants include a redevelopment area or economic development district established under title IV of the Public Works and Economic Development Act, 42 U.S.C. 3161; an Indian tribe, state, city or other political subdivision of a state or a consortium of such political subdivisions; a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9801; a nonprofit organization determined by EDA to be the representative of a redevelopment area; the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, Puerto Rico, the Republic of the Marshall Islands, and the Virgin Islands.

All applications for the defense adjustment funds described in this Supplemental Notice must respond to a defense-related economic dislocation satisfying the criteria of A or B as follows:

A. DOD Criteria

1. In the case of a proposed or actual establishment, realignment, or closure of a military installation, where the Secretary of Defense determines that such action is likely to have a direct and significantly adverse consequence on the affected community.

2. In the case of a publicly announced planned reduction in DOD spending, the cancellation or termination of a DOD contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be provided only if the reduction, cancellation, termination, or failure will have a direct and significant adverse impact on a community and will result in the loss of the lesser of:

(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area (MSA) or similar area (as defined by the Director of the Office of Management and Budget);

(B) 1,000 or more employee positions, in the case of a labor market area outside of an MSA; or

(C) One percent of the total number of civilian jobs in that area.

B. EDA Sudden and Severe Economic Dislocation Criteria

The dislocation must satisfy one of the following criteria provided that in exceptional circumstances, the criteria may be partially waived by the Assistant Secretary for Economic Development:

1. For areas not in MSAs:

(a) If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of two (2.0) percent of the employed population, or 500 direct jobs.

(b) If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of four (4.0) percent of the employed population, or 1,000 direct jobs.

2. For areas within MSAs:

(a) If the unemployment rate of the MSA exceeds the national average, the dislocation must amount to the lesser of one-half (0.5) percent of the employed population, or 4,000 direct jobs.

(b) If the unemployment rate of the MSA is equal to or less than the national average, the dislocation must amount to the lesser of one (1.0) percent of the employed population, or 8,000 direct jobs.

In addition, fifty (50) percent of the job loss threshold must result from the action of a single employer, or eighty (80) percent of the job loss threshold must occur in a single standard industry classification (i.e., two digit SIC code). Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the data EDA is contacted.

Selection Criteria

See Part IV of the January 11, 1993 Federal Register Notice of Availability of Funds (58 FR 3800, 3808).

Application Procedures

Proposals for economic adjustment assistance authorized under section 4103(b) of Division D of Public Law 101-510 ($50 million), or section 4305 of Division D of Public Law 102-484 ($80 million), will be submitted to EDA. Interested parties should contact the Economic Development Representative for the area or the appropriate EDA regional office [see Section X of Part IV, of the January 11, 1993, Federal Register notice, 58 FR 3800] for a proposal package. Following a review of project proposals, EDA will invite those projects selected for funding consideration to submit applications. It should be noted that an invitation to apply does not assure funding. All awards are subject to the availability of funds. The application will include an ED-540, as approved by the Office of Management and Budget Control No. 0610-0058.

Craig M. Smith,

Acting Assistant Secretary for Economic Development.

[PR Doc. 93–10738 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–34–M
Part X

Office of Management and Budget

Budget Rescissions and Deferrals; Notice
OFFICE OF MANAGEMENT AND
BUDGET

Budget Rescissions and Deferrals

To The Congress of The United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission in budget authority, totaling $180.0 million, and one revised deferral of budget authority, totaling $7.3 million.

The proposed rescission affects the Board for International Broadcasting. The deferral affects the Department of Health and Human Services. The details of the proposed rescission and the revised deferral are contained in the attached reports.

William J. Clinton

The White House,
April 20, 1993.
### CONTENTS OF SPECIAL MESSAGE

(in thousands of dollars)

<table>
<thead>
<tr>
<th>RESCISSION NO.</th>
<th>ITEM</th>
<th>BUDGET AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>R93-1</td>
<td>Independent Agencies:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Board for International Broadcasting:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Israel relay station</td>
<td>180,000</td>
</tr>
<tr>
<td></td>
<td>Total, rescission</td>
<td>180,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DEFERRAL NO.</th>
<th>ITEM</th>
<th>BUDGET AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>D93-6A</td>
<td>Department of Health and Human Services:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Social Security Administration:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limitation on administrative expenses</td>
<td>7,317</td>
</tr>
<tr>
<td></td>
<td>Total, deferral</td>
<td>7,317</td>
</tr>
</tbody>
</table>

Of the available funds under this heading, $180,000,000 are rescinded.
Rescission Proposal No. R93-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

<table>
<thead>
<tr>
<th>AGENCY:</th>
<th>Board for International Broadcasting</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUREAU:</td>
<td></td>
</tr>
<tr>
<td>Appropriation title and symbol:</td>
<td></td>
</tr>
<tr>
<td>Israel Relay Station</td>
<td>95X1146</td>
</tr>
<tr>
<td>OMB identification code:</td>
<td>95-1146-0-1-154</td>
</tr>
<tr>
<td>Grant program:</td>
<td>☒ No</td>
</tr>
<tr>
<td>Type of account or fund:</td>
<td>☒ No-Year</td>
</tr>
<tr>
<td>Type of budget authority:</td>
<td>☒ Appropriation</td>
</tr>
</tbody>
</table>

| New budget authority | $ | |
| Other budgetary resources | $193,400,000 |
| Total budgetary resources | $193,400,000 |
| Amount proposed for rescission | $180,000,000 |

JUSTIFICATION: Funds in this account were provided for the construction of a new radio relay station in Israel. This proposal reflects the cancellation of the joint Board for International Broadcasting and Voice of America transmitter project in Israel. Funding in FY 1993 for a less costly, substitute project in Kuwait is requested in the FY 1994 Budget. The amount proposed for rescission is net of estimated termination costs.

ESTIMATED PROGRAM EFFECT: None

OUTLAY EFFECT: (in thousands of dollars):

<table>
<thead>
<tr>
<th>1993 Outlay Estimate</th>
<th>Outlay Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>32,742</td>
<td>14,772</td>
</tr>
</tbody>
</table>
Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D93-6, which was transmitted to Congress on October 1, 1992.

This revision increases by $49,543 the previous deferral of $7,267,051 in the Department of Health and Human Services, resulting in a total deferral of $7,316,594. The increase reflects recoveries of prior year obligations.
DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93–344

<table>
<thead>
<tr>
<th>AGENCY:</th>
<th>Department of Health and Human Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUREAU:</td>
<td>Social Security Administration</td>
</tr>
<tr>
<td>Appropriation title and symbol:</td>
<td>Limitation on administrative expenses 1/ 75X8704</td>
</tr>
<tr>
<td>OMB identification code:</td>
<td>20–8007–0–7–651</td>
</tr>
<tr>
<td>Grant program:</td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td>Type of account or fund:</td>
<td>Annual ☐ Multi-year: ☐ No–Year ☒</td>
</tr>
<tr>
<td>Type of budget authority:</td>
<td>Appropriation ☒ Contract authority ☐ Other ☐</td>
</tr>
</tbody>
</table>

New budget authority

Other budgetary resources...

Total budgetary resources...

Amount to be deferred:

Part of year

Entire year...

Legal authority (in addition to sec. 1013):

☐ Antideficiency Act

☐ Other

JUSTIFICATION: This account contains the no–year funds appropriated to the Social Security Administration (SSA) for construction and renovation of SSA facilities, and for Information Technology Systems (ITS). It has been determined that obligational authority for construction projects in the amount of this deferral is not currently needed. Should new requirements arise, subsequent apportionments will reduce this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1992 (D92–5).

* Revised from the previous report.

[FR Doc. 93–10616 Filed 5–5–93; 8:45 am]
BILLING CODE 3110–01–C
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Federal Register
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Law numbers, Federal Register finding aids, and a list of Clinton Administration officials.

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LIST OF PUBLIC LAWS

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S. 326/P.L. 103-25
To revise the boundaries of the George Washington Birthplace National Monument, and for other purposes. (May 3, 1993; 107 Stat. 68; 2 pages)

S. 328/P.L. 103-26
To provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes. (May 3, 1993; 107 Stat. 70; 2 pages)

S.J. Res. 30/P.L. 103-27
To designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week". (May 3, 1993; 107 Stat. 72; 2 pages)

Last List April 29, 1993