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Rules and Regulations

Federal Register
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Monday, July 23, 1990

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 727]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from July 22 through July 28, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 727 (7 CFR part 910) is effective for the period from July 22 through July 28, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The production area is divided into three districts which span California and Arizona. The largest proportion of lemon production is located in District 2, Southern California, which represented 57 percent of total production in 1988–89. District 3 is the desert area of California and Arizona and represented 31 percent of 1988–89 production. District 1 in Central California represented 12 percent. The Committee's estimate of 1989–90 production is 39,324 cars (one car equals 1,000 cartons at 38 pounds net weight each), as compared with 41,759 cars during the 1988–89 season.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. The Committee estimates that about 42 percent of the 1989–90 crop of 39,324 cars will be utilized in fresh domestic channels (16,500 cars), compared with the 1988–89 total of 16,500 cars, about 41 percent of the total production of 41,759 cars in 1988–89. Fresh exports are projected at 22 percent of the total 1989–90 crop utilization compared with 19 percent in 1988–89. Processed and other uses would account for the residual 36 percent compared with 39 percent of the 1988–89 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for lemons tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the Department which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season

marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on July 17, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 385,450 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1989–90 marketing policy. This recommended amount is 45,450 cartons above the estimated projections in the shipping schedule.

During the week ending on July 14, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 384,000 cartons compared with 410,000 cartons shipped during the week ending on July 15, 1989. Export shipments totaled 149,000 cartons compared with 170,000 cartons shipped during the week ending on July 15, 1989. Processing and other uses accounted for 286,000 cartons compared with 147,000 cartons shipped during the week ending on July 15, 1989.

Fresh domestic shipments to date this season total 15,921,000 cartons compared with 15,750,000 cartons shipped by this time last season. Export shipments total 7,396,000 cartons compared with 7,877,000 cartons shipped by this time last season. Processing and other use shipments total 12,271,000 cartons compared with 15,416,000 cartons shipped by this time last season.

For the week ending on July 14, 1990, regulated shipments of lemons to the fresh domestic market were 386,000 cartons on an adjusted allotment of 415,000 cartons which resulted in net undershipments of 29,000 cartons. Regulated shipments for the current week (July 15 through July 21, 1990) are estimated at 400,000 cartons on an adjusted allotment of 418,000 cartons. Thus, undershipments of 18,000 cartons could be carried over into the week ending on July 28, 1990.

The average f.o.b. shipping point price for the week ending on July 14, 1990, was $14.61 per carton based on a reported sales volume of 386,000 cartons compared with last week's average of $14.19 per carton on a reported sales volume of 373,000 cartons. The season average f.o.b. shipping point price to date is $13.54 per carton. The average f.o.b. shipping point price for the week ending on July 15, 1989, was $14.92 per carton; the season average f.o.b. shipping point price at this time last season as $12.26 per carton.

The National Agricultural Statistics Service indicates a 1989–90 California-Arizona lemon crop of about 38,800,000 cartons, three percent less than the 1988–89 utilized production total of 40,000,000 cartons. However, 1989–90 fresh domestic use may total 16,500,000 cartons, about equal to that in 1988–89, as indicated in the Committee's schedule of weekly shipments.

The Department's Market News Service reported that, as of July 17, demand for lemons ranging in size from 75 to 115 is good and demand is moderate for all other sizes. The market is about "steady" for all grades and sizes of lemons. At the meeting, demand was characterized as good on all sizes of first grade lemons and "mostly" good on second grade fruit. One Committee member commented on the relatively high level of lemons in storage and the need to move that fruit in an orderly fashion. Committee members discussed different levels of volume regulation. The Committee unanimously recommended volume regulation for the period from July 22 through July 28, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1989–90 season average fresh on-tree price is estimated at $8.64, 115 percent of the projected season average fresh on-tree parity equivalent price of $7.50 per carton. The 1988–89 season average fresh equivalent on-tree price for California-Arizona lemons was $7.27 per carton, 105 percent of the 1988–89 parity equivalent price.

Limiting the quantity of lemons that may be shipped during the period from July 22 through July 28, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C., it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until July 17, 1990, and this action needs to be effective for the regulatory week which begins on July 22, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.727 is added to read as follows:

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

§ 910.727 Lemon Regulation 727.

The quantity of lemons grown in California and Arizona which may be handled during the period from July 22 through July 28, 1990, is established at 385,450 cartons.

Dated: July 18, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-17177 Filed 7-20-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 915

[Docket No. FV-90-154FR]

Avocados Grown in South Florida; Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule, with appropriate corrections, an interim final rule which changed the minimum maturity requirements in effect on a continuous basis for Florida and imported avocados. That rule relaxed the maturity requirements for the Dr. Dupuis #2, Beta, and Monroe varieties of avocados, based on recent test data on the maturity characteristics of these varieties. That rule also removed varieties no longer shipped from the maturity regulation. In addition, that rule made calendar date adjustments in several varietal shipping schedules in order to synchronize them with the 1990 and 1991 calendar years. The Avocado Administrative Committee (committee) met April 11, 1990, and unanimously recommended the changes for Florida avocados. The corrections appearing in this final rule correct minor discrepancies in the interim final rule and reflect the original recommendations of the committee. This action is designed to ensure that only mature fruit is shipped to the fresh market, thereby promoting orderly marketing conditions.

DATES: Section 915.332 is adopted as a final rule effective July 23, 1990. This section is applicable to avocados imported into the United States under § 944.31 as of July 26, 1990.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 475-3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 34 handlers of Florida avocados subject to regulation under the marketing order for avocados grown in South Florida, and about 20 importers who import avocados into the United States. In addition, there are about 300 avocado producers in South Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the avocado handlers, importers, and producers may be classified as small entities.

The interim final rule was issued May 16, 1990, and published in the Federal Register (55 FR 21003, May 22, 1990). That rule relaxed maturity requirements specified in Table I of paragraph (a)(2) of § 915.322 (7 CFR part 915) for three varieties of Florida grown avocados, based on results of recent maturity tests conducted for these varieties. For the Dr. Dupuis #2 variety, the minimum diameter requirement was reduced by 5/16 of an inch during the first part of its shipping period. For the Beta and Monroe varieties, the seasonal shipping schedules were shifted one week later into the season. In addition, the Winslowson, Linda, and Wagner varieties were removed from the maturity shipping schedule since they are no longer shipped, and the Buccaneer variety was removed since it was found to be the same variety as the Brooks 1978 variety already cited. That rule also made calendar date adjustments in the avocado varietal shipping schedule in § 915.332 to synchronize these dates with the 1990 and 1991 years.

The interim final rule provided a 30-day comment period, which ended June 21, 1990. The committee filed a comment pointing out minor errors in the varietal shipping schedule of the interim final rule for three varieties and the necessary corrections appear in this rule. These corrections: (1) Change the West Indian Seedling shipping period date from beginning the 4th Monday of August to the 3rd Monday of August so that it is sequentially correct; (2) add to Table I for the Beta variety the minimum weight of 16 ounces, which was inadvertently omitted, for the shipping period date beginning the 2nd Monday of August and ending the 1st Sunday of September; and (3) change the Monroe variety shipping period ending the 3rd Sunday of November to the 4th Sunday of November and the shipping period beginning the 3rd Monday of November to the 4th Monday of November. Since these corrections reflect the original recommendations of the committee and rectify inadvertent errors made in the interim final rule, it is appropriate to incorporate such changes in this final rule.

The maturity requirements for Florida grown avocados prescribe minimum weights and diameters for specific shipping periods for some 60 varieties of avocados and color specifications for varieties which turn red or purple when mature. These requirements help prevent shipments of immature avocados to the fresh market during the first part of the harvest season for each variety. Maturity requirements help create consumer satisfaction and are in the interest of both producers and consumers.

A minimum grade requirement of U.S. No. 2 is in effect on a continuous basis for Florida avocados under § 915.306 (7 CFR part 915).

The committee works with the Department in administering the marketing agreement and order. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida avocados. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations, information submitted by the committee and other information, and determines whether modification, suspension, or termination of the regulatory requirements would

tend to effectuate the declared policy of the Act.

The Florida avocado shipping season normally begins in mid-May or early June with light shipments of early varieties and it continues into the following March or April, with the heaviest shipments occurring from July through December. The committee projects fresh Florida avocado shipments at only 700,000 bushels (55 pounds net weight) for the 1990–91 season, 30 percent less than in 1989–90, due to tree damage resulting from severe freezes in December 1989. Florida avocado production over the last five years (1984–1988) has averaged 1.0 million bushels. The 1990 avocado crop in California is projected at 8.2 million bushels, 15 percent above the 1984–88 average.

Some Florida avocado shipments are exempt from the maturity and grade requirements. Handlers may ship up to 55 pounds of avocados during any one day under a minimum quantity exemption provision, and may make gift shipments of up to 20 pounds of avocados in individually addressed containers. Also, avocados utilized in commercial processing are not covered by the maturity and grade requirements.

Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. The Act further provides that the requirements on imports shall not become effective until giving at least three days notice.

Avocado import maturity requirements are in effect on a continuous basis under § 944.31 (7 CFR part 944), issued under section 8e of the Act. That section provides that minimum weight and diameter maturity requirements for avocados imported into the United States from northern hemisphere countries be the same as such maturity requirements specified in § 915.332 for Florida avocados and that the requirements contained in § 915.332(a)(2) do not apply to imported avocados grown in the southern hemisphere. Since the interim final rule changed the minimum weight and diameter maturity requirements for Florida grown avocados, those same changes applied to imported avocados grown in northern hemisphere countries. No change is needed in the text of the import regulation by this action.

Further, avocado import grade requirements are currently in effect on a continuous basis under § 944.28 (7 CFR part 944). Such requirements specify that all avocados imported into the United States must grade at least U.S. No. 2, as specified in § 915.306. This action does not change the grade requirements concerning avocados grown in the production area. Accordingly, § 944.28 of the regulations is not affected.

The avocado maturity and grade import regulations both contain an exemption provision which permits persons to import up to 55 pounds of avocados exempt from such import requirements.

This action reflects the committee's and the Department's appraisal of the need to make the specified changes. The Department's view is that these changes will benefit producers, handlers, and importers. Maturity requirements for both Florida grown and imported avocados over the past several years have helped to assure that only mature avocados were shipped to fresh markets. The committee considers the maturity requirements for Florida grown avocados to be necessary to improve grower returns. Although compliance with these maturity requirements will affect costs to handlers and importers, these costs would be offset by the benefits of providing the trade and consumers with mature avocados.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that finalizing the interim final rule, as published in the **Federal Register** (55 FR 21003, May 22, 1990), with the corrections herein specified, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This final rule maintains handling requirements currently in effect, with appropriate corrections incorporated, for Florida and imported avocados; (2) Florida avocado handlers are aware of these handling requirements, which were recommended by the committee at a public meeting and they will need no additional time to continue complying with such requirements; (3) the grade and maturity requirements for imported avocados are mandatory under section 8e of the Act; and (4) the interim final rule provided a 30-day comment period and the comment received pertained only to minor errors which are corrected by this final rule.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

Note: This section will appear in the Code of Federal Regulations.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

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

2. Accordingly, the interim final rule amending the provisions of § 915.332, which was published in the **Federal Register** (55 FR 21003, May 22, 1990), is adopted as a final rule with the following changes. In § 915.332, Table I in paragraph (a)(2) is amended by: (1) Changing the West Indian Seedling shipping period date from beginning the 4th Monday of August to the 3rd Monday of August; (2) adding to Table I for the Beta variety the minimum weight of 16 ounces for the shipping period date beginning the 2nd Monday of August and ending the 1st Sunday of September; and (3) changing the Monroe variety shipping period ending the 3rd Sunday of November to the 4th Sunday of November and the shipping period beginning the 3rd Monday of November to the 4th Monday of November, to read as follows:

§ 915.332 Florida avocado maturity regulation.

(a) * * *

(2) * * *

TABLE I

Avocado variety	Effective period		Minimum size	
	From	Through	Weight—ounces	Diameter—inches
* * * * *				
West Indian Seedling*	3rd Mon June	3rd Sun July	18	
	3rd Mon July	3rd Sun Aug	16	
	3rd Mon Aug	3rd Sun Sept	14	
* * * * *				
Beta	1st Mon Aug	2nd Sun Aug	18	3 5/16
	2nd Mon Aug	1st Sun Sept	16	3 5/16
* * * * *				
Monroe	2nd Mon Nov	4th Sun Nov	26	4 5/16
	4th Mon Nov	2nd Sun Dec	24	4 1/16
	2nd Mon Dec	4th Sun Dec	20	3 14/16
	4th Mon Dec	1st Sun Jan	16	3 5/16
* * * * *				

* * * * *

Dated: July 18, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-17140 Filed 7-20-90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Delegation to the General Counsel of Authority To Permit Use of Internal Memorandum as Writing Samples

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate to the General Counsel the authority to grant requests by employees and former employees to use nonpublic internal memoranda as writing samples for prospective employers. Nonpublic information contained in such memoranda will be fully protected from disclosure under applicable confidentiality provisions.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Marc Winerman, Attorney, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326-2451.

SUPPLEMENTARY INFORMATION: The Commission delegates to the General Counsel the authority to grant employee requests for the use of nonpublic internal memoranda as writing samples. Reorganization Plan No. 4 of 1961, 75 Stat. 837, 26 FR 6191 (authority to delegate). The General Counsel may authorize the use of nonpublic internal memoranda as writing samples, subject to appropriate redactions to protect nonpublic information and to such other conditions as the General Counsel may impose. The treatment of nonpublic information must be consistent with applicable nondisclosure provisions, including Sections 6(f) and 21 of the FTC Act. This amendment is exempt from the notice and comment provisions because it is a procedural rule, 5 U.S.C. 553(b)(A), and because it involves a matter relating to agency management of personnel, 5 U.S.C. 553(a)(2).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act.

Accordingly, the Commission amends title 16, chapter I of the Code of Federal Regulations, as follows:

PART 4—MISCELLANEOUS RULES

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

Authority: Sec. 6, 38 Stat. 721, 15 U.S.C. 46.

2. Section 4.11 is amended by adding a new paragraph (f) as follows:

§ 4.11 Request for disclosure of records.

* * * * *

(f) Requests by current or former employees to use nonpublic memoranda as writing samples shall be addressed to the General Counsel. The General Counsel is delegated the authority to dispose of such requests consistent with applicable nondisclosure provisions, including sections 6(f) and 21 of the FTC Act.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-17130 Filed 7-20-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 90-62]

Vessels in Foreign and Domestic Trades

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include the Cayman Islands in the lists of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports. This amendment will provide reciprocal privileges for vessels of Cayman Islands registry.

Customs has been furnished with satisfactory evidence that the Cayman Islands places no restrictions on the transportation of certain specified articles by vessels of the U.S. between ports in that country or any other ports under the jurisdiction of the United Kingdom.

EFFECTIVE DATE: The reciprocal privileges for vessels registered in the Cayman Islands became effective on March 5, 1990. This amendment is effective July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Rebecca Hollaway, Carrier Rulings Branch (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. App. 883), provides generally that no merchandise shall be transported by water, or by land and water, between points in the

United States except in vessels built in and documented under the laws of the United States and owned by U.S. Citizens. However, the 6th proviso of the Act, as amended, provides, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the U.S. will not apply to its vessels.

In accordance with the Act, the Customs Service has listed in § 4.93(b)(1) of the Customs Regulations (19 CFR 4.93(b)(1)) those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, and shipping tanks; empty barges specifically designed for carriage aboard a vessel; empty instruments of international traffic; and certain stevedoring equipment and material, are listed in § 4.93(b)(2) of the Customs Regulations (19 CFR 4.93(b)(2)).

By letter dated March 5, 1990, accompanied by a copy of a communication from the British Embassy, the Department of State advised that the Cayman Islands places no restrictions on the transportation of the articles listed in the Act by vessels of the United States between ports in the Cayman Islands and any other ports under the jurisdiction of the United Kingdom.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State and the British Embassy, it has been determined that the Cayman Islands places no restrictions on the transportation of the articles specified in section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. App. 883), by vessels of the United States. Therefore, appropriate reciprocal privileges are accorded to vessels of Cayman Islands registry as of March 5, 1990.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.* That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.)* or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major rule as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Coastwise trade, Maritime carriers, Vessels.

Amendment to the Customs Regulations

To reflect the reciprocal privileges granted to vessels registered in the Cayman Islands, part 4, Customs Regulations (19 CFR part 4), is amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority for Part 4 continues to read in part as follows:

Authority: 5. U.S.C. 301, 19 U.S.C. 66, 1624, 46 U.S.C. App. 3;

* * * * *

Section 4.93 also issued under 19 U.S.C. 1322(a), 46 U.S.C. App. 883;

* * * * *

§ 4.93 [Amended]

2. Sections 4.93(b)(1) and (2) are amended by adding "The Cayman Islands and" before "Hong Kong" within the parentheses after "United Kingdom" in the lists of countries under those sections.

Dated: July 18, 1990.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 90-17124 Filed 7-20-90 8:45 am]

BILLING CODE 4820-22-M

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19 CFR Part 4

[T.D. 90-60]

Adding the Kingdom of Tonga to the List of Nations Entitled to Special Tonnage Tax Exemption

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to information provided by the Department of State, the Customs Service has found that the Kingdom of Tonga does not impose discriminating duties of tonnage or imposts upon vessels belonging to citizens of the U.S., and that, accordingly, vessels of Tonga are exempt from special tonnage taxes and light money in ports of the United States. This amendment adds Tonga to the list of nations whose vessels are exempt from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money.

EFFECTIVE DATE: The reciprocal privileges for vessels registered in the Kingdom of Tonga became effective on March 9, 1990. This amendment is effective July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Glen E. Vereb, Carrier Rulings Branch. (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, called "light money", on all foreign vessels which enter United States ports (46 U.S.C. App. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. App. 141).

Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been found to be exempt from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The authority to amend this

section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State regarding the absence of discriminatory duties of tonnage or impost imposed on U.S. vessels in the ports of Tonga, the Customs Service has determined that vessels of Tonga are exempt from the payment of the special tonnage tax and light money, effective March 9, 1990, and that the Customs Regulations should be amended accordingly.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely reflects a finding previously made pursuant to statute, pursuant to 5 U.S.C. 553(b)(3)(B) notice and public procedure thereon are unnecessary. Further, for the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major rule as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Amendment to the Regulations

Accordingly, part 4 of the Customs Regulations (19 CFR part 4) is amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624, and 46 U.S.C. App. 3;

* * * * *

Section 4.22 also issued under 46 U.S.C. App. 121, 122, 141;

* * * * *

§ 4.22 [Amended]

2. Section 4.22 is amended by inserting "Tonga" in appropriate alphabetical order.

Dated: July 18, 1990.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 90-17125 Filed 7-20-90; 8:45 am]

BILLING CODE 4820-22-M

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19 CFR Part 10

[T.D. 90-61]

Supplies and Equipment for Aircraft of Indonesia

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding Indonesia to the list of nations whose registered aircraft are exempt from the payment of Customs duties and internal revenue taxes on supplies and equipment withdrawn from Customs or Internal Revenue custody for use by aircraft in certain circumstances. The Department of Commerce has advised that the Government of Indonesia grants to American operators of U.S. registered aircraft substantially reciprocal exemptions from Customs duties and related taxes on aviation fuels and lubricants purchased for use in international commercial aviation into and out of Indonesia. Therefore, the U.S. will now extend reciprocal privileges to Indonesian-registered aircraft with the notation limiting the privileges to withdrawals of aviation fuels and lubricants.

EFFECTIVE DATE: The reciprocal privileges for aircraft registered in Indonesia became effective on April 4, 1990. This amendment is effective July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Entry Rulings Branch (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

Sections 309 and 317, Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), provide that foreign-registered aircraft engaged in foreign trade may withdraw articles of foreign or domestic origin from Customs or Internal Revenue custody without the payment of Customs duties and/or Internal-Revenue taxes, for use as supplies (including equipment), ground equipment, or for maintenance, or repair of the aircraft. This privilege is granted if the Secretary of Commerce finds, and advises the Secretary of the Treasury, that the country in which the foreign aircraft is registered allows substantially reciprocal privileges to United States-registered aircraft. Section 10.59(f), Customs Regulations (19 CFR 10.59(f)), lists those nations whose aircraft have been found to be entitled to these privileges.

In accordance with 19 U.S.C. 1309(d), the Deputy Assistant Secretary for Services of the Department of Commerce, International Trade Administration, has determined and advised the Customs Service by letter dated April 4, 1990, that Indonesia accords aircraft of U.S. registry exemptions from Customs duties and related taxes on aviation fuels and lubricants needed to support international commercial aviation into and out of Indonesia, in a manner that is substantially reciprocal to exemption privileges which the United States may provide under 19 U.S.C. 1309 and 1317, and under 26 U.S.C. 4221, for aviation fuels and lubricants for use by foreign registered aircraft operating into and out of the United States.

This finding became effective as of April 4, 1990. Therefore, § 10.59(f) is being amended to add Indonesia to the list of countries therein, with the notation, however, that the privileges are limited to withdrawals of aviation fuels and lubricants.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely announces the granting of an exemption for which there is a statutory basis pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not apply to any regulations such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major rule as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports, Exports.

Amendment to the Regulations

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

Section 10.59 also issued under 19 U.S.C. 1309, 1317;

* * * * *

§ 10.59 [Amended]

2. Section 10.59(f) is amended by adding "Indonesia" in appropriate alphabetical order in the column headed "Country", the number of this Treasury Decision in the column headed "Treasury Decision(s)", and in the column headed "Exceptions if any, as noted-" add the words "Applicable only as to aviation fuels and lubricants" opposite the listing for Indonesia.

Dated: July 18, 1990.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 90-17126 Filed 7-20-90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510 and 529

Animal Drugs, Feeds, and Related Products; Jorgensen Laboratories, Inc.

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the correct drug labeler code for Jorgensen Laboratories, Inc.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Norman J. Turner, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 14, 1990 (55 FR 19874), FDA published a document amending the animal drug regulations to reflect the change of sponsor of NADA 10-481 to Jorgensen Laboratories, Inc., 1450 North Van Buren Ave., Loveland, CO 80538. The drug labeler code used was in error. FDA is amending the regulation in 21 CFR 510.600 (c)(1) and (c)(2) to reflect the correct drug labeler code. Also, FDA is amending 21 CFR 529.2090(b) to insert the correct drug labeler code for Jorgensen Laboratories, Inc.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 and 529 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for "Jorgensen Laboratories, Inc.," by revising the drug labeler code and in the table in paragraph (c)(2) by removing the entry "035999" and numerically adding "045087" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	*
Jorgensen Laboratories, Inc., 1450 North Van Buren Ave., Loveland, CO 80538	045087
* * * *	*

(2) * * *

Drug labeler code	Firm name and address
* * * *	*
045087	Jorgensen Laboratories, Inc., 1450 North Van Buren Ave., Loveland, CO 80538.
* * * *	*

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 529.2090 [Amended]

4. Section 529.2090 *Salicylic acid* is amended in paragraph (c) by removing "035999" and inserting in its place "045087".

Dated: July 16, 1990.

George V. Mitchell,

Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 90-17093 Filed 7-20-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 520 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for three new animal drug applications (NADA's) from Merck Sharp & Dohme Research Laboratories to Hess & Clark, Inc.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Hess & Clark, Inc., Seventh and Orange Sts.,

Ashland, OH 44805, has informed FDA that it is now the sponsor of three NADA's formerly held by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065. Merck Sharp & Dohme confirmed the sponsor change. The NADA's affected are:

NADA	Drug product
6-391	40-percent sulfaquinoxaline Type A article.
6-677	20-percent sulfaquinoxaline solution.
7-087	25-percent sulfaquinoxaline soluble powder.

FDA is amending 21 CFR 520.2325a(c)(1), 520.2325b(c), and 558.586(a) to reflect the change of sponsor.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.2325a [Amended]

2. Section 520.2325a *Sulfaquinoxaline drinking water* is amended in paragraph (c)(1) by removing "000006" and replacing it with "011801".

§ 520.2325b [Amended]

3. Section 520.2325b *Sulfaquinoxaline drench* is amended in paragraph (c) by removing "000006" and replacing it with "011801".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

4. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.586 [Amended]

5. Section 558.586 *Sulfaquinoxaline* is amended in paragraph (a) by removing "000006" and replacing it with "011801".

Dated: July 11, 1990.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 90-17094 Filed 7-20-90; 8:45 am]

BILLING CODE 4160-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Notice to Sponsors of Exchange Visitor Camp Counselor Programs

AGENCY: United States Information Agency.

ACTION: Notice to sponsors of exchange visitor camp counselor programs; statement of policy.

SUMMARY: The General Accounting Office issued a report entitled "Inappropriate Uses of Educational and Cultural Exchange Visas" dated February 16, 1990. That report questions the legality of camp counselor programs under the J-visa. This notice sets forth the Agency's interim response.

EFFECTIVE DATE: The notice is effective July 23, 1990.

ADDRESSES: Questions regarding this notice should be addressed to Merry Lymn, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485-8829.

SUPPLEMENTARY INFORMATION: The General Accounting Office issued a report entitled "Inappropriate Uses of Educational and Cultural Exchange Visas" dated February 16, 1990. That report questions the legality of camp counselor programs under the J-visa.

The statutory basis under which the United States Information Agency can designate programs for a J-visa is found at 8 U.S.C. 1101(a)(15)(J). That section defines nonimmigrants of the J category as follows:

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a *bona fide student, scholar, trainee, field of specialized knowledge* or *skill*, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the *purpose of teaching, instructing* or *lecturing*, or *studying, observing, conducting research, consulting, demonstrating special skills*, or *receiving training* and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 1182(j) of this title, and the alien spouse and minor children of any such alien if accompanying him or following to join him. [Emphasis added].

The GAO pointed out that:

[T]he international camp counselor program does not meet the requirements for valid J-visa activities. The program, as currently structured, is designed to give participants the opportunity to work at an American camp and to impart appropriate skills to American youth. Aside from this general statement of program purpose, USIA does not ensure that participants and their activities are consistent with the categories specified in the legislation. The only requirements are that a camp counselor be fluent in English and 18 years of age. Two sponsors we interviewed each brought in over 3,500 camp counselors in 1987.

In response to the GAO report, the Agency has established a Task Force on Regulatory Reform of the Exchange Visitor Program. The Task Force will be examining the International Camp Counselor program as part of the regulatory reform. The Task Force will examine the exchange visitor program and policy as well as foreign policy to determine whether the international camp counselor program should be continued. If the Agency determines that it is in the foreign policy interest of the United States Government to designate sponsors of international camp counselors, it will then consider whether regulations can be drafted to conform with the existing law. If regulations cannot be drafted in conformity with the law, and the Agency determines that such programs are necessary for foreign policy reasons, then the Agency may consider proposing a change in the law to accommodate its foreign policy needs.

Until the Agency has had time to study the camp counselor programs, the programs should continue under their present designations abiding by the regulations published at 22 CFR 514.13(e). However, the existing programs will not be allowed to expand in any way, nor will new programs be designated.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: June 18, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90-17085 Filed 07-20-90; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 168a

[DoD Instruction 3218.2]

National Defense Science and Engineering Graduate Fellowships

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense (DoD) adopts the following rule to govern the National Defense Science and Engineering Graduate (NDSEG) Fellowship program. The rule is identical to the proposed rule published in the March 21, 1990, **Federal Register** [55 FR 10469]. Interested individuals may refer to that earlier **Federal Register** publication for information about the statutory basis and history of this fellowship program and for the address to which one should write to request the program brochure and application materials.

The one comment received on the proposed rule was that permanent residents of the United States should be eligible to receive NDSEG fellowships. This suggestion was not adopted. The final rule provides for awards to U.S. citizens and nationals, in accordance with the statute (10 U.S.C. 2191) which established the NDSEG fellowship program.

EFFECTIVE DATE: June 7, 1990.

ADDRESSES: Office of the Deputy Director, Defense Research and Engineering (Research and Advanced Technology), room 3E114, the Pentagon, Washingon, DC 20301-3080.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Herbst, telephone (202) 694-0205.

List of Subjects in 32 CFR Part 168a:

Grant programs—science and technology, Research, Scholarships and fellowships, Science and technology.

Accordingly, title 32 of the Code of Federal Regulations, subchapter E, is amended to add part 168a as follows.

PART 168a—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

Sec.

Authority: 10 U.S.C. 2191.

§ 168a.1 Purpose.

This part:

(a) Establishes guidelines for the award of National Defense Science and Engineering Graduate (NDSEG) Fellowships, as required by 10 U.S.C. 2191.

(b) Authorizes, in accordance with 10 U.S.C. 2191 and consistent with DoD 5025.1, the publication of a regulation which will be codified at 32 CFR part 168b.

§ 168a.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

§ 168a.3 Definition.

Sponsoring Agency. A DoD Component or an activity that is designated to award NDSEG fellowships under § 168a.5(a).

§ 168a.4 Policy and procedures.

(a) Sponsoring Agencies, in awarding NDSEG fellowships, shall award:

(1) Solely to U.S. citizens and nationals who agree to pursue graduate degrees in science, engineering, or other fields of study that are designated, in accordance with § 168a.5(b)(2), to be of priority interest to the Department of Defense.

(2) Through a nationwide competition in which all appropriate actions have been taken to encourage applications from members of groups (including minorities, women, and disabled persons) that historically have been underrepresented in science and engineering.

(3) Without regard to the geographic region in which the applicant lives or the geographic region in which the applicant intends to pursue an advanced degree.

(b) The criteria for award of NDSEG fellowships shall be:

(1) The applicant's academic ability relative to other persons applying in the applicant's proposed field of study.

(2) The priority of the applicant's proposed field of study to the Department of Defense.

§ 168a.5 Responsibilities.

(a) The Deputy Director, Defense Research and Engineering (Research and Advanced Technology) [DDDR&E(R&AT)], shall:

(1) Administer this part and issue DoD guidance, as needed, for NDSEG fellowships.

(2) Designate those DoD Components that will award NDSEG fellowships, consistent with relevant statutory authority.

(3) Issue a regulation in accordance with 10 U.S.C. 2191 and DoD 5025.1-M.

(b) The Heads of Sponsoring Agencies, or their designees, in coordination with a representative of the Deputy Director, Defense Research and Engineering (Research and Advanced Technology) [DDDR&E(R&AT)], shall:

(1) Oversee the nationwide competition to select NDSEG fellowship recipients.

(2) Determine those science, engineering and other fields of priority interest to the Department of Defense in which NDSEG fellowships are to be awarded.

(3) Prepare a regulation, in accordance with 10 U.S.C. 2191, that prescribes.

(i) Procedures for selecting NDSEG fellows.

(ii) The basis for determining the amounts of NDSEG fellowships.

(iii) The maximum NDSEG fellowship amount that may be awarded to an individual during an academic year.

Dated: July 17, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-17056 Filed 7-20-90; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3811-5]

Approval and Promulgation of Implementation Plan; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: USEPA is disapproving emission limits and other requirements in permits for eight total suspended particulate (TSP) fugitive emission sources (*e.g.*, plant roadways and parking areas, material handling, baseball diamonds) in the Middletown area of Ohio. These eight sources are: American Aggregates Corporation; City of Middletown (Goldman, Jefferson, and Smith Parks); Cohen Brothers, Inc.; McGraw Construction; Moraine Materials; Sorg Paper Company; Texas Eastern Transmission Corporation; and Triasco Corporation. The requirements in these permits were designed to meet the terms of a March 31, 1981, (46 FR 19468) conditional approval on the TSP Part D plan for the Armco Middletown Works Plant.

USEPA is disapproving these requirements because it has determined

that the controls required by the permits are unenforceable. Also, because the sources in the Middletown area are not controlled to a level of performance reflecting the application of reasonably available control technology (RACT), the Part D plan for the Middletown area is no longer approvable. Therefore, USEPA is withdrawing its previous conditional approval of the plan, and the plan is being disapproved.

EFFECTIVE DATE: This final rulemaking becomes effective August 22, 1990.

ADDRESSES: Copies of the proposed revision to the Ohio State Implementation Plan (SIP) and other materials relating to this notice, are available at the following addresses. (It is recommended that you telephone Maggie Greene at, (312) 886–6088, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, (312) 886–6088.

SUPPLEMENTARY INFORMATION: On October 5, 1978, (53 FR 46011), the City of Middletown in Butler County was designated as nonattainment for the former, primary TSP National Ambient Air Quality Standard (NAAQS).[1] Part D of the Clean Air Act, which was added by the 1977 Amendments, requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. The nonattainment plan SIP revisions mandated by part D must provide for attainment of the primary NAAQS as expeditiously as practicable.

On March 31, 1981, (46 FR 19468), USEPA conditionally approved the TSP Part D nonattainment plan for the Armco Middletown Works Plant in the City of Middletown (Butler County), Ohio. The conditional approval required the State to submit individual enforceable control programs or permits for each of the fugitive emission sources (*e.g.*, plant roadways, parking areas, and material handling) located in the TSP nonattainment area surrounding the Armco Middletown Works in the City of Middletown. In response to this condition, on July 3, 1986, the State submitted final permits to operate for the following eight sources: American Aggregates Corporation; City of Middletown (Goldman, Jefferson and Smith Parks); Cohen Brothers, Inc.; McGraw Construction; Moraine Materials; Sorg Paper Company; Texas Eastern Transmission Corporation; and Triasco Corporation. The Southwestern Ohio Air Pollution Control Agency (SWOAPCA) had determined that these eight sources were the only significant potential emitters in the TSP nonattainment area surrounding the Armco Middletown Works, and USEPA agrees with this determination. It is noted that the City of Middletown was redesignated to secondary nonattainment on April 4, 1983, (48 FR 14379).

On December 28, 1988, (53 FR 52442), USEPA published a rulemaking notice proposing to disapprove the emission limits and other conditions in the permits for the eight total suspended particulate fugitive emission sources in the Middletown area of Ohio. USEPA proposed to disapprove these requirements because it believed that the controls required by the permits are unenforceable. Also, because the sources in the Middletown area are not controlled to a level of performance reflecting the application of reasonably available control technology (RACT), as required by part D of the Act, the Part D plan for the Middletown area was proposed to be no longer approvable and to be disapproved. During the 30-day public comment period, USEPA received comments from the Ohio Environmental Protection Agency (OEPA) and Armco, Inc. USEPA's evaluation of the comments is summarized below.

Public Comments and USEPA's Responses

(1) *OEPA Comment.* USEPA should not disapprove the Armco, Middletown permit based TSP SIP because the TSP standard has been replaced by the PM_{10} particulate standard. It is a waste of State resources to address a TSP based issue.

USEPA Response. These permits constitute the State's response to an unresolved TSP SIP issue; not PM_{10}. USEPA must resolve the issue based upon the State's response and its content.

(2) *OEPA Comment.* The permits are believed by Ohio to be enforceable at the State level.

USEPA Response. USEPA is concerned with the enforceability of these permits at the Federal level and before a court of law. Ohio has raised this argument in the past, yet has never substantiated its permit defensibility argument in court. The permits as written do not establish the objective performance standards necessary for USEPA approval.

(1) *Armco Comment.* USEPA should not disapprove the permits because there no longer is a TSP standard.

USEPA Response. See USEPA's response to OEPA Comment (1) above.

(2) *Armco Comment.* Because the area has been redesignated to primary attainment for TSP, USEPA has removed the basis for requiring these fugitive dust permits.

USEPA Response. The area remains a secondary nonattainment area for TSP and, as such, requires a control plan to comply with the requirements of the Clean Air Act for nonattainment areas. The Armco "bubble" was submitted by Ohio as the control plan to bring this area into *full* attainment of the standards.

(3) *Armco Comment.* Monitoring data at the site show compliance with both the TSP and PM_{10} standards. Thus, a new plan requiring additional controls is unnecessary.

USEPA Response. USEPA disapproved the Armco permits because they were not enforceable, not because the Agency disagreed with the control approaches and technologies being utilized. An unenforceable control plan cannot be approved for attainment or maintenance of any air quality standard.

Section 172(b)(10) of the Clean Air Act requires plans for nonattainment areas to include written evidence that necessary requirements of a plan are legally enforceable; these permits lack such evidence. USEPA cited these deficiencies and proposed corrective language to Ohio EPA some time ago, but the State did not rectify the permits' shortcomings.

Final Action

Based upon a review of the SIP revision request and the public comments, Region V is today disapproving the emission limits and other requirements in permits for the eight TSP fugitive emission sources, because they are not enforceable. USEPA also notes that the effective dates for all the permits have expired. The State has provided no additonal information to justify changing USEPA's

[1] The USEPA revised the particulate matter standard on July 1, 1987, (53 FR 24634) and eliminated the TSP ambient air quality standard. The revised standard is expressed in terms of particulate matter with a nominal diameter of 10 micrometers or less (PM_{10}). However, at the State's option, USEPA will continue to process TSP SIP revisions which were in process at the time the new PM_{10} standard was promulgated. In the policy published on July 1, 1987, at (p. 24679, column 2), USEPA stated that it would regard existing TSP SIPs as necessary interim particulate matter plans during the period preceding the approval of State plans specifically aimed at PM_{10}. If USEPA judges these TSP SIPs to include more stringent provisions than those in the existing TSP plan, thus resulting in better control of PM_{10} as well, then it is USEPA's general policy to approve the SIP revisions. However, if the provisions would relax the SIP or do not substantively define a quantitative level of control, *e.g.*, they are unenforceably vague, USEPA will disapprove the revision.

original determination. Because the 1981 USEPA conditional approval requirements have not been met, USEPA is also withdrawing its previous conditional approval of Ohio's Part D Plan for the Middletown area and disapproving the part D plan for this area. Although USEPA is withdrawing its conditional approval of the part D plan for Middletown, it is not withdrawing its approval of the emission limits and other requirements for the Armco facility which USEPA approved on March 31, 1981. See 40 CFR 52.1870(c)(27). USEPA is not withdrawing these because they significantly reduce TSP levels and, therefore, are useful adjuncts to attaining the PM_{10} standards in Butler County.

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United State Court of Appeals for the appropriate circuit by September 21, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air Pollution Control, Environmental Protection, Intergovernmental relations, Particulate matter.

Dated July 12, 1990.

Robert Springer,

Acting Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio—Subpart KK

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

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1880 is being amended by removing and reserving paragraph (d)(1) and adding new paragraph (i) to read as follows:

§ 52.1880 Control Strategy: Particulate Matter

* * * * *

(i) Part D—Disapproval—Ohio's Part D TSP plan for the Middletown area is disapproved. Although USEPA is disapproving the plan, the emission limitations and other requirements in the federally approved SIP remain in effect. See § 52.1870(c)(27).

* * * * *

[FR Doc. 90–17042 Filed 7–20–90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL–3812–5]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is disapproving a revision to the State of Minnesota's Total Suspended Particulate (TSP) State Implementation Plan (SIP). The revision was submitted as part of a rule entitled "Opacity Standard Adjustment", and included criteria by which the State of Minnesota could issue equivalent visible emission limits (EVELs).

USEPA proposed to disapprove the revision on March 2, 1989, (54 FR 8762), because: (1) The proposed procedures to determine EVELs allow the State to make certain discretionary decisions regarding opacity adjustments and, therefore, the techniques are not completely replicable; (2) relaxations under the rule do not require the Prevention of Significant Deterioration (PSD–Part C of the Clean Air Act) increments to be protected; and (3) the appendices to the rule have not undergone complete Minnesota rulemaking procedures and, therefore, are unenforceable.

During the public comment period, USEPA received two comments. USEPA reviewed the comments and determined that no substantive issues were addressed. USEPA is today disapproving this SIP revision for the reasons listed above.

EFFECTIVE DATE: This final rulemaking becomes effective on August 22, 1990.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Anne E. Tenner at, (312) 353–3849 before visiting the Region V Office).

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, Minnesota Regulatory Specialist, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–3849.

SUPPLEMENTARY INFORMATION: The State of Minnesota submitted as a proposed revision to its TSP SIP a rule entitled "Opacity Standard Adjustment".[1] This rule proposed criteria by which the State of Minnesota could issue EVELs.

USEPA evaluated this rule and proposed to disapprove it on March 2, 1989, because: (1) The proposed procedures to determine EVELs allow the State to make certain discretionary decisions regarding opacity adjustments and, therefore, the techniques are not completely replicable, (2) relaxations under the rule do not require the PSD increments to be protected; and (3) the appendices to the rule have not undergone complete Minnesota rulemaking procedures and, therefore, are unenforceable. USEPA discussed the reasons for its proposed disapproval in greater detail in the March 2, 1989, notice.

During the public comment period, USEPA received comments from Northern States Power Company (NSPC) and the Minnesota Pollution Control Agency (MPCA).

Comment: MPCA noted that the long period between MPCA's submittal and USEPA's proposed action led to the use of obsolete citations for State and Federal rules and led to many relevant documents being archived. Therefore, MPCA requested that USEPA publish corrected citations and extend the public comment period by 60 days.

Response: The citations used in the notice of proposed rulemaking made clear exactly which version of Minnesota's rules USEPA was proposing

[1] Minnesota's submitted this rule under its old codification system as 6 MCAR § 4.0002 D. Subsequently Minnesota recodified its rules on April 3, 1989. This rule is now codified as 7.005.0116.

to disapprove. For the convenience of the reader, USEPA is including in Footnote 1 of today's notice Minnesota's revised codification of the rule.

Comment: NSPC and MPCA requested a 60-day extension to the public comment period.

Response: USEPA believes that 30 days gave the commentors ample time and opportunity to provide substantive comments that USEPA could have evaluated.

USEPA's Final Action

USEPA disapproves Minnesota's Opacity Standard Adjustment Rule because of the three reasons stated above. As noted in the March 2, 1989, proposal, notwithstanding this disapproval, the State may still submit site-specific EVELs to USEPA as proposed SIP revisions under section 110(a) of the Clean Air Act.

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 21, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Identification of Subjects for part 52:

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental Protection, Intergovernmental relations, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: July 9, 1990.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90–17159 Filed 7–20–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–427; RM–6914]

Radio Broadcasting Services; Canton, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C3 for Channel 272A at Canton, Missouri, in response to a petition filed by Bick Broadcasting Company. *See* 54 FR 41852, October 12, 1989. It also modifies the license of Station KBXB (formerly station KQCA) to specify operation on Channel 272C3 in lieu of Channel 272A. Channel 272C3 can be allotted to Canton in compliance with the minimum distance separation requirements at a site 3.7 kilometers (2.3 miles) southwest of the community in order to avoid a short-spacing to Station WRMJ(FM), Channel 272A, Aledo, Illinois. The coordinates for Channel 272C3 are 40–06–13 and 91–33–04.

EFFECTIVE DATE: September 4, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–427, adopted July 9, 1990, and released July 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Missouri by removing Channel 272A and adding Channel 272C3 at Canton.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–17088 Filed 7–20–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 99

[FCC 90–263]

Disaster Communications Service; Deletion of Part 99 of the Rules Governing the Disaster Communications Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; deletion of Rule Part.

SUMMARY: This Order deletes part 99 of the Commission's Rules because there no longer are any licensees being regulated by part 99. The last remaining license was deleted from the license data base in January, 1988. Regional and State disaster communications needs are currently being met by the States, Territories, and Possessions on frequencies allocated for that purpose in the private land mobile services.

EFFECTIVE DATE: September 4, 1990.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

Order

Adopted: July 9, 1990.

Released: July 17, 1990.

By the Commission:

1. On November 27, 1981, the Commission amended the private land mobile services rules to provide a frequency allocation and assignment system permitting the States, Territories, and Possessions of the United States to meet regional and State disaster communications needs. In the same proceeding, disaster communications systems licensed pursuant to part 99 of the Commission's Rules, 47 CFR part 99, were grandfathered for an indefinite period of time, with no new applications for licenses under part 99 being accepted after August 15, 1981.[1]

2. In 1981, there were nine licensees who held licenses in the Disaster Communications Service, part 99. Because no new licenses could be issued in that service, and as a result of

[1] 87 FCC 2d 1042 (1981).

the attrition of the existing licenses, the last remaining license was deleted from the license data base in January of 1988.

3. The notice and public comment procedure required by the Administrative Procedure Act is unnecessary in this proceeding because the deletion of part 99 is a minor, non-controversial amendment.[2] As noted above, there have been no stations licensed under part 99 since January 1988.

4. In view of the foregoing, part 99 should be deleted from the Commission's Rules. The attached appendix achieves that objective.

5. *It is Therefore ordered,* pursuant to the authority contained in 47 U.S.C. 154(i) and 303(r), that part 99 of the Commission Rules, 47 CFR part 99, is deleted.

6. *It is Further ordered* That this rule amendment shall become effective September 4, 1990.

List of Subjects in 47 CFR Part 99

Civil defense, Disaster assistance, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

Chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 99—[REMOVED]

Part 99—Disaster Communications Service is removed in its entirety.

[FR Doc. 90-17091 Filed 7-20-90; 8:45 am]

BILLING CODE 6712-01-M

[2] *See* 5 U.S.C. 553(b)(B).

Proposed Rules

Federal Register
Vol. 55, No. 141
Monday, July 23, 1990

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 948

[Docket No. FV-90-184]

Irish Potatoes Grown in Colorado; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 948 for the 1990–91 fiscal period. Authorization of this budget would permit the Colorado Potato Administrative Committee, San Luis Valley Office (Area 2) (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by August 2, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers and approximately 285 producers of potatoes in Colorado Area 2. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Colorado Area 2 potato producers and handlers may be classified as small entities.

The committee unanimously voted at its June 20, 1990, meeting to recommend its 1990–91 budget and assessment rate to the Secretary of Agriculture for consideration.

The committee, which is the agency responsible for local administration of the order, consists of producers and handlers of Colorado Area 2 potatoes. These producers and handlers are familiar with the committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget. The budget was formulated and discussed at a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The recommended assessment rate was derived by dividing anticipated expenses by expected shipments of fresh Colorado Area 2 potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses. A recommended budget and rate of assessment is usually acted upon before the season starts, and expenses are incurred on a continuous basis.

The recommended budget for the 1990–91 fiscal year of $50,675 is $198 more than the previous year due to increases in the manager's salary, reserve, and major purchases. The increases are offset by decreases in office salaries, benefits, and office expenses. In Colorado, both a State and Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. Administrative expenses that are shared are divided so that 50 percent is paid under the State and 50 percent under the Federal order. All promotion and advertising expenses are financed under the State order.

The 1990–91 recommended assessment rate of $0.004 per hundredweight of potatoes is the same as last year. This rate, when applied to anticipated fresh market shipments of 12,000,000 hundredweight, would yield $48,000 in assessment revenue. An additional $2,675 from the committee's authorized reserve would result in total funds of $50,675 which would be adequate to cover budgeted expenses. The projected reserve for the end of the 1990–91 fiscal period is $2,425 which would be carried over into the next fiscal year. This amount is within the maximum permitted by the order of two fiscal years' expenses.

While this action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. Therefore, the Administrator of the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses. The 1990–91 fiscal period for the program begins on September 1, 1990, and the

marketing order requires that the rate of assessment for the fiscal period apply to all assessable Colorado Area 2 potatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 948 be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

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

2. A new section 948.205 is added to read as follows:

§ 948.205 Expenses and assessment rate.

Expenses of $50,675 by the Colorado Administrative Potato Committee, San Luis Valley Office (Area 2) are authorized, and an assessment rate of $0.004 per hundredweight of assessable potatoes is established for the fiscal period ending August 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: July 17, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–17079 Filed 7–20–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 948

[Docket No. FV–90–114]

Irish Potatoes Grown in Colorado; Proposed Rule to Revise Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require reinspection of regraded, resorted and repacked lots of Colorado potatoes except in cases where such a reinspection requirement would result in unreasonably high inspection costs to repackers. The intent of this action is to ensure that all Colorado potatoes going to fresh market outlets meet the minimum quality and size requirements established under the marketing order.

DATES: Comments must be received by August 22, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 97 and Marketing Order No. 948 [7 CFR part 948], both as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA). The Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 120 handlers and 400 producers of Colorado potatoes under this marketing order. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

This proposed rule would require inspection of regraded, resorted or repacked lots of Colorado potatoes except in cases where such an inspection requirement would result in excessively high inspection costs to repackers. This action is authorized by § 948.40 of the marketing order, and was unanimously recommended by the Colorado Potato Administrative Committee, Northern Colorado Office (Area 3), and the Colorado Potato Administrative Committee, San Luis Valley Office (Area 2) (committees), the agencies responsible for local administration of the Federal marketing order for potatoes grown in Colorado.

The marketing order covers the entire State of Colorado, but divides the State into three geographic areas for administrative and regulatory purposes. In Area 1, which is known as the Western Slope, potatoes are no longer grown in significant volumes, and no handling requirements are currently in effect for potatoes grown in that area. Potatoes grown in the other two areas are currently required to meet minimum quality and size requirements prior to being shipped to fresh market outlets. For example, potatoes grown in Area 3, which consists of 37 counties in northeastern Colorado, are required to grade at least U.S. No. 2 and be at least 1-7/8 inches in diameter or 4 ounces in weight. Similar requirements are in effect for potatoes grown in Area 2, which is commonly referred to as the San Luis Valley and is comprised of 9 counties in southcentral Colorado. Potatoes grown in both Area 2 and Area 3 are also required to be inspected by the Federal-State Inspection Service (FSIS) and be certified as meeting applicable grade and size requirements.

Historically, the required inspection is performed at shipping point in the area in which the potatoes are grown. In recent years, however, potatoes have been increasingly moving within the State for regrading, resorting and repacking. These potatoes are inspected at shipping point, shipped in bulk to another packing facility within the production area and then repacked in consumer size containers before reentering commercial channels.

When a lot of potatoes that has been inspected is subsequently regraded, resorted or repacked, it loses its identity with respect to the initial inspection certificate issued to cover the lot. Since the inspection certificate cannot be readily associated with the repacked lot, it is difficult to ascertain whether the repacked lot has been inspected and whether it is in compliance with the applicable grade and size requirements that are in effect.

Quality assurance is very important to the Colorado potato industry. The committees believe that providing the public with potatoes that are of acceptable quality and size is necessary in order to maintain the position of Colorado potatoes in the industry. This proposed rule is expected to benefit Colorado potato producers and handlers by assuring consumers that all Colorado potatoes shipped to fresh market outlets, including those that have been regraded, resorted or repacked, meet the minimum quality and size requirements established under the applicable handling regulations.

The committees therefore recommended that regraded, resorted or repacked lots be required to be reinspected. This would ensure that all Colorado potatoes being handled are in compliance with the terms of the handling regulations.

While the committees recommended that regraded, resorted or repacked lots be subject to a reinspection requirement, they also recognized that such a requirement could result in unreasonably high inspection costs to repackers under certain circumstances. Some repacking facilities in Colorado are located at a considerable distance from an FSIS office, and it could be costly and difficult for such repackers to obtain the necessary inspection. The committees therefore recommended that such repackers be able to apply for a waiver from the reinspection requirement. To be entitled to a waiver, the repacker would have to be located at a site where inspection is not readily available, or such repacker's actual inspection costs would have to be unreasonably high.

The FSIS establishes its inspection fees on a per hundredweight basis. Typically, this standard fee covers all inspection costs. Under certain circumstances, however, additional fees are charged. For example, a handler who is located far from an FSIS office is also charged for the inspector's travel time and associated costs. The committees recommended that any repacker whose actual inspection costs would exceed 1-1/3 times the established per hundredweight inspection fee should be entitled to a waiver because the reinspection requirement would impose an unreasonably high inspection cost.

Any repacker seeking an inspection waiver would have to meet these criteria. The repacker would be required to apply to the respective area committee for the waiver, and the committee would be required to give prompt consideration to each application received.

The committees recommended additional safeguard procedures to ensure that repackers operating under waivers remain in compliance with all other handling requirements in effect. To be eligible for a waiver, the repacker would be required to agree to comply with all handling requirements. Such repackers would also be required to file periodic reports of potato receipts and dispositions. The information provided in such reports would enable the respective area committee to determine whether the potatoes handled by a repacker had been previously inspected and whether they were in compliance with the quality and size requirements in effect.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. 3507], the information collection requirements included in this proposed rule will be submitted for approval by the Office of Management and Budget (OMB), and would not become effective prior to OMB approval. It has been estimated that it will take an average of approximately 30 minutes for each handler applying for waiver of reinspection requirements to complete the waiver of inspection form and 10 minutes to complete the weekly shipment report form.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 948 be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

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

2. Sections 948.386 and 948.387 are amended by adding a new paragraph (c)(3) to read as follows:

§ 948.386 Handling regulation.

* * * * *

(c) * * *

(3) Each handler who handles potatoes after such potatoes are regraded, resorted, or repacked shall have such potatoes reinspected, unless such handler has received a waiver from reinspection pursuant to rules established by the Secretary upon the recommendation of the committee.

* * * * *

§ 948.387 Handling regulation.

* * * * *

(c) * * *

(3) Each handler who handles potatoes after such potatoes are regraded, resorted, or repacked shall have such potatoes reinspected, unless such handler has received a waiver from reinspection pursuant to rules established by the Secretary upon the recommendation of the committee.

* * * * *

3. New headings entitled "Modification of Inspection Requirements" consisting of §§ 948.140, 948.141, 948.142, 948.143 and "Membership" consisting of existing section 948.150 are added to read as follows:

Modification of Inspection Requirements

Sec.
948.140 Application.
948.141 Issuance.
948.142 Reports.
948.143 Cancellation.

Membership

948.150 Reestablishment of committee membership.

* * * * *

§ 948.140 Application.

Any handler whose packing facilities are located in an area where inspection is not readily available or the actual cost for inspection would otherwise exceed 1⅓ times the current per hundredweight inspection fee, may apply to the respective area committee for a waiver from the reinspection requirements. Applications shall be made on forms furnished by the respective area committee and shall contain such information as the

respective area committee, with the approval of the Secretary, may find necessary in making a determination regarding the issuance of such waiver.

§ 948.141 Issuance.

Each respective area committee shall give prompt consideration to each application for a waiver from reinspection. In granting a waiver, the handler shall agree to comply with all marketing order requirements. Approval of an application shall be evidenced by the issuance of an applicable waiver by the respective area committee to the handler.

§ 948.142 Reports.

Each handler shipping potatoes pursuant to a waiver from reinspection shall report periodically as specified by the respective area committee on forms furnished by the respective committee the following information on each shipment: Quantity of potatoes, variety or varieties, grade, size, type of container(s), date of shipment, carrier, destination, and name and address of receiver.

§ 948.143 Cancellation.

Whenever the respective area committee finds that shipments of potatoes pursuant to a reinspection waiver are not in accordance with the established application and safeguard provisions, such waiver may be cancelled.

Membership

* * * * *

Dated: July 17, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-17080 Filed 7-20-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 967

[FV-90-178PR]

Proposed Handling Regulation for Celery Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes establishing the quantity of Florida celery which handlers may ship to fresh markets during the 1990–91 marketing season at 6,789,738 crates or 100 percent of producers' base quantities. This proposal is intended to lend stability to the industry and thus, help to provide consumers with an adequate supply of the product. As in past marketing seasons, the limitation on the quantity of Florida celery handled for fresh shipment is not expected to restrict the quantity of Florida celery actually produced or shipped to fresh markets, since production and shipments are anticipated to be less than the allotment. This proposal was recommended by the Florida Celery Committee (Committee), the agency responsible for local administration of the order.

DATES: Comments must be received by August 2, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection in the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Sheila Young, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-5992.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Order No. 967 (7 CFR Part 967), both as amended, regulating the handling of celery grown in Florida. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the U.S. Department of Agriculture in accordance with Departmental Regulation No. 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 7 handlers of celery grown in Florida subject to regulation under the celery marketing order, and approximately 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of celery handlers and producers may be classified as small entities.

This proposal is based upon the recommendation and information submitted by the Committee and upon other available information. The Committee met on June 12, 1990, and recommended a marketable quantity of 6,789,738 crates of fresh celery for the 1990-91 marketing season beginning August 1, 1990. Additionally, a uniform percentage of 100 percent was recommended which would allow each producer registered pursuant to § 967.37(f) of the order to market 100 percent of such producer's base quantity. These recommendations were based on an appraisal of expected 1990-91 supplies and prospective demand.

As required by § 967.37(d)(1) of the order, a reserve of 6 percent (407,384 crates) of the 1989-90 total base quantities is authorized for new producers and increases for existing producers.

The proposal would limit the quantity of Florida celery which handlers may purchase from producers and ship to fresh markets during the 1990-91 marketing season to 6,789,738 crates. This marketable quantity is identical to the 1989-90 marketable quantity and is about 17 percent more than the average number of crates marketed fresh during the 1984-85 through 1988-89 seasons. It is expected that the 6,789,738 crate marketable quantity will be above actual shipments for the 1990-91 season. Thus, the 6,789,738 crate marketable quantity is not expected to restrict the amount of Florida celery which growers produce or the amount of celery which handlers ship. For these reasons, the proposal should lend stability to the industry and thus, help to provide

consumers with an adequate supply of the product.

Based on available information, the Administrator of the AMS has determined that issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

Interested persons are invited to submit their views and comments on this proposal. A 10-day comment period is deemed adequate because the proposal, if implemented, should be in effect for the new marketing season which begins on August 1.

List of Subjects in 7 CFR Part 967

Celery, Florida, Marketing agreements, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 967 is proposed to be revised as follows:

PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. A new § 967.326 is added to read as follows:

§ 967.326 Handling regulation, marketable quantity, and uniform percentage for the 1990–91 season beginning August 1, 1990.

(a) The marketable quantity established under § 967.36(a) is 6,789,738 crates of celery.

(b) As provided in § 967.38(a), the uniform percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the marketable allotment of a producer who has a base quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1), a reserve of six percent of the total base quantities is hereby authorized for: (1) New producers and (2) increases for existing base quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: July 18, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–17139 Filed 7–20–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, 1139

[Docket No. AO–160–A66, etc; DA–90–024]

Milk in the Middle Atlantic and Other Marketing Areas; Supplemental Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic	AO–160–A66
1001	New England	AO–14–A63
1002	New York-New Jersey.	AO–71–A78
1005	Carolina	AO–388–A2
1006	Upper Florida	AO–356–A28
1007	Georgia	AO–366–A32
1011	Tennessee Valley	AO–251–A34
1012	Tampa Bay	AO–347–A31
1013	Southeastern Florida.	AO–286–A38
1030	Chicago Regional	AO–361–A27
1032	Southern Illinois-Eastern Missouri.	AO–313–A38
1033	Ohio Valley	AO–166–A59
1036	Eastern Ohio-Western Pennsylvania.	AO–179–A54
1040	Southern Michigan	AO–225–A41
1044	Michigan Upper Peninsula.	AO–299–A25
1046	Louisville-Lexington-Evansville.	AO–123–A61
1049	Indiana	AO–319–A37
1050	Central Illinois	AO–355–A26
1064	Greater Kansas City.	AO–23–A59
1065	Nebraska-Western Iowa.	AO–86–A46
1068	Upper Midwest	AO–178–A44
1075	Black Hills, South Dakota.	AO–248–A20
1076	Eastern South Dakota.	AO–260–A29
1079	Iowa	AO–295–A40
1093	Alabama-West Florida.	AO–386–A10
1094	New Orleans-Mississippi.	AO–103–A52
1096	Greater Louisiana	AO–257–A39
1097	Memphis, Tennessee.	AO–219–A45
1098	Nashville, Tennessee.	AO–184–A54
1099	Paducah, Kentucky	AO–183–A44
1106	Southwest Plains	AO–210–A51
1108	Central Arkansas	AO–243–A42
1120	Lubbock-Plainview, Texas.	AO–328–A29
1124	Pacific Northwest	AO–368–A18
1126	Texas	AO–231–A59
1131	Central Arizona	AO–271–A28
1132	Texas Panhandle	AO–262–A39
1134	Western Colorado	AO–301–A21
1135	Southwestern Idaho-Eastern Oregon.	AO–380–A8
1137	Eastern Colorado	AO–326–A25
1138	Rio Grande Valley	AO–335–A35
1139	Great Basin	AO–309–A29

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Supplemental notice of public hearing on proposed rulemaking.

SUMMARY: This notice contains additional proposals to be considered at a previously scheduled national hearing on proposals to change the formula for computing butterfat differentials in all orders for adjusting milk prices to producers for butterfat content. The additional proposals would reduce the butterfat differential that is used to adjust the Minnesota-Wisconsin price to 3.5 percent butterfat content. The adjusted Minnesota-Wisconsin price is the "basic formula" price for determining class prices for milk under Federal milk orders.

The proponents, whose proposals to lower butterfat differentials are contained in the previous notice of hearing, have requested that the additional proposals also be handled on an emergency basis.

DATES: The hearing will convene at 8 a.m. local time on July 31, 1990.

ADDRESSES: The hearing will be held at the Ramada Hotel-Old Town, 901 N. Fairfax Street, Alexandria Virginia, 22314, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: John F Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of hearing: Issued July 5, 1990, published July 11, 1990 (55 FR 28403).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This notice is supplemental to the notice of hearing which was issued on July 5, 1990, and published in the **Federal Register** on July 11, 1990 (55 FR 28403). Notice is hereby given that the aforesaid hearing will be held as scheduled at the Ramada Hotel-Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314, beginning at 8 a.m., on July 31, 1990, with respect to proposed amendments previously announced and to additional proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Middle Atlantic and other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules

of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the previously announced proposed amendments, and to the additional proposed amendments hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposals 6 and 7.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 6 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1004, and 1001 through 1139

Milk marketing orders.

The authority citation for 7 CFR parts 1004, and 1001 through 1139 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Agri-Mark, the Milk Industry Foundation/International Ice Cream Association and Prairie Farms Dairy, Inc.

Proposal No. 6

Revise § _____.51 Basic formula price in all orders to read as follows:

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential as specified in § _____.74 shall be used. (* Substitute appropriate section in each order).

Proposed by United States Cheese Makers Association, American Producers of Italian Type Cheese Association, Wisconsin Cheese Makers Association, and Ohio Swiss Cheese Association:

Proposal No. 7

Amend the calculation of the butterfat differential in the basic formula price (section 51 of most orders) as follows:

§ _____.51 The butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 10 percent of the weighted average of:

(i) 1.20 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month, less a make allowance of ten cents per pound, and

(ii) 1.20 times the Commodity Credit Corporation Price Support Program price per pound for bulk butter for the month, less a make allowance of ten cents per pound, in accordance with the relative proportion of United States butter production sold for commercial use and old to the Commodity Credit Corporation during the month, as determined by the Department.

Copies of this supplemental notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Offices of all the Market Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: July 17, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-17150 Filed 7-20-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1076

[DA-90-026]

Milk in the Eastern South Dakota Marketing Area; Proposed Suspension or Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension or termination of rules.

SUMMARY: This notice invites written comments on a proposal to suspend or terminate portions of the Eastern South Dakota Federal milk order. The provisions relate to the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Suspension of the provisions, during August 1990 through February 1991, was requested by a cooperative association representing most of the producers supplying the market to prevent uneconomic movements of milk. In addition, since these provisions have been suspended for the last eight years, comments are being raquested on whether the provisions should be terminated.

DATES: Comments are due not later than August 7, 1990.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing. This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension or termination of the following provisions of the order regulating the handling of milk in the Eastern South Dakota marketing area is being considered:

In § 1076.13, paragraphs (c) (2), (3) and (4).

All persons who want to send written data, views, or arguments about the proposed action should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20250–6456, by the 15th day after publication of this notice in the **Federal Register**. The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)). The period for filing comments is limited to 15 days because a longer period would not provide the time needed to make the rule effective by August 1990, the first month of the period which limits diversions to 35 percent.

Statement of Consideration

Land O'Lakes, Inc. (LOL), an association of producers that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies, requested a suspension of certain provisions of the order. The requested suspension would remove for August 1990 through February 1991 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. A similar suspension has been in effect during these months since 1982.

The order now provides that a cooperative association may divert up to 35 percent of its total member milk received at all pool plants or diverted therefrom during the months of August through February. Similarly, the operator of a pool plant may divert up to 35 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the mouths of August through February.

LOL indicates that operation of the 35-percent diversion limit during August through February would mean that at least 65 percent of its milk would have to be delivered to pool plants. LOL estimates, moreover, that only approximately 44 percent of its milk will be needed at distributing plants during August 1990–February 1991. The balance would have to be delivered to pool plants, unloaded, reloaded and then shipped to other plants merely to qualify the milk for pooling. The additional handling and hauling costs would be incurred by LOL with no offsetting benefits to other market participants, according to LOL. In addition, the cooperative states, additional pumpings of milk can be expected to cause deterioration in its quality.

LOL states that even in the absence of diversion limitations, the cooperative must continue to deliver at least 35 percent of its producer receipts to pool distributing plants under other pooling standards in order to pool all milk. The cooperative affirms its commitment to supplying the total needs of Eastern South Dakota distributing plants.

These provisions of the order that limit diversion to nonpool plants have been suspended during the August-February period during each of the last eight years. In view of this history, interested parties are being invited to submit comments on whether the provisions should be terminated rather than being suspended for the August 1990-February 1991 period.

List of Subjects in 7 CFR Part 1076

Milk marketing orders.

The authority citation for 7 CFR part 1076 continues to read as follows:

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

Signed at Washington, DC, on July 17, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–17081 Filed 7–20–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1126

[DA–90–025]

Milk in the Texas Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal that would continue for the months of August 1990 through July 1991 a suspension of portions of the pool plant and producer milk definitions of the Texas order. The continuation of the suspension was requested by Associated Milk Producers, Inc., and Mid-America Dairymen, Inc., cooperative associations that represent a substantial proportion of the producers who supply milk to the market. The cooperatives contend that continuation of the suspension is necessary because the marketing conditions that resulted in the granting of the current suspension continue due to production increases in Texas.

DATES: Comments are due no later than July 30, 1990.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criterion contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby given that, pursuant to the provisions of the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Texas marketing area is being considered for the months of August 1990 through July 1991:

1. In § 1126.7(d) (introductory text), the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

2. In § 1126.7(e)(introductory text), the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In § 1126.13(e)(1) the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

5. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;"

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include August 1990 in the suspension period should it be found necessary.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would continue for the months of August 1990 through July 1991 the suspension of portions of the pool plant and producer milk definitions of the Texas order. Specifically, the proposed action would continue the suspension of the 60-percent delivery standard for pool plants operated by cooperatives, the restrictions on the types of pool plants at which milk must be received to establish the maximum amount of milk that a cooperative may divert to nonpool plants, and the limits on the amount of milk that a pool plant operator may divert to nonpool plants. In addition, the action would, for the same time period, continue to suspend the shipping standards that must be met by supply plants to be pooled under the order and the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order provides for pooling a cooperative association plant located in the marketing area if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants during the month. Also, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received at pool distributing and supply plants during the month. In addition, the order provides that the operator of a pool plant may divert to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. The proposed action would continue to inactivate the 60-percent delivery standard for plants operated by a cooperative association, allow a cooperative's deliveries to all types of pool plants to be included as a basis from which the diversion allowance would be computed, and remove the diversion limitation applicable to the operator of a pool plant.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. The requested action would continue the current suspension of these performance standards for an additional 12 months for August 1990 through July 1991 for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant each month in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. The proposed action would continue to have these requirements suspended.

The continuation of the current suspension was requested by two cooperative associations (Associated Milk Producers, Inc., and Mid-America Dairymen, Inc.) that represent a substantial proportion of the dairy farmers who supply the Texas market. Associated Milk Producers operates three supply-balancing plants that are pooled under the Texas order and a new supply-balancing plant will begin operation the spring of 1991. Mid-America Dairymen operates a supply plant in southwestern Missouri that has historically been pooled under the Texas order and a designated supply plant in Texas used strictly to assemble milk for shipment to nonpool plants for use in manufactured dairy products.

The cooperatives contend that this additional 12-month continuation of the current suspension is necessary because the marketing conditions that resulted in the granting of the current suspension continue due to production increases in Texas. The cooperatives state that continued substantial production increases have not made it possible to project production levels in 1991 and beyond with any degree of certainty, thereby making any amendatory action at this time impractical. The cooperatives also contend that the suspension continuation is necessary to give handlers the flexibility to dispose of excess milk in the most efficient manner. In addition, they believe that the suspension would eliminate costly and inefficient movements of milk that otherwise would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the Texas market.

In view of the foregoing, it may be appropriate to continue the current suspension of the aforementioned provisions of the Texas order.

List of Subjects in 7 CFR Part 1126

Milk marketing orders.

The authority citation for 7 CFR part 1126 continues to read as follows:

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

Signed at Washington, DC, on July 17, 1990.

Kenneth C. Clayton,

Deputy Administrator, Marketing Programs.

[FR Doc. 90-17082 Filed 07-20-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1139

[DA 90-019]

Milk in the Great Basin Marketing Area; Termination of Proceeding on Proposed Revision of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding on proposed revision of rules.

SUMMARY: This action terminates the proceeding that was initiated to consider a proposal to increase the percentage of a cooperative association's milk supply that may be diverted to nonpool plants under the Great Basin milk order. The revision was requested by Quality Milk Producers, Inc., a small cooperative association that represents producers who are located in the area covered by this marketing order.

An evaluation of data, views, arguments, and other pertinent information available leads to the conclusion that no further action should be taken on the request, and the proceeding is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Revision: Issued May 30, 1990; published June 4, 1990 (55 FR 22798).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proceeding was initiated by a notice of rulemaking published in the **Federal Register** on June 4, 1990 (55 FR 22798) concerning a proposed revision of certain provisions of the order regulating the handling of milk in the aforesaid marketing area. Interested parties were invited to comment on the proposal in writing by June 19, 1990. The proposal would have increased the percentage of a cooperative association's milk supply that could be diverted to nonpool plants for manufacturing and still be priced under the order.

Statement of Consideration

Quality Milk Producers, Inc. (QMP), Jerome, Idaho, requested that the percentage of milk that may be diverted by a cooperative association pursuant to § 1139.13(d)(2) of the order be increased. Currently, a cooperative association may divert for its account 60 percent of its milk supply in April through August and 50 percent in other months. QMP requested that the Director of the Dairy Division exercise discretionary authority to revise these percentages to 70 percent for April through August and 60 percent in other months. Section 1139.13(d)(4) provides that the Director may increase or decrease the diversion allowances by up to 10 percentage points if necessary to obtain needed shipments or to prevent uneconomic shipments.

QMP said that its members had increased production, while their deliveries to handlers had declined. As a result, QMP had been unable to pool all of its milk. A notice of proposed revision describing QMP's request and inviting comments was published in the **Federal Register** on June 4, 1990.

Two comments were received, both from other cooperative associations that opposed allowing greater diversions of milk to nonpool plants. One, which is the major cooperative supplying the market, was opposed to possibly allowing surplus milk from other areas to be associated with the Great Basin order. This cooperative indicated that it would attempt to work with QMP to help keep its milk pooled. No comments in support of the proposed revision were received.

In view of the data, views, and arguments received and other available information, it is determined that the proposed action in this proceeding should not be taken. Therefore, this proceeding is terminated.

List of Subjects in 7 CFR Part 1139

Milk marketing orders.

The authority citation for 7 CFR part 1139 continues to read as follows:

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

Signed at Washington, DC, on July 17, 1990.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 90-17083 Filed 7-20-90; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Fees Paid by Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; request for comments.

SUMMARY: The National Credit Union Administration Board is considering a restructuring of the operating fee scale for Federal Credit Unions. The current scale contains 14 asset brackets which determine the fee rate to be applied, with no fee for credit unions with assets of less than $50,000. The operating fee scale would be restructured to contain only two fee rates: one for assets below $250 million and one for assets above $250 million. There would be a $100 minimum fee, except that no fee would be assessed on credit unions with less than $50,000 in assets.

DATES: Comments are due on or before September 17, 1990.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Adminstration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Controller, or Dr. Charles Bradford, Chief Economist, at the above address, telephone (202) 682-9600.

SUPPLEMENTARY INFORMATION:

Background

Prior to 1979, Federal credit unions (FCU's) were charged separate chartering fees, examination fees, and supervision fees. The examination fees were based on the number of hours required for the examination and were collected at the conclusion of the examination, while the supervision fees were assessed annually based on each credit union's year-end assets. In 1979, section 105 of the Federal Credit Union Act (the Act) was amended to consolidate the three separate fees into a single operating fee.

Although the Act gives the NCUA Board the flexibility to determine the frequency, method and basis for the assessment, the operating fee has been collected on an annual basis since it inception in 1979, and has always been based on FCU assets. The Act requires that the NCUA Board, in setting the fee, give due consideration to the expenses of the agency and the ability of credit unions to pay.

The current operating fee scale for natural person FCU's contains 14

separate asset size brackets, with no fee for credit unions with less than $50,000 in assets. The structure of the scale is sharply regressive. Credit unions in the first bracket ($50,000 to $100,000 in assets) pay an average effective rate of $2.4090 per $1,000 of assets, while credit unions in the last bracket (assets over $1.5 billion) pay an effective rate of $.0709 per $1,000 of assets. Total operating fees of $31.8 million were collected from natural person FCU's in 1990.

Each year the scale has been adjusted with across-the-board percentage changes to each bracket in order to provide sufficient revenue to meet NCUA's expenses. In addition, in both 1983 and in 1985 two additional asset brackets were added for the largest credit unions, and also in 1983 a separate corporate operating fee scale with significantly lower rates was added.

Discussion

The replacement of the separate chartering, examination and supervision fees in 1979 with the single operating fee changed not only the mechanical aspects of NCUA's revenue collection process, but also the philosophical basis as well. Rather than various fees tied to specific services rendered or hours spent in the credit union, the operating fee is similar to a membership fee or license to operate. The basic parameters are that the amount collected should be based on NCUA's anticipated expenses or budget and that the assessment should be based on credit union's ability to pay. In other words, it should be equitable.

For some time NCUA has been concerned that the operating fee scale does not give due consideration to the ability of credit unions to pay and has become inequitable. Because of asset growth (21% since 1979), the addition of four asset brackets at the upper end of the scale, and the across-the-board changes made to the rates in each bracket, the relative burden on smaller credit unions has become significantly greater than the relative burden on larger credit unions. Based on 1989 financial data, the operating fee now consumes an average of 3.96% of expenses for credit unions in the lowest asset bracket, while it represented just 0.23% of expenses for the larger credit unions.

In recent months, this issue has been given careful consideration by an internal NCUA committee. The committee concluded that in theory, the most equitable solution would be a flat operating fee structure with a single rate for all FCU's. In order to generate the same $31.8 million of revenue as was collected in 1990, the rate would be $.27256 per $1,000 of assets.

As a practical matter, the committee concluded that the single rate would be too dramatic a change for the largest credit unions. The large credit unions would see their fees more than double, and at the extreme, the fee for the largest credit union would increase 3.8 times. As a more workable alternative, a two-rate, two-bracket structure was developed. This fee structure and other pertinent statistics are presented on Exhibit 1. For comparative purposes, this exhibit assumes the same total amount of collections, $31.8 million.

Under the two-rate structure, FCU's with up to $250 million of assets would pay .000293583 per dollar of assets. Those with more than $250 million of assets would pay $73,396 plus .0000855964 per dollar of assets over $250 million. In addition, no fee would be collected from FCU's with assets under $50,000, and the minimum fee to be collected from any FCU with assets over $50,000 would be $100 (the current minimum fee is $129.55). As mentioned in the previous paragraph, these figures are calculated on the basis of the same total dollar amount of fees as NCUA collected in 1990, that is $31.8 million. Any future budget increase would require an adjustment to these rates. The $250 million would also be indexed in proportion to FCU asset growth.

The effectiveness of the new scale in applying the ability to pay principle is shown in columns H and I where the current scale effective rates range from $2.4090 to $.0709 per $1,000 of assets. except for the first two asset brackets which are skewed because of the $100 minimum, the effective rates under the new scale range from $.2936 to $.0992 per $1,000 of assets. Also the "burden" of the operating fees measured as a ratio to credit union expenses is evened out to a considerable extent. Looking at columns J and K and again excluding credit unions subject to the $100 minimum, the current range of 3.96% to 0.23% expenses is narrowed to 0.79% to 0.33% of expenses.

Conclusion

We believe that the proposed restructuring of the operating fee scale would restore the fee to an equitable assessment basis without imposing an undue hardship on any one segment. Under the two-rate, two-bracket proposal, at the current $31.8 million level of collections, approximately 87% of the FCU's would receive a fee decrease while 13% would receive a fee increase. However, for those receiving an increase, the effective rate on assets and the fee as a percentage of expenses would not increase dramatically.

List of Subjects in 12 CFR Part 701

Credit, Credit union, Insurance, Mortgages.

By the National Credit Union Administration Board on July 17, 1990.

Hattie M. Ulan,

Acting Secretary of the Board.

EXHIBIT I—TWO-BRACKET, TWO-RATE OPERATING FEE SCHEDULE COLLECTING $31.8 MILLION

[Break at $250 million: .000293583 rate in lower bracket. $100 minimum]

Asset Category	No. FCU's	Total assets June 1989 ($ 000)	Fees collectd. Jan. 1990 ($ 000)	Current Average fee	Average two-bracket fee	Percent change two-bracket fee/ current fee	Effective rate current [1]	Effective rate two-bracket	Operating fee/1989 expenses (percent)	
									Current	Two-bracket
A	B	C	D	E	F	G	H	I	J	K
50-100K	197	$ 14,944	$36	$183	$100	−45.3	2.4090	1.3183	3.96	2.17
100-250K	619	109,239	206	333	100	−70.0	1.8858	.5666	3.37	1.01
250-500K	788	288,131	439	557	107	−80.7	1.5236	.2936	3.00	0.58
500-1M	1,096	807,864	918	838	216	−74.1	1.1363	.2936	2.21	0.57
1-2M	1,287	1,878,424	1,570	1,220	428	−64.9	.8358	.2936	1.65	0.65
2-5M	1,713	5,625,328	3,441	2,009	964	−52.0	.6117	.2936	1.44	0.69
5-20M	1,888	18,960,323	7,204	3,816	2,946	−22.7	.3800	.2936	0.97	0.75

EXHIBIT I—TWO-BRACKET, TWO-RATE OPERATING FEE SCHEDULE COLLECTING $31.8 MILLION—Continued

[Break at $250 million: .000293583 rate in lower bracket. $100 minimum]

Asset Category	No. FCU's	Total assets June 1989 ($ 000)	Fees collectd. Jan. 1990 ($ 000)	Current Average fee	Average two-bracket fee	Percent change two-bracket fee/ current fee	Effective rate current [1]	Effective rate two-bracket	Operating fee/1989 expenses (percent)	
									Current	Two-bracket
A	B	C	D	E	F	G	H	I	J	K
20–50M	669	20,725,375	5,422	8,105	9,095	12.2	.2621	.2936	0.69	0.77
50–100M	255	17,994,113	3,997	15,675	20,717	32.2	.2221	.2936	0.58	0.76
100–250M	171	26,027,882	5,152	30,129	44,686	48.3	.1979	.2936	0.53	0.79
250–500M	35	11,358,575	1,946	55,600	79,775	43.5	.1713	.2458	0.53	0.76
500–1B	12	7,856,124	1,072	89,333	108,035	20.9	.1365	.1650	0.42	0.51
1–1.5B	1	1,224,234	132	132,000	156,787	18.8	.1078	.1281	0.27	0.33
Over 1.5B	1	3,822,865	271	271,000	379,000	39.9	.0709	.0992	0.23	0.33
Total	8,732	$116,693,421	31,806	$3,642	$3,642				0.73	0.73

[1] (Rate per $1,000 Assets)
Flat fee of .000293583 times first $250 million of assets. $100 minimum. $73,396 plus .0000855964 times assets above $250 million.

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761(a), 1761(b), 1766, 1767, 1782, 1784, 1787, 1789, and 1796; and Pub. L. 101–73.

Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610.

[FR Doc. 90-17146 Filed 7-20-90; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 71

[Airspace Docket No. 90-AGL-6]

Proposed Alteration to Transition Area; Rapid City, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing 1200' Rapid City, SD, transition area description. The alteration is needed to improve the departure/arrival flow of traffic in the Rapid City, SD/Ellsworth Air Force Base (AFB) area. The density of traffic and the type of operations in airspace surrounding the terminal areas create a need for altering the transition area. There is an increasing number of Visual Flight Rules (VFR), Instrument Flight Rules (IFR), and military aircraft operating in the vicinity. The intended effect of this action is to segregate VFR, IFR, and military aircraft and enhance aviation safety.

DATES: Comments must be received on or before August 24, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Attn: Rules Docket No. 90–AGL–6, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official document may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AGL–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Rapid City, SD. The present transition area is being modified to improve the departure/arrival flow of traffic in the Rapid City/Ellsworth AFB area. The modification to the existing airspace would extend the existing transition area to the south starting at a point on the existing 53-mile

radius circle at lat. 43°40'00" N., long. 102°16'30" W.; to lat. 43°40'00" N., long. 102°00'00" W.; to lat. 43°00'00" N., long. 102°00'00" W.; to lat. 43°00'00" N., long 104°30'00" W.; to lat. 43°28'30" N., long. 104°30'00" W.; to a point on the 53-mile radius circle at 43°39'00" N., long. 103°55'00" W. This modification would provide an increased capability for aircraft separation service.

Altering the 1200' transition area would provide an increased capability for aircraft separation, enable air traffic control to provide IFR service to aircraft in a controlled environment of transitioning to and from the en route air traffic control system by providng expanded radar vectoring services, off-course climbs/descents, and more direct routings. In addition, the controlled airspace would reduce aircraft operating costs, fuel consumption, and would provide controlled airspace for routing aircraft around extensive military activity.

Aeronautical maps and charts would reflect the defined areas which would enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

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

List of Subjects In 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Rapid City, SD [Revised]

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 43°40'00" N., long. 102°16'30" W.; to lat. 43°40'00" N., long. 102°00'00" W.; to lat. 43°00'00" N., long. 102°00'00" W.; to lat. 43°00'00" N., long. 104°30'00" W.; to lat. 43°28'30" N., long. 104°30'00" W.; to lat. 43°39'00" N., long. 103°55'00" W.; thence clockwise via the 53-mile radius circle of Ellsworth AFB (lat. 44°08'42" N., long. 103°06'11" W.); to point of beginning.

Issued in Des Plaines, Illinois, on June 29, 1990.

John P. Cuprisin,

Assistant Manager, Air Traffic Division.

[FR Doc. 90-17111 Filed 7-20-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AB52

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION Advance notice of proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) established a task force in December of 1989 to assess the lessons that could be learned as a result of recent fatal accidents in the North Sea and the Gulf of Mexico. The task force examined many contributing causes to the accidents and identified areas where changes in regulations should be considered. One area of concern, the placement of shutdown valves (SDV) on pipelines, raises questions that need to be answered before necessary changes to MMS regulations can be developed. This advance notice of proposed rulemaking solicits that information from interested parties. The information received will allow MMS to develop proposed amendments to current rules.

DATES: Comments must be received or postmarked by September 21, 1990.

ADDRESSES: Comments should be mailed or hand delivered to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 22070-4817; Attention: Gerald D. Rhodes.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, Branch of Rules, Orders, and Standards, telephone (703) 787-1600.

SUPPLEMENTARY INFORMATION: The MMS reviews operations in the Outer Continental Shelf to identify what needs to be done when accidents show that changes are necessary or when improved technology and equipment show modification of existing safety regulations is appropriate. The inherent dangers of hydrocarbon exploration and production and the worldwide need to continuously reevaluate and improve safety practices were dramatically and tragically demonstrated by the 167 deaths resulting from the fire and explosion on the Piper Alpha platform in the United Kingdom sector of the North Sea in July of 1988 and by the 7 deaths resulting from a fire on a platform in the South Pass area of the Gulf of Mexico in March of 1989.

As part of MMS's continuing effort to improve regulations governing safety of operations and environmental protection, a task force was established in December of 1989 to assess what lessons could be learned as a result of these fatal accidents. The task force examined the many contributing causes of each of the accidents and identified one area of concern that could best be dealt with by first soliciting information from the public. That area is the placement of SDV's on pipelines and is the subject of this advance notice of proposed rulemaking.

Section 250.154 of subpart J, Pipelines, requires that all incoming pipelines delivering to or crossing an offshore production platform be equipped with an automatic SDV immediately upon boarding the platform. It is desirable to have the SDV located so as to isolate the pressurized hydrocarbons in the pipeline from potential danger that could result from a fire or other damage to the pipeline. An explosion may result when the pressurized portion of a pipeline (upstream of the SDV) is damaged or exposed to fire. The probability of such an occurrence can be minimized by placing the SDV in a more protected location near or below the water surface. However, such placement can complicate installation and maintenance and may reduce reliability.

As alternatives or additions to the current requirement of locating SDV's "immediately upon boarding the platform," MMS is considering requirements for the placement of SDV's on the seafloor or at a location just above sea level. The MMS is requesting comments concerning these alternatives for SDV placement. Specifically, MMS requests responses to the following questions:

1. If the SDV was located on the seafloor or just above the splash zone, how would the following parameters be affected:

(a) Maintenance,
(b) Inspection,
(c) Testing,
(d) Reliability,
(e) Pressure venting,
(f) Bidirectional operations, and
(g) Pigging operations?

2. What measures could be taken to enhance performance and reliability-in particular, how could problems identified in response to question 1 be alleviated?

3. What types of SDV's are available that could be located on the seafloor?

4. What specific limitations would be encountered with regard to placing the SDV at the seafloor location with respect to the following variables:

(a) Size of valve,
(b) Pressure,
(c) Flow rate,
(d) Water depth,
(e) Types of fluids transported, and
(f) Other variables identified by commenters?

5. What actuations and control system options are available for placement of the SDV on the seafloor (e.g., pneumatic, hydraulic, electrical)? Would actuation backup capability be necessary or desirable?

6. What emergency support systems (e.g., fire loop system, emergency shutdown system, subsurface safety system) would activate the subsea SDV? Should the conditions of actuation be different than for an SDV located on the platform?

7. For seafloor placement of the SDV, what would be the optimum location in distance from the platform?

8. What effect would burial (either intentional or unintentional) of the valve and actuator have on maintenance and operational reliability?

9. What measures would be necessary to protect a subsea valve and control system from the following effects:

(a) Temperature,
(b) Hydrates,
(c) Permafrost,
(d) Hydrogen sulfide,
(e) Carbon dioxide,
(f) Stress cracking, and
(g) Other effects identified by commenters?

10. Should SDV's be manufactured, maintained, and repaired in accordance with a certification process similar to the process used with surface and subsurface safety valves?

11. Would the use of flexible piping impose difficulties to a subsea valve?

12. If an SDV is placed at an alternate seafloor location, should an SDV also be placed on the platform?

13. Current regulations require SDV's on certain incoming pipelines. What, if any, SDV's should be required on outgoing and crossing pipelines?

Interested parties are invited to submit comments and recommendations on this advance notice of proposed rulemaking to the address given in the "ADDRESSES" section of this preamble.

This document was prepared by John V. Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: July 10, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

[FR Doc. 90-17054 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed changes to the Utah Coal Mining and Reclamation Rules (R614 rules). The proposed rules pertain to vegetation information guidelines, definitions, termination of jurisdiction, administrative procedures for permitting, permit application requirements, revegetation success standards, land use, air quality, engineering, hydrology, areas unsuitable for coal mining and reclamation operations, coal exploration, variance from backfilling to approximate original contour for steep-slope mining, permit renewals, cessation orders, and individual civil penalties. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, incorporate the additional flexibility afforded by the revised Federal regulations and clarify ambiguities.

This notice sets forth the times and locations that the Utah program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. August 22, 1990. If requested, a public hearing on the proposed amendment will be held on August 17, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on August 7, 1990.

ADDRESSES: Written comments should be mailed or hand-delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 625 Silver Avenue, SW., Suite 310, Albuquerque, NM 87102, Telephone: (505) 766-1486.

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, UT 84180-1203, Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, or telephone number (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** 46 FR 5899. Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16 and 944.30.

II. Proposed Amendment

By letter dated July 3, 1990 (Administrative Record No. UT–570), Utah submitted a proposed amendment to its program pursuant to SMCRA. Utah submitted the proposed amendment in response to (1) The May 11 and November 27, 1989, letters (Administrative Record Numbers UT–507 and UT–532) that OSM sent to Utah in accordance with 30 CFR 732.17(c), (2) the November 9, 1989, issue letter (Administrative Record Number UT–538) that OSM sent to Utah, and (3) the required program amendments at 30 CFR 944.16 that OSM placed on the Utah program in the April 12, 1990, final rule **Federal Register** notice (55 FR 13782). The rules that Utah proposes to amend are:

R614–301–356 Vegetation Information Guidelines
R614–100–200 Definition of "Owned or Controlled," "Road," "Unwarranted Failure to Comply," and "Valid Existing Rights"
R614–100–450 Termination of Jurisdiction
R614–300–112.500 Administrative Procedures—Permitting
R614–300–132 Review of Compliance
R614–300–140 Permit Conditions
R614–300–160 Improvidently Issued Permits
R614–301–100 Permit Application Requirements—General Contents
R614–301–350 Biology—Performance Standards
R614–301–411 Premining Land Use Information
R614–301–420 Air Quality
R614–301–520 Engineering—Operation Plan
R614–301–530 Engineering—Operational Design Criteria and Plans
R614–301–540 Engineering—Reclamation Plan
R614–301–550 Engineering—Reclamation Design Criteria and Plans
R614–301–730 Hydrology—Operation Plan
R614–301–740 Hydrology—Design Criteria and Plans
R614–103–200 Areas Unsuitable for Coal Mining and Reclamation Operations
R614–105–400 Blaster Certification
R614–201–400 Coal Exploration—Requirements for Commercial Sale
R614–302–270 Variances From Backfilling to Approximate Original Contour
R614–303–230 Permit Renewals
R614–400–310 Cessation Orders
R614–402–100 Inspection and Enforcement—Individual Civil Penalties
R614–402–200 Assessment of Individual Civil Penalties
R614–402–300 Amount of Individual Civil Penalties
R614–402–400 Procedures for Assessment of Individual Civil Penalties

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m., m.d.t. on August 7, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 944

Intergovernment relations, Surface mining, Underground mining.

Dated: July 12, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90–17719 Filed 7–20–90; 8:45 am]
BILLING CODE 4310–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–335; RM–7056]

Radio Broadcasting Services; De Witt and England, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a joint petition for rule making filed on behalf of Diamond State Broadcasting, Inc., licensee of Station KLRA–FM, Channel 243A, England, AR, and Quadras, Inc., licensee of Station KDEW–FM, Channel 244A, De Witt, AR, seeking the substitution of FM Channel 243C3 for Channel 243A at England, as well as the substitution of FM Channel 247C2 for Channel 244A at De Witt, and modification of the licenses accordingly. Coordinates for Channel 243C3 at England are 34–30–58 and 92–07–45. Coordinates for Channel 247C2 at De Witt are 34–12–20 and 91–25–18.

DATES: Comments must be filed on or before September 10, 1990, and reply comments on or before September 25, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, and their consultant, as follows: Quadras, Inc. and Diamond State Broadcasting, Inc., Attn: Willie R. Harris, P.O. Box 40, England, AR 72046, and Paul Reynolds, 415 North College St., Greenville, AL 36037 (Consultant).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–335, adopted June 29, 1990, and released July 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–17090 Filed 7–20–90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Part 970

Acquisition Regulation; Allowable Contract Costs

AGENCY: Department of Energy (DOE), OS.

ACTION: Proposed rule.

SUMMARY: This proposed rule, when issued as a final rule, will amend the Department of Energy Acquisition Regulation (DEAR), and will establish that the Department of Energy (DOE), under its Management and Operating (M&O) contracts, will not recognize, as allowable contract cost, imputed interest costs determined in accordance with general accepted accounting principles (GAAP) when, under GAAP, the M&O contractor leasing arrangements are required to be classified and accounted for as capital leases, unless such lease arrangements are specifically authorized, in advance, by the DOE.

DATES: Written comments must be submitted no later than August 22, 1990.

ADDRESSES: Comments must be addressed to: James J. Cavanagh, Director, Business and Financial Policy Division (PR–13), Office of Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Rudolph J. Schuhbauer, Business and Financial Policy Division (PR–13), Office of Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8175.

Richard J. Luebke, Office of the Assistant General Counsel for Procurement and Finance (GC–34), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1526.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR chapter 9.

The purpose of this rule is to revise the DEAR to clarify the DOE policy concerning the allowability of lease payments made by the Department's M&O contractors pursuant to their contract requirements, in general, and to specifically preclude M&O contractors from entering into any leasing arrangements which, under GAAP, are considered to be capital leases, without first obtaining DOE authorization and approval to do so.

The proposed amendments are also intended to clarify an existing ambiguity between two existing contract clauses concerning the accounting and recording of lease payments and the allowability of imputed interest costs relating thereto. DEAR 970.5204–9, "Accounts, records and inspection," requires, among other things, that contractors account for contract expenditures and maintain a system of accounts in accordance with GAAP. GAAP requires that certain lease payments be accounted for, in part, as "interest" expense. DEAR 970.5204–13, "Allowable costs and fixed-fee (Management and Operating contracts)," in paragraph (e)(15), makes unallowable the cost of interest, however represented. Thus, for such capital leases, it appears as if imputed interest costs required to be identified and recorded separately under GAAP may be unallowable. That is not the DOE's intent. This apparent inconsistency is proposed to be resolved by amending: the unallowable interest provision, at DEAR 970.5204–13(e)(15) (and at 970.5204–14(e)(13)), to provide an exception for imputed interest costs related to capital lease arrangements where (1) such leases are specifically authorized and approved by DOE, and (2) such imputed interest costs determined in accordance with GAAP are recorded in DOE's system of accounts under a specified account.

A brief description of the DEAR amendments to part 970 follows:

Under subpart 970.31, Contract Costs Principles and Procedures, subsection 970.3102–15, "Procurement: Subcontracts and contractor affiliated sources," is amended to include a new provision setting forth conditions under which lease payments may be recognized as allowable cost.

Under DEAR subpart 970.52, Contract Clauses for Management and Operating Contracts, subsection 970.5204–13, "Allowable costs and fixed-fee (Management and Operating contracts)," and subsection 970.5204–14, "Allowable costs and fixed-fee (support contracts)," are amended to incorporate certain language clarifications and additions required to make imputed

interest costs associated with certain DOE authorized lease arrangements an allowable contract cost. Also, the contract clause at DEAR subsection 970.5204–22, "Contractor purchasing system," is amended to include a new provision which prohibits the M&O contractor from entering into any lease arrangement which, under GAAP, is considered to be a capital lease, unless the lease is specifically authorized and approved by the DOE.

Under DEAR subpart 970.71, Management and Operating Contractor Purchasing, DEAR subsection 970.7104–4, "Leasing of Property, Plant or Equipment," is added to establish that M&O contractors are to seek the DOE's authorization for any proposed lease arrangement which, under GAAP, is considered to be a capital lease.

II. Procedural Requirements

A. Review Under Executive Order 12291.

Executive Order 12291 requires that a regulatory impact analysis be prepared prior to the promulgation of a "major rule." The DOE has concluded that this action is not a major rule because its promulgation will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete in domestic or export markets. Pursuant to OMB Bulletin 85–7, dated December 14, 1984, all procurement regulations, except those named therein, are not subject to the Office of Management and Budget (OMB) regulatory review. The DOE has determined that this action is not subject to OMB review.

B. Review Under the Regulatory Flexibility Act.

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. The DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act.

No information collection or recordings requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under the National Environmental Policy Act (NEPA).

The DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the NEPA of 1969 (42 U.S.C. *et seq.* (1976)), or the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE guidelines (10 CFR part 1021), and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's proposed rule, when finalized, will revise certain policy and procedural requirements. However, the DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

III. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to the proposed DEAR amendments set forth in this notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

List of subjects in 48 CFR Part 970

Government procurement.

For the reasons set out in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is proposed to be amended, as set forth below.

Issued in Washington, DC on July 11, 1990.

Berton J. Roth,

Acting Director, Office of Procurement and Assistance Management.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), Sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and Sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

2. In § 970.3102–15, the section heading is revised and a new paragraph (c) is added as follows:

§ 970.3102–15 Procurement: Subcontracts, contractor-affiliated sources, and leases.

* * * * *

(c) *Leases.* Contractor lease payments will be considered an allowable cost when the leasing arrangement is not prohibited by the contract terms (See § 970.5204–22). If a lease for property, plant or equipment (land and/or depreciable assets) is required to be classified as a capital lease under generally accepted accounting principles (GAAP), imputed interest costs determined in accordance with GAAP for any such contractor lease arrangement shall be an allowable contract charge if the following are met: (1) The specific lease arrangement is authorized by DOE prior to execution in accordance with applicable DOE procedures, (2) The lease is accounted for in accordance with GAAP, and (3) The imputed interest costs are separately accounted for in special DOE accounts established for the recordation of such costs.

3. In § 970.5204–13, the title to the clause and subparagraph (e)(15) are revised to read as follows:

Allowable Costs and Fixed-Fee (Management and Operating Contracts) (July 1990).

* * * * *

(e) * * *

(15) Interest, however represented (except interest incurred in compliance with the contract clause entitled "State and local Taxes" or, in the case of a lease arrangement classified and accounted for as a capital lease under generally accepted accounting principles (GAAP) and such lease has been specifically authorized and approved by the DOE in accordance with applicable procedures, the imputed interest costs

relating thereto as determined in accordance with GAAP and recorded in an appropriately specified DOE account established for such purpose), bond discounts and expenses, and costs of financing and refinancing operations.

* * * * *

4. In § 970.5204–14, the clause is amended by revising the title and paragraph (e)(13) to read as follows:

§ 970.5204–14 Allowable costs and fixed-fee (support contracts).

Allowable Costs and Fixed-Fee (Support Contracts) (July 1990).

* * * * *

(e) * * *

(13) Interest, however represented (except interest incurred in compliance with the contract clause entitled "State and local Taxes" or, in the case of a lease arrangement classified and accounted for as a capital lease under generally accepted accounting principles (GAAP) and such lease has been specifically authorized and approved by the DOE in accordance with applicable procedures, the imputed interest costs relating thereto as determined in accordance with GAAP and recorded in an appropriately specified DOE account established for such purpose), bond discounts and expenses, and costs of financing and refinancing operations.

* * * * *

5. In subsection 970.5204–22, the clause is amended by revising the title and adding paragraph (g) as follows:

Contractor Purchasing System (July 1990)

* * * * *

(g) (Name of Contractor) shall not enter into any lease arrangement for property, plant, or equipment when the lease must be classified and accounted for as a capital lease under generally accepted accounting principles, unless the lease is specifically authorized and approved in advance by DOE.

6. Add new § 970.7104–4, as follows:

§ 970.7104–4 Leasing of property, plant or equipment.

Notwithstanding any prior purchasing system acceptance or thresholds that may be approved by the HCA, M&O contractors are not permitted to enter into any lease arrangement for property, plant or equipment (land and/or depreciable assets) when the lease must be classified and accounted for as a capital lease under generally accepted accounting principles, unless the lease is specifically authorized and approved in advance by the DOE. Should the contractor determine that such a lease arrangement may result in a cost advantage for the DOE, or is otherwise in the best interests of the DOE, the contractor must submit documentation justifying, on a case-by-case basis, each such proposed capital lease arrangement, including a lease-versus-purchase analysis, to the DOE and request that an authorizing letter of approval be issued.

[FR Doc. 90–17027 Filed 7–20–90; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB42

Endangered and Threatened Wildlife and Plants; Proposal To List the Ouachita Rock-Pocketbook (mussel) as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Ouachita rock-pocketbook (mussel) (*Arkansia-Arcidens wheeleri*) as an endangered species under the Endangered Species Act of 1973 (Act), as amended. Critical habitat is not being proposed. This species, which was once known from the Kiamichi River in Oklahoma, the Little River in southwestern Arkansas, and the Ouachita River in central Arkansas, is presently known to survive only in an approximately 80-mile reach of the Kiamichi River above Hugo Reservoir in Oklahoma and a 5-mile segment of the Little River in southwestern Arkansas. The species' range has been seriously restricted by the construction of reservoirs, water quality degradation, and other impacts to its habitat. Owing to the species' limited distribution, any factors that adversely modify habitat or water quality in these stream segments could further threaten the species. Comments and information pertaining to this proposal are sought from the public.

DATES: Comments from all interested parties must be received by September 21, 1990. Public hearing requests must be received by September 6, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 222 South Houston, suite A, Tulsa, Oklahoma 74127. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Allen Ratzlaff at the above address (918/581–7458 or FTS 745–7458).

SUPPLEMENTARY INFORMATION:

Background

The Ouachita rock-pocketbook, previously known as Wheeler's pearly mussel, was originally described as *Arkansia wheeleri* by Ortmann and Walker (1912), who erected the new monotypic genus *Arkansia* to contain *A. wheeleri*. The species was subsequently placed in the genus *Arcidens* by Clarke (1981). While it is undoubtedly related to *Arcidens confragosus*, the Service is following Turgeon et al. (1988) in retaining it in the monotypic genus *Arkansia* in this proposed rule. The shell is quadrate-ovate or subinflated, up to 100 millimeters (mm) (4.3 inches) long, 73 mm (2.9 inches) high, and 48 mm (1.9 inches) wide, moderately heavy, somewhat thickened anteriorly (up to 6 mm (0.24 inches) thick), and half as thick posteriorly. The umbos (beaks) are prominent. The periostracum is chestnut-brown to black with a silky texture. The shell has a well defined lunule depression. There is heavy sculpturing only on the posterior half of the shell and barely perceptible beak sculpturing. The external membrane of the outer demibranch is openly porous, like a loosely woven net. The glochidia are unknown (Branson 1982, Clarke 1981).

Ortmann and Walker (1912) designated the type locality (*loc cit*) as "Old River, Arkadelphia, Arkansas". Wheeler (1918) published a map of this locality showing that it corresponds to a series of interconnected narrow lakes (probably oxbows) near Arkadelphia, Clarke County, Arkansas. Wheeler gave the Ouachita River as another locality, but stated it was rare in that area. Ortmann (1921) and Iseley (1925) reported specimens being collected in the Kiamichi River, Pushmataha, Oklahoma, near Antlers and Tuskahoma, respectively. Few other records were reported until recently.

Valentine and Stansbery (1971) reported the mussel from the Kiamichi River at Spencerville Crossing, Pushmataha County, Oklahoma. This site has since been flooded by Hugo Reservoir. Johnson (1980) and Clarke (1981) added to additional localities by surveying museum specimens: Little River, White Cliffs, Little River County, Arkansas, and the Kiamichi River 1.2 miles south of Clayton, Pushmataha County, Oklahoma. Harris and Gordon (1987) report that several fairly old empty shells were found in 1983, four

miles northwest of the U.S. Highway 59 and 71 crossing of Millwood Lake, Little River County-Sevier County border, Arkansas. A single valve of this species was found in an archaeological site in Jack Fork Valley, Pushmataha County, Oklahoma (Bogan and Bogan 1983).

Populations are only known to exist in the Kiamichi River from the extreme southwestern corner of LeFlore County (Oklahoma Natural Heritage Inventory 1989) to Antlers, Pushmataha County, Oklahoma (estimated to be about 1000 individuals), and the Little River from the Oklahoma border 5 miles east along the border of Little River and Sevier Counties, Arkansas (less than 100 individuals). However, Harris and Gordon (1987) failed to find living specimens in this portion of the Little River in 1983. In a survey of the Kiamichi River, Mehlhop-Cifelli and Miller (1989) documented *A. wheeleri* in an additional 30 mile stretch of river, for a total documented species range of 80 river miles. *Arkansia wheeleri* occurs in very low densities at all documented sites.

Very little is known about the habitat requirements of the Ouachita rock-pocketbook. It is typically found in stream-side channels and backwaters with little or no flow in muddy or rocky substrate near riffles. Mehlhop-Cifelli and Miller (1989) found that backwater areas are usually next to sand/gravel/cobble bars that either are scoured clean or support emergent aquatic vegetation.

No information is available on the life history of the species. However, another member of the same subfamily, *Arcidens confragosus*, is a long-term breeder, becoming gravid in the fall and releasing glochidia (larvae) in the spring. The glochidia attach to the fins, tail, or scales of fish. The fish hosts of *Arcidens confragosus* include the American eel, gizzard shad, rock bass, white crappie, and freshwater drum (Clarke 1981).

Arkansia wheeleri (known then as Wheeler's pearly mussel), was included in the May 22, 1984, Review of Invertebrate Wildlife for Listing as Endangered or Threatened Species (49 FR 21664) as a Category 2 species. Category 2 comprises taxa for which information indicates that proposing to list the species as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat(s) are not currently available to support a proposed rule. In the January 6, 1989, Animal Notice of Review (54 FR 554–579), the Ouachita rock-pocketbook (*Arkansia wheeleri*) was moved to Category 1, which comprises taxa for which the Service currently has substantial information to support the biological appropriateness of proposing to list as endangered or threatened.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Ouachita rock-pocketbook (*Arkansia wheeleri*) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Two factors, water pollution and reservoir construction, have apparently been the principal reason for this species' precipitous decline. On the Ouachita River, the type locality has been polluted to the extent that it is unlikely any mussel could now survive in the stream. The Ouachita River has also been impacted by several reservoirs and Clarke (1987) states that these have likely contributed to the species' decline in this drainage.

Hypolimnetic discharge from Pine Creek Dam and periodic pollution discharge into the Rolling Fork Creek has caused the downstream loss of many mussel species, including the Ouachita rock-pocketbook, in the Little River. Below the confluence of the Rolling Fork Creek on the Little River, approximately 5 miles east of the Oklahoma-Arkansas State line, water quality is now so poor that the mussel apparently cannot survive there. There is also a threat from hypolimnetic discharge from Broken Bow Reservoir, McCurtain County, Oklahoma. If constructed, the authorized Tuskahoma Reservoir, on the Kiamichi River, Pushmataha County, Oklahoma, would inundate areas used by the Ouachita rock-pocketbook and affect remaining habitat and populations downstream of the reservoir. The proposed addition of hydropower to the existing Sardis Reservoir on Jackfork Creek (a tributary to the Kiamichi River, Pushmataha County, Oklahoma) would also be a threat to this mussel from potential cold water discharge and fluctuating water levels. Colder water probably has a direct impact on mussel growth by reducing metabolic rates (Mehlhop-Cifelli and Miller 1989). Altered conditions could also cause a decrease in nutrients and changes in the availability of fish hosts for glochidia (Mehlhop-Cifelli and Miller 1989).

Seqage discharge from the City of Idabel, McCurtain County, Oklahoma, and scattered gravel dredging operations affect water quality in the Little River where this mussel is found. In one *A. wheeleri* site on the Kiamichi River, gravel is being mined, and similar activities may be planned elsewhere along the river. Construction of a bridge upstream of another site caused considerable siltation (Mehlhop-Cifelli and Miller 1989), which likely has an adverse effect on this species. Elevated levels of mercury have been found in fish samples from the Kiamichi River near Big Cedar, Oklahoma (EPA, in litt.). The source of this mercury is presently unknown, but it could pose a serious threat to this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* This rare species occurs in such low number that removal for private collections and scientific purposes poses an additional threat. Its rarity and some unusual features of its shell make it a desirable species to private collectors. Considering the historic rarity of this species and its significant loss of historic habitat, collection of live specimens could result in the loss of a significant portion of the surviving population.

C. *Disease or predation.* Although the Ouachita rock-pocketbook is undoubtedly consumed by predatory animals, there is no evidence that predation threatens the species. Disease is not an apparent threat.

D. *The inadequacy of existing regulatory mechanisms.* The State of Oklahoma lists the Ouachita rock-pocketbook as a State endangered species, but this listing does not provide habitat protection for the species. The species is not protected in Arkansas. The Act would provide additional protection and encourage active management through the "Available Conservation Measures" discussed below.

E. *Other natural or manmade factors affecting its continued existence.* The exotic Asiatic clam (*Corbicula fluminea*) occurs in Hugo Resevoir and portions of the Kiamichi River and populations are moving slowly upstream (M. Mather, in litt.). This environmentally adaptive and tolerant mollusk could impact *A. wheeleri* and other native mussel fauna. In addition, the low densities of *A. wheeleri* result in reduced fertility and breeding success for this species.

The Service has carefully assessed the best scientific and commercial information available regarding the past.

present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Ouachita rock-pocketbook (*Arkansia wheeleri*) as endangered. Historic records reveal that while the species is extremely rare, it was once considerably more widespread than it is today. Presently only two small populations, possibly only one, are known to survive. These populations are threatened by a variety of factors including reservoir construction, cold water discharge from existing reservoirs, stream alteration, and pollution. Owing to the species' history of population losses and the vulnerable nature of the populations, threatened status does not appear appropriate for this species. Critical habitat is not being proposed for the Ouachita rock-pocketbook for reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for the Ouachita rock-pocketbook. Loss of even a few individuals to activities such as collection for scientific purposes or private use could extirpate the species. Publication of critical habitat descriptions and maps would increase the vulnerability of the species without significant increasing protection. All Federal and State agencies involved with this species are aware of the species' distribution and precarious situation and realize the importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for the Ouachita rock-pocketbook.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codifed at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the U.S. Army Corps of Engineers' multipurpose reservoir activities and Environmental Protection Agency pollution control and pesticide use programs. The Corps of Engineers has proposed and received authorization to construct Tuskahoma Reservoir on the Kiamichi River; the dam will be located south of the town of Albion. This reach of the river and areas downstream are crucial to the recovery and survival of *A. wheeleri*. Furthermore, the Corps of Engineers has studied the addition of hydropower at Sardis Reservoir, located on Jackfork Creek, a primary tributary of the Kiamichi River near Clayton, Oklahoma. The Environmental Protection Agency would be involved with efforts to prevent water quality degradation and to approve the use of pesticides within the known range of the species.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publications of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Ecological Services Field Office, Tulsa, Oklahoma (see **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the

Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary authors of this proposed rule are J. Allen Ratzlaff (see **ADDRESSES**) and Sonja E. Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
*	* *	*	*	*	*		
Rock-pocketbook, Ouachita (=Wheeler's pearly mussel).	*Arkansia* (=*Arcidens*) *wheeleri*	U.S.A. (AR, OK)	NA	E		NA	NA
*	* *	*	*	*	*		

Dated: June 7, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–17151 Filed 7–20–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 647

Atlantic Coast Red Drum

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

ACTION: Notice of availability of a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council (Council), in cooperation with the Mid-Atlantic Fishery Management Council, has submitted the Atlantic Coast Red Drum Fishery Management Plan (FMP) for review by the Secretary of Commerce (Secretary). Comments from the public are requested.

DATES: Comments will be accepted until September 17, 1990.

ADDRESSES: Comments should be sent to Rodney C. Dalton, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of the FMP and supporting documents may be obtained from the South Atlantic Fishery Management Council, Southpark Building, suite 306, 1 Southpark Circle, Charleston, SC 29407, telephone 803–571–4366.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton (Plan Coordinator), 813–893–3722.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a Council-prepared fishery management plan be submitted to the Secretary for review and approval or disapproval. The Magnuson Act also

requires that the Secretary, upon receiving the document, immediately publish a notice of its availability for public review and comment. The Secretary will consider public comments in determining approvability of the document.

The FMP proposes to manage the fishery for red drum within the exclusive economic zone (EEZ) in the Atlantic Ocean from the east coast of Florida to the New York/New Jersey border. The FMP proposes: (1) Prohibition of all harvest or possession of red drum in or from the EEZ by commercial or recreational fishermen until the spawning stock biomass per recruit (spawning potential) recovers to 30 percent of the level that existed under the unfished condition; (2) a procedure for preparation and review of stock assessments to support specification of total allowable catch and allocations once the stock recovers; and (3) establishment of a January 1–December 31 fishing year. Recommendations to the states to adopt more restrictive measures that will ensure adequate escapement of juvenile fish to the adult spawning stock are also included in the FMP.

The Council prepared a draft environmental impact statement for the FMP and the Environmental Protection Agency published a notice of its availability on April 6, 1990 (55 FR 12887). Proposed regulations to implement the FMP are scheduled to be published August 2, 1990.

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

Dated: July 17, 1990.

Richard H. Schaefer,

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

[FR Doc. 90–17149 Filed 7–18–90; 2:20 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 141
Monday, July 23, 1990

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

DEPARTMENT OF AGRICULTURE

Forest Service

Additions to the Alpine Lakes Wilderness, Mr. Baker-Snoqualmie National Forest, King County, WA; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction notice.

SUMMARY: This is a correction to the notice which appeared in the May 31, 1990, **Federal Register** (55 FR 22044–22045). The correction should be made in the land parcel description for T. 23 N., R. 10 E, W.M. The description following section 31 should read as follows: section 31, that portion south of a line running between angle points 98–9 and 98–10; sections 32, 33, 34, 35, 36.

FOR FURTHER INFORMATION CONTACT: David Odahl at Mt. Baker-Snoqualmie National Forest, 1022 First Avenue, Seattle, WA 98104, phone (206) 442–1083. Maps of the Alpine Lakes Wilderness with the acreage additions are available.

Dated: July 13, 1990.

Richard A. Ferraro,

Acting Regional Forester.

[FR Doc. 90–17123 Filed 7–20–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

The Department of Commerce has submitted to OMB a revised plan for collecting data for the Cotton Ginnings Census Program under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and is requesting an expedited clearance by July 20, 1990. The information regarding the Cotton Ginnings Census Program which appeared in Volume 55, No. 106, of the **Federal Register** dated June 1, 1990, reamins exactly the same except for the elimination of Form CAG5A. Copies of the forms to be used in this data collection are printed below.

July 16, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

OMB No. XXXX-XXXX: Approval Expires

NOTICE — Response to this inquiry **is required by law (title 13, U.S. Code).** By the same law, your report to the Census Bureau is **confidential.** It may be used only for statistical purposes and it may be seen only by sworn Census employees.

FORM **CAg-1A** (7-12-90)

U.S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS

COTTON GINNED FROM THIS CROP PRIOR TO MAILING DATE

CROP OF 1990

INSTRUCTIONS

Please complete this report for the gin listed on the reverse side and mail this report on the date indicated in the lower right-hand corner. A preaddressed envelope is enclosed for your convenience.

Item 1 — Enter number of bales of upland or pima cotton ginned from this year's crop prior to the mailing date. If no cotton was ginned, enter "None."

Item 2 — Enter your best estimate of the number of bales you expect to gin after the mailing date.

If ginning is completed for the season or if the gin has been dismantled or destroyed, mark the appropriate box under Remarks.

If you own or operate more than one gin, a separate report must be prepared for each gin.

COMPLETE FORM ON REVERSE SIDE

Remarks

☐ Ginning completed ☐ Gin dismantled ☐ Gin destroyed

MAILING DATE **AUGUST 1**

CROP OF 1990

COTTON GINNED FROM THIS CROP PRIOR TO MAILING DATE

SEE INSTRUCTIONS ON REVERSE SIDE				Upland	Pima
Location of gin	State	County	**1. How many bales of cotton were ginned prior to August 1 from this year's crop? . . . . .**	Bales	Bales
			2. About how many MORE bales do you expect to gin from the above date to end of season?	Bales	Bales

CERTIFICATION — I certify that information contained in this report is complete and correct to the best of my knowledge and belief.

Signature

Date

MAILING DATE **AUGUST 1**

(Please correct any error in name, address, and ZIP Code)

FORM CAg-1A

Note: This form will be renumbered as follows for the mailing dates shown below. The only change to the form is form number and the mailing date.

Form Number	Mailing Date
CAg-1B	September 1
CAg-1D	October 1
CAg-1F	November 1
CAg-1H	December 1
CAg-1J	January 1
CAg-1L	February 1

Note: This form will be renumbered as follows for the mailing dates shown below. The only change to the form is form number and the mailing date.

Form No.	Mailing date
CAg-1B	September 1
CAg-1D	October 1
CAg-1F	November 1
CAg-1H	December 1
CAg-1J	January 1
CAg-1L	February 1

OMB No. XXXX XXXX: Approval Expires

NOTICE — Response to this inquiry **is required by law (title 13, U.S. Code).** By the same law, your report to the Census Bureau is **confidential.** It may be used only for statistical purposes, and it may be seen only by sworn Census employees.

INSTRUCTIONS

Please complete this report for the gin listed on the reverse side and mail this report on the date indicated in the lower right-hand corner. A preaddressed envelope is enclosed for your convenience.

Item 1 — Enter number of bales of upland or pima cotton ginned from this year's crop prior to the mailing date. If no cotton was ginned, enter "None."

If ginning is completed for the season or if the gin has been dismantled or destroyed, mark the appropriate box under Remarks.

If you own or operate more than one gin, a separate report must be prepared for each gin.

COMPLETE FORM ON REVERSE SIDE

FORM **CAg-1C** (7-12-90)

U.S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS

COTTON GINNED FROM THIS CROP PRIOR TO MAILING DATE

CROP OF 1990

Remarks

☐ Ginning completed ☐ Gin dismantled ☐ Gin destroyed

MAILING DATE **SEPTEMBER 15**

CROP OF 1990

COTTON GINNED FROM THIS CROP PRIOR TO MAILING DATE

SEE INSTRUCTIONS ON REVERSE SIDE

Location of gin	State	County

1. How many bales of cotton were ginned prior to September 15 from this year's crop?	Upland	Pima
	Bales	Bales

CERTIFICATION — I certify that information contained in this report is complete and correct to the best of my knowledge and belief.

Signature

Date

MAILING DATE **SEPTEMBER 15**

(Please correct any error in name, address, and ZIP Code)

FORM CAg-1C

Note: This form will be renumbered as follows for the mailing dates shown below. The only change to the form is form number and the mailing date.

Form Number	Mailing Date
CAg-1E	October 15
CAg-1G	November 15
CAg-1I	December 15
CAg-1K	January 15

Note: This form will be renumbered as follows for the mailing dates shown below. The only change to the form is form number and the mailing date.

Form No.	Mailing date
CAg-1E	October 15
CAg-1G	November 15
CAg-1I	December 15
CAg-1K	January 15

OMB No. XXXX-XXXX: Approval Expires

NOTICE — Response to this inquiry **is required by law (title 13, U.S. Code).** By the same law, your report to the Census Bureau is **confidential.** It may be used only for statistical purposes and it may may be seen only by sworn Census employees.

PLEASE READ INSTRUCTIONS AND COMPLETE FORM ON REVERSE SIDE

(Please correct any error in name, address, and Zip Code)

FORM **CAg-3** (7-12-90) U.S. DEPT. OF COMMERCE BUREAU OF THE CENSUS

COTTON GINNED FROM THIS CROP BY COUNTIES IN WHICH GROWN AND BALE WEIGHT REPORT OF COTTON GINNED CROP OF 1990

CERTIFICATION — I certify that information contained in this report is complete and correct to the best of my knowledge and belief.

Signature Date

Remarks

CROP OF 1990 **COTTON GINNED FROM THIS CROP, BY COUNTIES IN WHICH GROWN, AND BALE WEIGHT REPORT**

Location of gin	State	County

County in which grown (1)	NUMBER OF BALES Ginned (2)	To be ginned (3)	Total (4) Upland	Total (4) Pima
GRAND TOTAL →				

5. Total NET weight *(exclude bagging and ties)* of bales ginned → lbs.

INSTRUCTIONS

Please complete this report for the gin listed in the address label and mail your report in the enclosed preaddressed envelope.

Enter: (1) name of county in which cotton was grown, (2) number of bales ginned, (3) number of additional bales you expect to gin, and (4) total number of bales. If no cotton was ginned, enter "None" in the space provided for bales.

For example, if all cotton ginned was grown in the county where the gin is located, fill columns (1) through (4). If, however, your gin is in Lowndes County and you have ginned 850 bales of cotton, some from each of three counties, your entries might be: Lowndes County, 700; Dallas, 100; and Wilcox, 50.

Enter: (5) Total NET weight in pounds (exclude bagging and ties) of cotton ginned from this year's crop.

If you own or operate more than one gin, a separate report must be made for each gin.

FORM CAg-3

OMB No. XXXX-XXXX: Approval Expires

PLEASE FILL IN THE FOLLOWING FOR YOUR GIN:

The Census Bureau is required by law to collect cotton-ginning statistics from all gin operators in the United States.

1. Owner of gin

2. Operator of gin

FORM CAg-5
(4-23-90)

U.S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS

PRECANVASS OF GINS
CROP OF 1990

3. Employer Identification (EI) No. of gin (9-digits)

		–							

(Please correct any error in name, address, and Zip Code)

4. County in which gin is located

5. Expected date ginning will start

6. The Bureau of the Census has available a Ginner's Record Book. Please mark if you would like a copy free of charge.

☐ Yes → No. of copies _____ ☐ No

7. Name of person to contact for report

Gin telephone No.	Home telephone No.

► ***PLEASE RETURN IN THE PREADDRESSED ENVELOPE*** ◄

[FR Doc. 90-17039 Filed 7-23-90; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

[A-122-506]

Oil Country Tubular Goods From Canada; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by a respondent, the Department of Commerce has conducted two administrative reviews of the antidumping duty order on oil country tubular goods from Canada. The review covers one exporter and two consecutive periods from January 1, 1986 through May 31, 1988. As a result of the reviews, the Department has preliminarily determined that margins exist.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 29, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph B. Kaesshaefer, Jr. or Linda L. Pasden, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 21782, June 16, 1986) the antidumping duty order on oil country tubular goods from Canada. On June 30, 1987 and June 30, 1988, respondent requested that we conduct administrative reviews for the first review period beginning on January 1, 1986 and ending on May 31, 1987, and the second review period beginning June 1, 1987 and ending on May 31, 1988. We published notices of initiation of the antidumping administrative reviews on July 17, 1987 and July 28, 1988. The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided in section 1202 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of OCTG from Canada. This includes API-specification oil country tubular goods and all other pipe with the following characteristics used in OCTG applications: length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for oil country tubular goods, with tolerances of plus ⅛ inch for diameters greater than 8⅝ inches and plus ¼ inch for diameters greater than 8⅝ inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for oil country tubular goods; and a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength. Additionally, oil country tubular goods with seams includes only pipe using the electric resistance welding technique. During the periods of review, and until January 1, 1989, such merchandise was classifiable in the Tariff Schedules of the United States Annotated ("TSUSA") under item numbers 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.2358, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3295, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4225, 610.4230, 610.4235, 610.4240, 610.4310, 610.4320, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. Since January 1, 1989, the merchandise is classifiable under HTS item numbers 7304.20, 7305.20, and 7306.20. The TSUSA and HTS item numbers are provided for convenience and Customs

purposes. The written description remains dispositive.

The reviews cover the shipments of one exporter of oil country tubular goods from Canada to the United States and the first review period beginning on January 1, 1986 and ending on May 31, 1987, and the second review period beginning on June 1, 1987 and ending on May 31, 1988. Verification was conducted at Christianson Pipe Limited (Christianson), Calgary, Alberta, Canada, from March 28 through March 30, 1990.

United States Price

In calculating the United States price, the Department used purchase price as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the f.o.b. Calgary price to unrelated purchasers prior to importation into the United States. For purchase price sales, where applicable, we made deductions for U.S. duty, U.S. user fees, U.S. brokerage, and freight. In accordance with 772(d)(1)(c) of the Tariff Act, we added to the United States price the amount of the Federal sales taxes that would have been collected on the export sale had it been subject to the tax. We computed the hypothetical amount of the taxes added to the United States price by multiplying Christianson's acquisition price by the Federal tax rate. We assumed that all export sales would be subject to the Federal tax. The British Columbia provinical tax was not added to the United States price because it was not forgiven by reason of the exportation of the United States.

Foreign Market Value

In calculating the foreign market value ("FMV"), the Department used home market price as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a reliable basis for comparison. Home market price was based on the f.o.b. Calgary price to unrelated purchasers in the home market. We made adjustments, where appropriate, for inland freight expenses, federal and provinical sales taxes, and differences in credit expenses. We did not adjust for commissions because the indirect selling expenses incurred on sales to the United States were not provided. For sales where we had no identical merchandise, we used sales of similar merchandise. No adjustments were claimed for physical differences.

We made a circumstance of sale adjustment to FMV in the amount of the difference in tax between the two markets, in order to insure a tax-neutral margin.

Petitioner claims that Christianson's sales in the U.S. market were made below cost. Their claim has not been addressed because these allegations were untimely filed for both the first and second reviews.

Preliminary Results of the Review

As a result of our comparison of the United States Price to foreign market value, we have preliminarily determined that the following margins exist for Christianson:

Period of review	Margin
1/1/86 to 5/31/87	1.53
6/1/87 to 5/31/88	4.00

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested parties may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after May 31, 1988 and who is unrelated to any reviewed firm, a cash deposit of 4.00 percent will be required.

These deposit requirements are effective for all shipments of oil country tubular goods from Canada, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations.

Dated: July 13, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-17040 Filed 7-20-90; 8:45 am]

BILLING CODE 3510-DA-M

[C-355-001]

Leather Wearing Apparel From Uruguay; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on leather wearing apparel from Uruguay. We preliminarily determine the net subsidy to be 0.12 percent *ad valorem* for the period January 1, 1988 through December 31, 1988. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1989, the Department of Commerce (the Department) published in the Federal Register (54 FR 47251) the final results of its last administrative review of the countervailing duty order on leather wearing apparel from Uruguay (47 FR 31032; July 16, 1982). On July 31, 1989, we received a request from the Government of Uruguay that we conduct an administrative review of this order. We published the initiation on August 22, 1989 (54 FR 34804) for the period January 1, 1988 through December 31, 1988. The Department has now conducted its

review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Uruguayan leather wearing apparel and parts and pieces thereof. During the period of review, such merchandise was classifiable under item numbers 791.7620, 791.7640 and 791.7660 of the *Tariff Schedules of the United States Annotated.* These products are currently classifiable under item numbers 4203.10.4030, 4203.10.4060 and 4203.10.4090 of the *Harmonized Tariff Schedule* (HTS). The HTS item numers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1988 through December 31, 1988, and four programs.

Analysis of Programs

(1) Export Tax Refunds (ETRs)

On July 25, 1983, the Government of Uruguay instituted a system of indirect tax refunds on exports of leather wearing apparel (Decree 289/983) for all shipments of the merchandise exported on or after January 1, 1983. Until May 24, 1984, the amounts of these refunds, which are issued in the form of tax certificates, ranged from 1.7 to 2.9 percent of the f.o.b. value of the merchandise, depending on the type of leather used in the garment. The Government of Uruguay suspended this program from May 25, 1984 (Decree 200/984) until July 10, 1985, when it was reinstated with the same or slightly lower (1.7 to 2.6 percent) refund rates (Decree 309/985).

In our review of the period April 17, 1982 through December 31, 1983, we established the requisite linkage between the payment of ETRs and the incidence of indirect taxes. In subsequent reviews, we verified that the total indirect tax incidence of leather wearing apparel exports to the United States was higher than the rebate rates. There were no changes in this program or in the amounts of the ETRs during the current period of review. Accordingly, we preliminarily determine that there were no overrebates under this program during the review period.

(2) Bonification Payments

Bonification Payments (BPs) are export rebates bestowed on the value of the processed wool portion of the leather wearing apparel. Because these payments are limited to exporters and not linked to the payment of indirect taxes, we preliminarily determine that this program confers an export subsidy.

Two of the 20 known Uruguayan exporters of leather wearing apparel received such payments on shipments of this merchandise to the United States during the period of review. Because we found that the exporters were able to tie their BPs to exports to the United States, we measured the benefit only from BPs on U.S. shipments. We allocated each company's benefit over the value of its U.S. shipments during the review period and then weight-averaged the resulting benefits by each company's proportion of total exports to the United States during the period of review. We preliminarily determine the benefit from this program to be 0.12 percent *ad valorem.*

(3) Uncollected Social Security Taxes

On May 11, 1982, the Government of Uruguay notified the Department that it has ceased its efforts to collect social security taxes that the leather wearing apparel industry had not paid in 1980.

Because the Government of Uruguay was not able to collect these taxes, we consider the uncollected taxes to be a grant given on the date the government officially declared the taxes uncollectable. We consider the amount of the grant to be the total amount of the uncollected taxes plus the interest which would have accrued from June 16, 1981 (the date on which the Uruguayan government agreed to eliminate all benefits on leather wearing apparel exports to the United States) to May 11, 1982. We used as our benchmark interest rate the prime rate available in Uruguay in 1981.

To calculate the benefit, we used a declining balance methodology. We allocated the grant over 11 years, the average useful life of assets in the leather wearing apparel industry, according to the Asset Guideline Classes of the Internal Revenue Service. We used as the discount rate the short-term 1982 interest rate, as published by the Central Bank of Uruguay, because we have no information on long-term interest rates or on the weighted cost of capital in the leather wearing apparel industry for that year.

We allocated the benefit attributable to the review period over total Uruguayan production of the merchandise for that year. On this basis, we preliminarily determine the benefit from this program to be 0.001 percent *ad valorem* for the period of review.

(4) Preferential Export Financing

Central Bank Circular No. 1.229 of July 5, 1985, instituted a system of short-term preferential rate loans for "non-traditional" exports. Leather wearing apparel is considered a non-traditional export. However, Article 3 of Decree 309/985 of July 10, 1985 (the Decree which reinstituted the ETRs), prohibited these loans on certain specified exports, including leather wearing apparel.

Accordingly, we preliminarily determine that this program was not used by Uruguayan leather wearing apparel exporters during the review period.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 0.12 percent *ad valorem* for shipments of Uruguayan leather wearing apparel exported to the United States during the period January 1, 1988 through December 31, 1988. In accordance with 19 CFR 355.7, any rate less than 0.05 percent *ad valorem* is *de minimis.*

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported from Uruguay on or after January 1, 1988 and on or before December 31, 1988.

Further, the Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise from Uruguay which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguements in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case briefs. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 11, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-17041 Filed 7-20-90; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 900537-0137]

Continuation of Fire Research Grants Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice; announcing continuation of Fire Research Grants Program.

SUMMARY: The purpose of this notice is to inform potential applicants that the Center for Fire Research, National Institute of Standards and Technology, is continuing its Fire Research Grants Program. Previous notices of this research grant program were published in the **Federal Register** on February 20, 1981 (46 FR 13250), November 19, 1984 (49 FR 45636), May 6, 1986 (51 FR 16730), June 5, 1987 (52 FR 21342), June 6, 1988 (53 FR 20675), and May 31, 1989 (54 FR 23243). (Catalog of Federal Domestic Assistance No. 11.609 "Measurement and Engineering Research and Standards.")

CLOSING DATES FOR APPLICATIONS: Proposals must be received no later than close of business September 30, 1990.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 as referenced under the provisions of OMB Circular A-110 to: Center for Fire Research, Attn: Sonya Cherry, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Sonya Cherry, (301) 975-6854.

ELIGIBILITY: Academic institutions, Non-Federal agencies, and independent and industrial laboratories.

SUPPLEMENTARY INFORMATION: As authorized by Section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), the NIST Center for Fire Research conducts directly and through grants and cooperative agreements, a basic and applied fire research program. This program has been in existence for several years at approximately $1.5 million per fiscal year. No increase in funds has taken place. The Fire Research Grants Program is limited to innovative ideas which are generated by the proposal writer on what research to carry out and how to carry it out. Proposals will be considered for research projects from one to three years. When a proposal for a multi-year grant is approved, funding will be provided for only the first year of the program. Funding for the remaining years of the program is contingent on satisfactory performance and subject to the availability of funds, but no liability shall be assumed by the government because of non-renewal or non-extension of a grant. All grant proposals submitted must be in accordance with the programs and objectives listed below. For clarity of the program objectives, you may contact Dr. Andrew J. Fowell (301) 975-6850.

Program Objectives

(a) Combustion and Flammability: Develop the methods to measure and predict the gas and condensed phase combustion processes, and their relationships to determining the flammability properties of materials.

(b) Fire Dynamics: Develop the methods to measure and predict the fire processes of materials and products in realistic environments.

(c) Building Fire Physics: Develop techniques of smoke transport phenomena due to building fires, and to extend the capabilities of fire protection analysis.

(d) Smoke Dynamics Research: Product scientifically sound principles, metrology, data, and predictive methods for the formation/evolution of smoke components in flames for use in understanding and predicting general fire phenomena.

(e) Fire Toxicity Measurement: Develop accurate methods for the generation and measurement of combustion products and for determining the impact of the combustion products on living organisms.

(f) Fire Hazard Analysis: Develop analytical systems for the quantitative prediction of the threats to people and property from fires and the means to assess the accuracy of those methods.

(f) Fire Suppression Research: Develop understanding of fire extinguishment processes and derive techniques to measure and predict the performance of fire protection and fire fighting systems.

Proposal Review Process

All proposals are assigned to the appropriate group leader of the seven programs listed above for review, including external peer review, and recommendations on funding. Both technicals value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Center Director. Applicants should allow up to 60 days processing time. Proposals are evaluated for technical merit by at least three professionals from NIST, the Center for Fire Research, or technical experts from other interested government agencies and in the case of new proposals, experts from the fire research community at large.

Evaluation Criteria

Rationality	0-20 Points.
Qualification of Technical Personnel	0-20 Points.
Resources Availability	0-20 Points.
Technical Merit of Contribution	0-40 Points.

The results of these evaluations are transmitted to the head of the appropriate research unit in the Center for Fire Research who prepares an analysis of comments and makes a recommendation. The Center of Fire Research unit head will also consider compatibility with programmatic goals and financial feasibility.

Paperwork Reduction Act

The SF-424 mentioned in this notice is subject to the requirements of the Paperwork Reduction Act and it has been approved by OMB under Control No. 0348-0006.

Additional Requirements

All applicants must submit a certification ensuring that employees of the applicant are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance at the work site, as required by the regulations implementing the Drug-Free Workpace of 1988, 15 CFR part 26, subpart F.

Applicants are subject to the Governmentwide Debarment and Suspension (Nonprocurment) requirements as stated in 15 CFR part 26.

Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying

Activities" (if applicable), is required to be submitted with any application.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment. Any recipient/applicant who has an outstanding indebtedness to the Department of Commerce will not receive a new award until the debt is paid or arrangement satisfactory to the Department are made to pay the debt.

Awards under the Fire Research Program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

Dated: July 17, 1990.

John Lyons,

Director.

[FR Doc. 90-17148 Filed 7-20-90; 8:45 am]

BILLING CODE 3510-13-M

Senior Executive Service; Membership of General and Limited Performance Review Boards

The General Performance Review Board (GPRB) reviews performance agreements, appraisals, ratings, and recommended actions pertaining to employees in the Senior Executive Service and makes appropriate recommendations to the Director of NIST concerning such matters in such a manner as will assure the fair and equitable treatment of senior executives. The GPRB performs its review functions for all NIST senior executives except those who are members of the NIST executive Board and those who are members of the GPRB.

The Limited Performance Review BOAD (LPRB) performs its review functions for all NIST senior executives who are members of the NIST Executive Board (except the NIST Deputy Director) and those senior executives who are members of the NIST GPRB.

Individuals who have been newly appointed by the Director of NIST to membership on the GPRB and LPRB or have had their term of membership extended are listed below:

GPRB

Dr. James E. Hill (Chair), Chief, Building Environment Division, National Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment expires December 31, 1991.

Mr. Allen L. Hankinson, Chief, Systems and Software Technology Division, National Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment expires December 31, 1991.

Dr. Willie E. May, Chief, Organic Analytical Research Division, National Measurement Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment expires December 31, 1991.

Dr. Alvin H. Sher, Assistant Director for Management Information Technology, National Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment expires December 31, 1991.

LPRB

Mr. Karl E. Bell, Deputy Director, Office of the Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment expires December 31, 1991.

The full membership and expiration dates of the GPRB and LPRB are listed below:

GPRB

Dr. James E. Hill, (Chair), Chief, Building Environment Division, National Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

Mr. Allen L. Hankinson, Chief, Systems and Software Technology Division, National Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

Mr. E. Larry Heacock, Director, Office of Satellite Operations, National Environmental Satellite Data and Information Service, National Oceanic and Atmospheric Administration, Washington, DC 20233. Appointment expires: 12/31/90.

Dr. Willie E. May, Chief, Organic Analytical Research Division, National Measurement Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

Dr. Alvin H. Sher, Assistant Director for Management Information Technology, National Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

Dr. Donald J. Sullivan, Chief, Time and Frequency Division, National Measurement Laboratory, National Institute of Standards and Technology, Boulder, CO 80303. Appointment expires: 12/31/90.

Dr. Sheldon Wiederhorn, Scientific Assistant to the Director, Institute for Materials Science and Engineering, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

LPRB

Dr. Burton H. Colvin (Chair), Director for Academic Affairs, Office of the Director, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

Mr. Thomas N. Pyke, Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Washington, DC 20233. Appointment expires: 12/31/90.

Mr. Karl E. Bell, Deputy Director, Office of the Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899. Appointment expires: 12/31/90.

For further information contact Mrs. Elizabeth W. Stroud, Chief, Office of Personnel and Civil Rights, National Institute of Standards and Technology, Gaithersburg, telephone 301-975-3000.

Dated: July 17, 1990.

John W. Lyons,

Director.

[FR Doc. 90-17147 Filed 7-20-90; 8:45 am]

BILLING CODE 3510-13-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

July 13, 1990.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent

and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

Department of the Army

SN 7–481,922 All Optical Device and Method for Remapping Images
SN 7–487,512 Method for Obtaining the Spectra of an Unstable Product
SN 7–495,553 Continuous On-Link Error Rate Detector
SN 7–502,968 Active Lag Angle Device
SN 7–503,015 Multicolor Infrared Photodetector
SN 7–509,112 Device and Method for Detecting and Displaying Crossover Pattern in Precision Winding

Department of Commerce

SN 7–292,176 Aluminum Hydroxides as Solid Lubricants
(4,919,829)

Department of Health and Human Services

SN 7–281,778 (4,919,803) Liquid Chromatographic Chiral Stationary Phase and Method for the Resolution of Racemic Compounds Using the Same
SN 7–364,379 Contraceptive Vaccine Based on Cloned Zona Pellucida Gene
SN 7–421,900 Total Synthesis of Northebaine, Normorphine, Noroxymorphone Enantiomers and Derivative Via N-Nor Intermediates
SN 7–422,791 Evaluative Means for Detecting Inflammatory Reactivity and for Predicting Response to Stress (measuring level of hormones secreted by pituitary or adrenal)
SN 7–422,801 Production and Use of Human NM23 Protein and Antibodies Thereof (to predict malignancy potential of tumors)
SN 7–435,022 rRNA Specific Oligonucleotides (inhibitors of protein synthesis)
SN 7–451,689 Safety Pipette and Adaptor Tip
SN 7–451,953 Hepatocellular Oncogene (sequence detection, diagnosis of carcinoma)
SN 7–467,407 Vector With Multiple Target Response Elements Affecting Gene Expression (activation and inhibition responses)
SN 7–467,939 Co-Independent Growth Medium for Maintenance and Propagation of Cells
SN 7–468,929 Use of Arsenite to Reversibly Block Steroid Binding to Glucocorticoid Rece[tprs in the Presence of Other Steroid Receptors
SN 7–469,143 A Rapid and Sensitive Test for Detecting Hepatitis A Virus
SN 7–470,692 Inhibition of Human Immunodeficiency Virus-1 Infectivity in Human Cells (use of amodiquine, chloroquine, hydroxychloroquine, quinacrine or primaquine)
SN 7–472,128 Novel Receptor for Pathogenic Fungi
SN 7–472,855 Novel Antioxidant in Humans, Composition Thereof and Method of Treating Oxidant Related Disorders (treating airway disorders with uric acid)
SN 7–474,469 Human Synexin and Cloned Gene Therefor
SN 7–474,497 New Method for Treating Immunodeficiency or Neutropenia
SN 7–478,075 Branched Alkyl Esters of 4-bis(Chloroethyl) Aminophenyl-Alkyl Carboxylic Acids for Treatment of Primary and Metastatic Tumors of the Lymphatic System, and of Cancers of the Breast and Ovaries
SN 7–485,551 Method for the Immune Capture and Detection of Borrelia Burgdorferi Antigens in Fluids and Tissues from Infected Ticks, Mice, Dogs and Humans, Test Kit Therefor, Purified Antigen of Borrelia Burgdorferi and Antibody Capable of Binding Therewith (diagnosis of Lyme disease)
SN 7–494,532 Nitroxides as Protectors Against Oxidative Stress
SN 7–500,913 Suramin and Active Analogues Thereof in the Treatment of Hypercalcemia
SN 7–501,797 Fluorogenic Substrates for Measurement of Lysosomal Enzyme Activities Within Intact Cells
SN 7–501,798 Method and Composition for Growing Tumors From Few Cells
SN 7–502,121 Plastics Having Inert, Vapor-Impermeable, Diamond Like Carbon Coatings Thereon
SN 7–505,268 Method and Apparatus for Testing The Permeability of Prophylactics

Department of the Interior

SN 6–258,955 (4,914,955) Soapfilm Flowmeter Device For Measuring Gas Flow Rates
SN 7–461,948 Microwave Induced Plasma Process for Producing Tungsten Carbide
SN 7–461,950 Hydraulically Activated Mechanical Rock Excavator
SN 7–477,395 Gas Separation With Rotating Plasma ARC Reactor
SN 7–480,197 Method and Composition for Controlling Dust Emissions
SN 7–484,089 Method for Selective Separation of Mercury and Silver From Gold Cyanide Solutions By Electrowinning
SN 7–490,898 Bidirectional Draining Pore-Fluid Vessel
SN 7–502,709 Titanium Nitride/Aluminum Oxide/Titanium-Aluminum Oxynitride Composite
SN 7–506,054 Microwave Assisted Hard Rock Cutting
SN 7–411,965 Listeria Monocytogenes Oligonucleotide Probes
SN 7–450,109 Apparatus for Cleaning Cotton
SN 7–461,890 Pheromone Compositions and Methods for Attracting Euschistus spp. Insects
SN 7–469,120 System for Producing Staple-Wrapped Core Yam

Department of Agriculture

SN 7–472,538 A Simple Rapid Method for Gene Transfer
SN 7–476,843 Enxymatic Processing of Materials Containing Chromium and Protein
SN 7–484,549 Dietary Supplementation with Essential Metal Picolinates
SN 7–493,662 Detection and Recovery of Virulent Yersinia Enterocolitica Using Congo Red Agarose Media
SN 7–496,577 Microbial Production of a Novel Compound, 7,10-Dihydroxy-8-Octadecenoic Acid from Oleic Acid
SN 7–496,579 Oligonucleotide Probes Complementary to Treponema Hyodysenteriae RNA Sequence

[FR Doc. 90–17095 Filed 7–20–90; 8:45 am]
BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Request for Proposal Industrial Critique and no OMB Control Number.

Type of Request: New collection.

Average Burden Hours/Minutes per Response: 2 Hours per response.

Frequency of Response: One response per respondent.

Annual Burden Hours: 200.

Annual Responses: 100.

Needs and Uses: The AFSC Commander directed a study to standardize, streamline and improve the Request for Proposal (RFP) process. One need is to get customer participation. We therefore plan to attach a questionnaire to certain threshold

solicitations to get industry feedback. Results from this will be used towards improving our overall RFP process.

Affected Public: Businesses or other for-profit.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe. Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison. Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: July 17, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-17057 Filed 7-20-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Acquisition Streamlining; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Acquisition Streamlining will meet in closed session on 16 and 17 August, 1990, at Science Applications International Corporation (SAIC), McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. This meeting will address initial operational capability timetable for defense systems and equipment currently in development and the results of the initial data collection for the acquisition process model.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. app. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: July 17, 1990.

Linda M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 90-17055 Filed 7-20-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Intent To Prepare Legislative Environmental Impact Statement Strategic Arms Reduction Talks Treaty

The Department of the Air Force and the Department of the Navy announce their intent to prepare a Legislative Environmental Impact Statement (LEIS) for the Strategic Arms Reduction Talks (START) Treaty.

The proposed action to be analyzed is the ratification of the Treaty by the Senate. Possible alternatives include non-ratification or amendment and ratification by the Senate. The Treaty, which is still being negotiated, may require the U.S. to deactivate, destroy or convert selected Strategic Nuclear Delivery Vehicles (SNDVs) and launchers.

The LEIS will be a first tier, programmatic document containing analysis relative to Treaty ratification. Any required environmental documentation for more specific implementation actions will be accomplished in subsequent tiers when those actions are ripe for decision.

In accordance with the President's Council on Environmental Quality regulations (40 CFR 1506.8(b)), no scoping process will be conducted. The LEIS will be delivered to the Senate within 30 days from the time the treaty is submitted to the Senate for ratification.

A Notice of Availability of the LEIS will appear in the **Federal Register** after the LEIS is completed and concurrently submitted to the Senate and filed with the Environmental Protection Agency.

For further information concerning the LEIS please contact:

Lieutenant Colonel George Kehias, USAF, Headquarters, Air Force Logistics Command, HQ AFLC/DEV, Wright-Patterson AFB, OH 45433-5001, (513) 257-9886.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-17121 Filed 7-20-90 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Record of Decision, Johnston Atoll Chemical Agent Disposal System (JACADS)—Second Supplemental Environmental Impact Statement (SEIS) for the Storate and Ultimate Disposal of the European Chemical Munition Stockpile

AGENCY: Department of the Army, DOD.

ACTION: Availability of Record of Decision (ROD).

SUMMARY: This announces the availability of the Record of Decision regarding the movement, storage and ultimate destruction of the U.S. Army's European chemical munition stockpile. The Army's decision is to use Johnston Island, located in the Pacific Ocean, for receipt, storage and ultimate destruction of these munitions currently stored in the Federal Republic of Germany (FRG).

The Department of the Army has prepared this ROD pursuant to regulations of the Council on Environmental Quality (40 CFR part 1505) and the implementing Army Regulations (AR 200-2). This ROD is based on the Army's Draft Second Supplemental Environmental Impact Statement (Draft Second SEIS) for JACADS, all comments thereto, the Final Second Supplemental EIS (Final Second SEIS) and all public and regulatory comments received. With this ROD, the Army has selected the preferred alternative to move the chemical munitions currently stored in Germany to chemical storage and destruction facilities located on Johnston Island. With the adoption of this alternative, the Army can move, store and ultimately destroy the European stockpile with minimal environmental harm.

SUPPLEMENTARY INFORMATION: The proposed project to remove the U.S. chemical munitions currently stored within the FRG has as its genesis Public Law 99-145, as amended by Public Law 100-456, which requires the destruction of the complete unitary chemical stockpile except in the event that an adequate binary capability does not exist or the unitary weapons are needed in a national emergency or war. Former President Reagan and FRG Chancellor Kohl entered into an agreement in 1986 that the United States would remove the munitions by the end of 1992. Subsequently, President Bush has asked the Defense Department to accelerate the schedule. In March 1990, a public announcement was made that the chemical munitions would be removed between July and September 1990.

The proposed project is divided into three phases: Movement of the chemical munitions with FRG; movement over international waters; and receipt, storage and ultimate destruction at a U.S. chemical storage site. This Record of Decision addresses principally the third phase of the movement of the U.S. chemical munitions from Germany.

On June 8, 1990, the Army released its Final Second Supplemental Impact Statement (Final Second SEIS) regarding the destruction of United States chemical weapons stored in the FRG. Alternatives considered were: (1) Movement to and storage on Johnston Island with ultimate destruction at the JACADES facility located on Johnston Island (the agency's preferred alternative); (2) no shipment of chemical munitions form Europe to Johnston Island but destruction of current Johnston Atoll chemical stockpile at JACADES will continue (the no-action alternative and environmentally preferred alternative); (3) use of alternate destruction facilities at one of the eight chemicals storage sites located in the United States; and (4) use of an interim storage location for the European stockpile other than Johnston Island.

Under the no-action alternative, (alternative 2) the European stockpile would never be received at Johnston Island; however, the current Johnston Island chemical stockpile would be destroyed at the JACADS facility. The impacts for this alternative have been presented in detail in the 1983 JACADS EIS, *Final Environmental Impact Statement Johnston Atoll Chemical Agent Disposal System.* A supplement to this EIS was prepared in 1988 to assess alternatives for the disposal of JACADS-produced solid wastes.

Selection of the no-action alternative would preclude our ability to comply with the agreement between former President Reagan and Chancellor Kohl concerning removal of the U.S.-owned European stockpile from the FRG for destruction elsewhere. Moreover, long-term storage at any site could risk violation of Public Law 99–145 as amended by Public Law 100–456. It should be understood that on-site destruction of these munitions without the concurrence of the FRG would create serious international law and diplomatic problems and is, therefore, not a reasonable alternative. That the FRG would not support on-site destruction is indicated by their entering into the Reagan/Kohl agreement. Thus, the no-action alternative would simply delay the removal of these munitions without resolving the destruction question. In sum, the no-action alternative does not advance the Army's mission to destroy U.S. unitary munitions and to remove U.S.-owned munitions from the FRG.

Destroying the European stockpile at one of the eight proposed continental United States chemical disposal facilities (alternative 3) has many disadvantages; a practical reason for not using the facilities located in the United States is the past prohibitions on the movement of chemical stocks to the United States from overseas locations. Other factors militating against this alternative include increased transportation risks and the lacks of compatible storage capabilities at these facilities. Interim storage of the European stockpile at a location outside of the United States other than Johnston Island (alternative 4) is not a viable alternative because no additional chemical storage facilities exist outside of the continental United States.

Johnston Island is the only chemical storage location outside of the U.S. that has available storage igloos and a full scale destruction facility. In general, the effects from destruction of the European stockpile relative to destruction of the existing Johnston Island stockpile are expected to be the same as those assessed in the 1983 JACADS EIS. The wastes generated from the distruction of the European stockpile will not differ form those generated from the destruction of the Johnston Island stockpile. The disposal of liquid and solid wastes generated by the JACADS facility were assessed in the 1988 JACADS first Supplemental EIS (SEIS). The ultimate destruction of the European stockpile will extend the operations of JACADS by approximately 3½ months. No significant incremental impacts are expected because of the increased handling, storage and destruction operations required for the European stockpile.

All practicable means to minimize environmental harm have been adopted for all handling, storage and destruction operations on Johnston Island require for the European stockpile.

Conclusion

The Army believes selection of this alternative will have minimal public health, safety and environmental effects on Johnston Island and the Pacific area and that all practicable means to minimize environmental harm from this alternative have been adopted. With the adoption of this preferred alternative, the Army will move, store and ultimately destroy the European stockpile with minimal environmental harm.

Interested individuals may obtain copies of the Record of Decision by contacting the Program Manager for Chemical Demilitarization, ATTN: SAIL-PMI (Ms. Marilyn, Tischbin), Aberdeen Proving Ground, Maryland 21010–5401.

Hugh M. McAlear,

Colonel, U.S. Army, Assistant for Environment, OASA (I,L&F).

[FR Doc. 90–17156 Filed 7–20–90; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command, Directorate of Inland Traffic; Electronic Data Interchange

AGENCY: Military Traffic Management Command, Department of the Army, Department of Defense.

ACTION: Electronic data interchange of DOD Standard Freight Tenders.

SUMMARY: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), intends to modify the procedures used to receive rates and charges from the commercial transportation industry. This modification is the use of Electronic Data Interchange (EDI) to transmit data contained in DOD Standard Tender of Freight Services, MT Form 364–R. EDI is the electronic transmission of transportation information in lieu of a paper document. Staffing reductions have necessitated a search for more efficient and economical means of conducting business with the transportation industry. We have found that EDI technology meets these requirements in the paper intensive area of freight tenders.

FOR FURTHER INFORMATION CONTACT: Ms. Eunice Anderson, HQ, Military Traffic Management Command, ATTN: MTIN–NT, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, or telephone (703) 756–1149.

SUPPLEMENTARY INFORMATION: Approximately 18,000 tenders and/or supplements are submitted annually by rail, motor, pipeline, barge, and air carriers, and freight forwarders, shipper associations, and shipper agents (hereinafter referred to as "transportation companies") that want to do business with the DOD. *Only those "transportation companies" currently required to file tenders in the MT Form 364–R format will be affected at this time.* To be eligible to participate in EDI, one must be fully qualified in accordance with the criteria and requirements established for doing business with DOD. Once eligible, they

must enter into a trading partner agreement with MTMC. The agreement prescribes the general procedures and policies to be followed when using EDI techniques for transmitting and receiving DOD standard tender data.

DOD is ready to go forward toward full implementation and invites "transportation companies" to join us in moving from the slow, labor intensive, time consuming paper environment to electronic transmission of tender information. DOD has been testing the use of EDI technology for receipt of tender information for several months. Tests with a small number of "transportation companies" have proved successful. Data collected from "transportation companies" for freight transportation service will follow the EDI standards published by the American National Standards Institute (ANSI) X12 and Transportation Data Coordinating Committee (TDCC). These standards are curently utilized by industry in freight transportation transactions.

"Transportation companies" will be brought into the system by groups, i.e., munitions carriers, less-than-truckload carriers, rail carriers, etc. We plan to start with groups that are more labor intensive/time consuming with reference to volume of tenders, problems associated with tenders, etc. *Start-up for each group will be announced in a letter to each member of that particular group. A general information package explaining steps required to start transmitting tender data electronically will be enclosed with each letter. It will also state the kind of equipment necessary. Since all members within a group cannot be introduced to EDI simultaneously, the letter will explain some random method for bringing them on-line.* We plan to designate the first group for start-up on or about October 1, 1990.

Kenneth L. Denton,

Alternate Army Federal Register, Liaison Officer, Department of the Army.

[FR Doc. 90-17051 Filed 7-20-90; 8:45 am]

BILLING CODE 3710-08-M

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 23 July-2 Aug. 1990.

Time: 0800-1730 hours weekdays and as needed on weekends.

Place: Fort Belvoir, VA.

Agenda: The Army Science Board 1990 Summer Studies on The National War on Drugs and Reduction of Operations and Support (O&S) Cost will meet for cumulative briefings, discussions, and report writing sessions for development of the final reports. The briefings will be closed to the public in accordance with section 552(c) of title 5, U.S.C., specifically paragraph (1) thereof, and title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90-17118 Filed 7-20-90; 8:45 am]

BILLING CODE 3710-08-M

Senior Executive Service; Performance Review Boards; Membership

ACTION: Notice.

SUMMARY: Notice is given of the name of an additional member of the Performance Review Board for the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Beverley McDaris, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon (room 2C670), Washington, DC 20310-0300.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, U.S.C. requires each agency to establish, in accordance with regulations, one or more Senior Exective Service performance review boards. The boards shall review and evaluate the initital appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The additional member of the Performance Review Board for the U.S. Army Material Command is:

Brigadier General David A. Nydam, Deputy Commanding General, U.S. Army Armament, Munitions and Chemical Command/Commanding General, U.S. Army Chemical Research, Development and Engineering Command.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 90-17052 Filed 7-20-90; 8:45 am]

BILLING CODE 3710-08-M

Membership of Performance Review Boards

AGENCY: Notice.

ACTION: Notice.

SUMMARY: Notice is given of the names of additional members of the Performance Review Board for the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Beverley McDaris, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon (room 2C670), Washington, DC 20310-0300.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The additional members of the Performance Review Board for the Office of the Secretary of the Army are:

Mr. Michael W. Owen, Principal Deputy Assistance Secretary of the Army (Installations & Logistics), Office of the Assistant Secretary of the Army (Installations, Logistics & Environment).

Mr. Van Darrel Hipp, Jr., Deputy Assistant Secretary of the Army (Reserve Affairs and Mobiliation), Office of the Assistant Secretary of the Army (Manpower & Reserve Affairs).

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 90-17053 Filed 7-20-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 3924-015, et al.]

Hydroelectric Applications; Consulting Associates, Inc., et al.

Take notice that the following hydroelectric applications have been

filed with the Commission and are available for public inspection:

1a. *Type of Filing:* Transfer of License

b. *Project No.:* 3924–015.

c. *Date Filed:* June 26, 1990.

d. *Applicant:* Consulting Associates, Inc. (Transferor) and Malad Hydro Partners (Transferee).

e. *Name of Project:* Malad High Drop.

f. *Location:* On the Malad River in Gooding County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Transferor: Mr. Vernon Ravenscroft, 1843 Broadway, Suite 102, Boise, ID 83706, (208) 345–2670

Transferee: Mr. Kip W. Runyan, Malad Hydro Partners, 333 N. 13th, Boise, ID 83702 (208) 336–4254.

i. *Commission Contact:* Mr. James Hunter (202) 357–0843.

j. *Comment Date:* August 14, 1990.

k. *Description of Proposed Action:* On January 23, 1987, a major license was issued to the Transferor for the construction, operation, and maintenance of the Malad High Drop Project. It is proposed to transfer the license to the Transferee. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that he has fully complied with the terms and conditions of the license. The Transferee agrees to accept all the terms and conditions of the license and be bound thereby to the same extent as though it were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

2a. *Type of Filing:* Surrender of License

b. *Project No.:* 3991–014.

c. *Date Filed:* May 7, 1990.

d. *Applicant:* STS Consultants, Ltd.

e. *Name of Project:* Cross Cut Diversion Dam Project.

f. *Location:* On the Henrys Fork of the Snake River in Fremont County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contacts:*

Mr. Mark J. Sundquist, Vice President, Hydropower Group, 111 Pfingsten Road, Northbrook, IL 60062, (708) 272–6520.

i. *FERC Contact:* Thomas Dean, (202) 357–0841.

j. *Comment Date:* August 20, 1990.

k. *Description of Application:* The proposed project would have utilized the Bureau of Reclamation's Cross Cut Dam and would have consisted of: (1) a 63-foot-long, 91-foot-wide forebay; (2) a 67-foot-long, 68-foot-wide powerhouse approach channel; (3) a powerhouse containing two generating units with a total rated capacity of 1,750 kW; (4) a 15-foot-long tailrace; and (5) a 0.6-mile-long, 12.47–kV transmission line.

The applicant states that the project is not financially feasible with present power rates. No project construction activities has been initiated at the proposed site.

l. *This notice also consists of the following standard paragraphs:* B and C.

3a. *Type of Application:* Transfer of License

b. *Project No.:* 8945–002.

c. *Date Filed:* March 28, 1990.

d. *Applicant:* Richard D. Ely III and Mansfield Hydro Corporation.

e. *Name of Project:* Natchaug Project.

f. *Location:* On the Natchaug River in Windham and Mansfield Counties, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Richard N. Ely III, 140 Brookside Lane, Mansfield Center, CT 06250, (203) 487–1395.

i. *FERC Contact:* Robert Bell (tag) (202) 357–0806.

j. *Comment Date:* August 13, 1990.

k. *Description of Project:* On June 29, 1988, a license was issued to Richard D. Ely III (licensee), to construct, operate and maintain the Natchaug Project No. 8945. The Licensee intends to transfer the license to the licensee and Mansfield Hydro Corporation to facilitate the continued financing, construction, and operation of the project.

l. *This notice also consists of the following standard paragraphs:* B and C and D2.

4a. *Type of Application:* Surrender of License

b. *Project No.:* 9687–005.

c. *Date Filed:* April 26, 1990.

d. *Applicant:* Chocorua Forestlands Limited Partnership.

e. *Name of Project:* Lovell River/White Brook Project.

f. *Location:* On the Lovell River and White Brook in Carroll County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contacts:*

Mr. Jeff Coombs, RFD 2, Bath, NH 03740.

i. *FERC Contact:* Michael Dees (202) 357–0807.

j. *Comment Date:* August 16, 1990.

k. *Description of Project:* On January 30, 1987, a license was issued to construct, operate, and maintain the Lovell River/White Brook Project No. 9687. The project would consist of:

(a) At the Lovell River site, (1) a concrete intake structure 10 feet long, 6 feet wide and 4 feet deep at an elevation of 1,360 NGVD; (2) a concrete diversion wall 35 feet long and 3 feet high; (3) a 16-inch-diameter plastic penstock 3,700 feet long; (4) a wood frame powerhouse 10 feet long and 10 feet wide housing a turbine-generator of 76–kW capacity at a net hydraulic head of 183 feet; (5) a tailrace 200 feet long; (6) a 7.2–kV transmission line 1.3 miles long; (7) the 0.48–kV generator leads; (8) the 0.48/7.2–kV, single-phase, pad-mounted transformer; and (9) appurtenant facilities.

(b) At the White Brook site, (1) a concrete intake structure 10 feet long, 6 feet wide, and 4 feet deep at an elevation of 1,265 NGVD; (2) a concrete diversion wall 12 feet long and 3 feet high; (3) a 12-inch-diameter plastic penstock 4,500 feet long; (4) a wood frame powerhouse 10 feet long and 10 feet wide housing a turbine-generator of 50–kW capacity at a net hydraulic head of 244 feet; (5) a 480-volt transmission line 75 feet long; (6) the 0.48–kV generator leads; (7) the 0.48/7.2–kV, single-phase, pad-mounted transformer; and (8) appurtenant facilities.

Licensee states that the project is infeasible.

l. *This notice also consists of the following standard paragraphs:* B and C and D2.

5a. *Type of Application:* Surrender of License

b. *Project No.:* 9688–011.

c. *Date Filed:* April 26, 1990.

d. *Applicant:* Chocorua Forestlands Limited Partnership.

e. *Name of Project:* Weed Brook/Halfway Brook Project.

f. *Location:* On the Weed Brook and Halfway Brook, Carroll County, New Hampshire

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Jeff Coombs, RFD 2, Bath, NH 03740.

i. *FERC Contact:* Michael Dees (202) 357–0807.

j. *Comment Date:* August 16, 1990.

k. *Description of Project:* On March 30, 1987, a license was issued to construct, operate, and maintain the Weed Brook/Halfway Brook Project No. 9688. The project would consist of:

(a) At the Weed Brook site, the project would consist of: (1) a concrete intake structure 12 feet long, 6 feet wide, and 4 feet deep at an elevation of 1,400 feet NGVD; (2) a concrete diversion wall 8 feet long and 2 feet high; (3) a 10-inch-diameter plastic penstock 5,300 feet long; (4) a powerhouse 10 feet long and 10 feet wide housing a turbine-generator of 57-kw capacity at a net hydraulic head of 440 feet; (5) the 0.48-kV

generator leads; (6) the 3-phase, 0.48/12.5-kV transformer; (7) the 200-foot-long, 0.48-kV and the 50-foot-long,12.5-kV transmission lines; and (8) appurtenant facilities.

(b) At the Halfway Brook site, the project would consist of: (1) a concrete intake structure 12 feet long, 6 feet wide, and 4 feet deep at an elevation of 1,320 feet NGVD; (2) a concrete diversion wall 18 feet long and 2 feet high; (3) a 12-inch-diameter plastic penstock 2,600 feet long; (4) a powerhouse 10 feet long and 10 feet wide housing a proposed turbine-generator of 25-kW capacity at a net hydrulic head of 230 feet; (5) a 480 volt transmission line 100 feet long and a 7.2-kV transmission line 75 feet long; (6) the 0.48-kV generator leads; and (7) appurtenant facilities.

Licensee states that the project is infeasible.

l. *This notice also consists of the following standard paragraphs:* B and C and D2.

6a. *Type of Application:* Transfer of License

b. *Project No.:* 9886–006.

c. *Date Filed:* May 22, 1990.

d. *Applicant:* Valatie Falls Hydro Co. (licensee) Valatie Falls Hydro Power Inc. (transferee).

e. *Name of Project:* Valatie Falls Project.

f. *Location:* On Kinderhook Creek, Columbia County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:*

Mr. P.S. Eckhoff, Box 158, Stuyvesant Falls, NY 12174.

i. *FERC Contact:* Michael Dees (202) 357–0807.

j. *Comment Date:* August 6, 1990.

k. *Description of Proposed Action:* On May 22, 1990, the licensee and transferee filed a joint application to transfer the license for the Valatie Falls Project No. 9886. The proposed transfer will not result in any change in the project. The transferee states that it would comply with all terms and conditions of the license. The purpose of the transfer is to provide an unlimited life for the licensee and to facilitate the financing of the project.

Applicants have requested that approval of the transfer be made effective as of July 27, 1988, the date of incorporation of the transferee.

l. *This notice also consists of the following standard paragraphs:* B and C.

7a. *Type of Filing:* Major License.

b. *Project No.:* 10081–002.

c. *Date Filed:* March 30, 1990.

d. *Applicants:* County of Tuolumne, California and Turlock Irrigation District.

e. *Name of Project:* Clavey River Project.

f. *Location:* Occupies lands administered by the Forest Service and Bureau of Land Management on the Clavey River, near the town of Sonora, in Tuolumne County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. John S. Mills, Project Director, Clavey River Project, P.O. Box 429, Jamestown, CA 95327

Mr. Peter C. Kissel, Esq., Baller Hammett, P.C., 1225 Eye Street, NW., Suite 1200, Washington, DC 20005, (202) 682–3300.

i. *FERC Contact:* Thomas Dean, (202) 357–0841.

j. *Comment Date:* September 5, 1990.

k. *Description of project:* The proposed project would consist of three diversions, a storage reservoir, a powerhouse, a reregulation dam and reservoir, and approximately 6 miles of new access roads.

Flow would be diverted from Hull, Reed, and Bear Creeks to the Clavey River storage reservoir by three diversions:

1. Hull Creek diversion—a 10-foot-high concrete overflow weir with a side channel intake diverting water into a buried 6,500-foot-long, 6-foot-diameter pipeline, leading to the storage reservoir.

2. Reed Creek diversion—a 10-foot-high concrete overflow weir with a side channel intake diverting water into a 11,000-foot-long, 10-foot-diameter tunnel leading to the storage reservoir.

3. Bear Creek diversion—a concrete-drop inlet structure diverting water into a buried 6,200-foot-long, 2-foot-diameter pipeline leading to the Reed Creek Diversion.

The proposed storage dam on the Clavey River would consist of the following: (1) A 413-foot-high, 1,765-foot-long roller-compacted, concrete gravity dam with a crest elevation of 4393 feet, creating; (2) a 655-acre storage reservoir with a maximum water surface elevation of 4,390 feet; (3) a gated, ogee spillway with crest elevation 4360 feet; (4) a variable-level intake tower: (5) a 58,432-foot-long, 12-foot-diameter power tunnel; (6) a 151-foot-long by 120-foot-wide by 110-foot-high underground powerhouse containing two generating units with a total installed capacity of 150 megawatts; (7) a 550-foot-long tailrace tunnel returning flow to the reregulation reservoir on the Clavey River; (8) a 50.8-mile-long, 230-kilovolt transmission line; and (9) appurtenant facilities. The average annual energy generation is estimated at 364 GWh.

The proposed reregulation dam on the Clavey River would consist of: (1) a 105-foot-high, 350-foot-long concrete gravity dam, creating; (2) a 13-acre reregulation reservoir with a maximum water surface elevation 1,440 feet; (3) a spillway consisting of three gated sluice openings; and (4) a 4.5-foot-diameter outlet pipe.

l. *Purpose of Project:* Applicant intends to use the project power to meet the needs of its customers.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B and C.

8a. *Type of Application:* Major License

b. *Project No.:* 10646–000

c. *Date Filed:* August 19, 1988

d. *Applicant:* The City of Vanceburg, Kentucky and the Utilities Commission of the City of Vanceburg, KY.

e. *Name of Project:* Meldahl

f. *Location:* On the Ohio River in Bracken County, Kentucky

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Mr. William Bonner, P.O. Box 117, Vanceburg, KY 41179, (606) 796–2641

i. *FERC Contact:* Charles T. Raabe (tag) (202) 357–0811

j. *Comment Date:* August 24, 1990

k. *Competing Application:* Project No. 10395–001, *Date Filed:* July 22, 1988, *Due Date:* July 25, 1990

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers Captain Anthony Mendahl Locks and Dam, and would consist of: (1) an intake channel at the left bank; (2) a 217-foot-long and 176-foot-wide concrete powerhouse containing 3–29,450–kW horizontal Kaplan-type turbine/generator units operated at a 26.65-foot net head; (3) a tailrace channel; (4) a 5.1-mile-long, 138–kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 466 GWh. Applicant would utilize 15–25% of the project power. The remainder of the project power would be sold to other utilities.

m. *This notice also consists of the following standard paragraphs:* A4, B, C and D1.

9a. *Type of Application:* Minor License

b. *Project No.:* 10822–000

c. *Date filed:* September 19, 1989

d. *Applicant:* Summit Hydropower

e. *Name of Project:* Upper Collinsville Project

f. *Location:* On the Farmington River in Hartford County, Connecticut

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Duncan Broatch, Summit Hydropower, 92 Rocky Hill Rd., Woodstock, CT 06281, (203) 974–1620

i. *FERC Contact:* Robert Bell (202) 357–0806

j. *Comment Date:* August 31, 1990

k. *Description of Project:* The proposed project would consist of: (1) an existing stone masonry overflow dam 325 feet long by 18 feet high and which would be surmounted by flashboards 3 feet high; (2) a reservoir with a surface area of 55 acres and a total volume of 350 acre-feet at elevation 289.2 feet msl with flashboards; (3) an existing set of eight 4-foot by 8-foot cast iron low-level slide gates located at the northeast end of the dam; (4) an existing power canal with dimensions of 140 feet long by 50 feet wide by 17 feet deep; (5) an existing set of three 6-foot-wide by 8-foot-high cast iron low-level gates and screw lifting mechanisms located along the power canal about 20 feet upstream of the powerhouse; (6) an existing 5-foot-wide by 3-foot-high sluice gate located along the power canal approximately 10 feet upstream of the powerhouse; (7) an existing indoor-type, red brick powerhouse with dimensions of 23.5 feet by 31.0 feet containing one proposed vertical Kaplan turbine and 1,400-kilowatt (kW) induction generator with a speed increaser; (8) a proposed fish passageway located at the dam and a fish passageway located at the powerhouse; (9) an existing tailrace with dimensions of 70 feet long by 40 feet wide; (10) a proposed 150-foot-long, 23-kilovolt (kV) underground transmission line; and (11) appurtenant facilities. The energy generation is estimated to be 5,165,000-kWh and would be sold to a local utility. The dam owner is the Connecticut Department of Environmental Protection.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1

10a. *Type of Application:* Minor License

b. *Project No.:* 10823–000

c. *Date filed:* September 19, 1989

d. *Applicant:* Summit Hydropower

e. *Name of Project:* Lower Collinsville Project

f. *Location:* On the Farmington River in Hartford County, Connecticut

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a) –825(r)

h. *Applicant Contact:* Mr. Duncan Broatch, Summit Hydropower, 92 Rocky Hill Rd., Woodstock, CT 06281, (203) 974–1620

i. *FERC Contact:* Robert Bell (202) 357–0806

j. *Comment Date:* August 31, 1990

k. *Description of Project:* The proposed project would consist of: (1) an existing concrete gravity overflow dam with an ogee crest 300 feet long by 20 feet high and which would be surmounted by flashboards 5 feet high; (2) a reservoir with a surface area of 32 acres and a total volume of 270 acre-feet at elevation 269.7 feet msl with flashboards; (3) an existing set of low-level slide gates located at the northwest end of the dam; (4) an existing red brick gate house containing six 6-foot-wide by 7-foot-high low-level intake gates that control flow into the power canal; (5) an existing power canal with dimensions of 650 feet long by 50 feet wide by 17 feet deep; (6) an existing indoor-type, red brick powerhouse with dimensions of 39.0 feet by 51.5 feet containing one proposed vertical Kaplan turbine and 1,150-kilowatt (kW) induction generator with a speed increaser; (8) a proposed fish passageway located at the dam and a fish passageway located at the powerhouse; (9) an existing tailrace with dimensions of 100 feet long by 50 feet wide; (10) a proposed line; and (11) appurtenant facilities. The energy generation is estimated to be 4,560,000-kWh and would be sold to a local utility. The dam owner is the Connecticut Department of Environmental Protection.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1

11a. *Type of Application:* Major Constructed License

b. *Project No.:* 10853–000

c. *Date filed:* December 1, 1989

d. *Applicant:* Otter Tail Power Company

e. *Name of Project:* Otter Tail River Project

f. *Location:* On the Otter Tail River in Otter Tail County, Minnesota

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Verlin Menze, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, MN 56537

i. *FERC Contact:* Robert Bell (tag) (202) 357–0806

j. *Comment Date:* August 30, 1990

k. *Description of Project:* The proposed project was filed pursuant to UL87–19, 20, 21, 22, and 23 and consists of the following 5 developments:

Friberg Development (1) The existing earth-fill dam with overflow spillway, 341 feet long and varying in height from 31 feet to 36 feet; (2) a reservoir having a surface area of 350 acres, a negligible storage capacity and a normal water surface elevation of 1,399 feet msl; (3) the existing intake structure; (4) an existing 412-foot-long, 25-foot-wide power canal; (5) an existing 194-foot-long, 9-foot-diameter penstock; (6) an existing powerhouse with one generating unit having a rated capacity of 560-kW; (7) the existing tailrace; (8) 75-foot-long, 2.4–kV transmission line; and appurtenant facilities;

Hoot Lake Dam Development (1) the existing 150-foot-long, 9-foot-high dam; (2) a reservoir having negligible surface area and storage (Dam diverts river flow) with a normal water surface elevation of 1,256 feet msl; (3) an existing 1,500-foot-long, 90-inch-diameter concrete tunnel discharging into; (4) Hoot Lake; (5) an existing 20-foot-wide, 700-foot-long channel from Hoot Lake discharging into; (6) Wright Lake; (7) an existing 20-foot-wide, 300-foot-long channel; (8) the existing intake structure; (9) an existing 1,050-foot-long, 8-foot-long, 8-foot-square concrete tube; (10) an existing surge tank; (11) an existing 89-foot-long, 6-foot-diameter steel penstock; (12) an existing powerhouse containing one generating unit having an installed capacity of 100–kW; (13) the existing tailrace; (14) a 200-foot-long, 2.4–kV transmission line; and (15) appurtenant facilities;

Central Dam Development (1) The existing 122-foot-long, 25-foot-high concrete and earthfill dam; (2) a reservoir having a surface area of 15 acres, with a storage capacity of 400 acre-feet, and a normal water surface elevation of 1,119.1 feet msl; (3) an existing intake structure; (4) the existing powerhouse containing one generating with an installed rated capacity of 400–kW; (5) the existing tailrace; (6) the existing 40-foot-long, 2.4–kV transmission line; and (7) appurtenant facilities;

Pisgah Dam Development (1) The existing 493-foot-long concrete gravity and earthfill dam ranging in height from 21 feet to 38 feet; (2) a reservoir having a surface area of 70 acres, a storage capacity of 250 acre-feet, and a normal water surface elevation of 1,157 feet msl; (3) the existing intake structure; (4) the existing powerhouse containing one generating unit with an installed rated capacity of 520–kW; (5) the existing tailrace; (6) the existing 330-foot-long, 2.4–kV transmission line, and (7) appurtenant facilities.

Dayton Hollow Dam Development (1) The existing 265-foot-long concrete earthfill dam varying in height from 11 feet to 40 feet; (2) a reservoir having a surface area of 230 acres, a storage capacity of 5,000 acre-feet, and a normal water surface elevation of 1,107 feet msl; (3) the existing intake structure; (4) the existing powerhouse containing two

generating units having a total rated capacity of 970 kW; (5) the existing tailrace; (6) the existing 80-foot-long 2.4-kV transmission line; and (7) appurtenant facilities.

The average annual energy generation is 17,160 MWh.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

12a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10897-000.

c. *Date Filed:* February 27, 1990.

d. *Applicant:* Russell Canyon Corporation.

e. *Name of Project:* Russell Canyon Water Power Project.

f. *Location:* In Russell Canyon in Klamath County, Oregon near the towns of Malin and Loretta. T40S R13E and T41S R12E and R13E Williamette Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* David B. Ward, Flood & Ward, 1000 Potomac St., NW., Washington, DC 20007, (202) 298-6910.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 357-0842.

j. *Comment Date:* September 5, 1990.

k. *Description of Project:* The applicant proposes to study two alternative schemes, both proposing a closed system pumped storage project. Alternative 1 would consist of: (1) Three earth and rock fill dams at elevation 5,800 feet msl; Dam No. 1 would be 200 feet high, 4,200 feet long, Dam No. 2 would be 200 feet high, 3,000 feet long, and Dam No. 3 would be 20 feet high, 600 feet long; creating (2) a 347 acre reservoir with a storage capacity of 35,000 acre-feet at elevation 5,790 feet to be utilized as the upper reservoir; (3) a 200-foot-high, 60-foot-diameter gated intake tower; (4) a 15-foot-diameter gated conduit located in Dam No. 2; (5) a 25-foot-diameter, 1,450-foot-deep vertical shaft; (6) a 25-foot-diameter, 12,700-foot-long power tunnel; (7) a powerhouse containing 4 pump turbines with a combined install capacity of 1,000,000 kW, producing an average annual output of 1,576,800 MWh; (8) a 65-foot-high, 15,100-foot-long earth and rock fill dam at elevation 4,200 feet; creating (9) an 834 acre reservoir with a storage capacity of 34,000 acre-feet at elevation 4,190 feet to be utilized as the lower reservoir; (10) a 42-inch-diameter, 3,800-foot-long water supply line to be utilized to fill the reservoir initially with water from Lost River; (11) a pumping station; (12) a 4.72-mile-long, 500-kV transmission line tying into the existing Malin Substations;

Alternative 2 would consist of: (1) three earth and rock fill dams at elevation 5,800 feet, Dam No. 1 would be 200 feet high, 4,200 feet long, Dam No. 2 would be 200 feet high, 3,000 feet long, Dam No. 3 would be 20 feet high, 600 feet long; creating (2) a 347 acre reservoir with a storage capacity of 35,000 acre-feet at elevation 5,790 feet msl to be utilized as the upper reservoir; (3) a 25-foot-diameter, 1,500-foot-long power shaft; (4) a 25-foot-diameter, 12,000-foot-long power tunnel; (5) a powerhouse containing 4 pump turbines with a total installed capacity of 1,000,000 kW, producing an average annual output of 1,576,800 MWh; (6) a 100-foot-high, 11,100-foot-long earth and rock fill dam at elevation 4,220 feet msl; creating (7) a 522 acre reservoir with a storage capacity of 34,500 acre-feet at elevation 4,190 feet msl, to be utilized as the lower reservoir; (8) a 42-inch-diameter, 8,100-foot-long water pipeline to be used to initially to fill the reservoir with water from the Bureau of Reclamation's D canal; (9) a pumping station; (10) a 1.8-mile-long, 500-kV transmission line tying into the Malin substation.

Alternative 2 as proposed maybe in conflict with a preliminary permit issued to the Bryant Mountain Hydroelectric Company for the Bryant Mountain Project No. 10234.

No new access roads will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $850,000.

l. *Purpose of Project:* Project power would be sold to a California utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

13a. *Type of Application:* Preliminary Permit.

b. *Project No.* 10911-000.

c. *Date Filed:* March 19, 1990.

d. *Applicants:* City of Tacoma, Department of Public Utilities and City of Idaho Falls, Electrical Division.

e. *Name of Project:* A.J. Wiley Hydroelectric Project.

f. *Location:* On the Snake River in Twin Falls and Gooding Counties, Idaho, near the town of Bliss. The project would occupy National Park Service lands and land administered by the Bureau of Land Management. T6S, R12E and R13E; T7S, R13E Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

E.E. Coates, Director, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411

Steve Harrison, Manager, City of Idaho Falls, Electrical Division, P.O. Box 50220, Idaho Falls, ID 83405

Mark Crisson, Light Superintendent, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely at (202) 357-0842.

j. *Comment Date:* September 6, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a 100-foot-high, 1,150-foot-long dam; creating (2) a 450 acre reservoir with a storage capacity of 13,500 acre-feet at elevation 2,735 feet; (3) a 180-foot-wide intake structure consisting of wheel gates and trashracks; (4) three 22-foot-diameter penstocks; (5) a powerhouse containing three generating units with a combined installed capacity of 82,500 kW, producing an estimated average annual output of 494,000,000 kWh; (6) a tailrace; (7) a 1.3-mile-long, 138-kV transmission line tying into the existing Idaho Power Company Bliss-King line.

No new access road will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit at $1,500,000.

l. *Purpose of Project:* Project power would be used to supply customers in the applicants existing service area.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

14a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10929-000.

c. *Date Filed:* May 4, 1990.

d. *Applicant:* Penntech Papers, Inc.

e. *Name of Project:* East Branch Clarion River Project.

f. *Location:* On the East Branch Clarion River in Elle County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Mr. Theodore Mason, Penntech Papers, Inc., 3 Barker Ave., White Plains, NY 10601, (914) 997-1600.

i. *FERC Contact:* Robert Bell (tag) (202) 357-0806.

j. *Comment Date:* August 31, 1990.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers East Branch Clarion River Dam and Reservoir and would consist of: (1) an existing intake structure; (2) an existing 1252-foot-long tunnel; (3) a proposed powerhouse containing 2 generating units having a total rated capacity of 2.4-MW; (4) a proposed tailrace; (5) a proposed 8000-foot-long, 115-kV transmission line; and (6) appurtenant facilities. The applicant estimates the average annual generation would be

8,600,000-kWh. The applicant estimates the cost of studies to be conducted under the preliminary permit would be $100,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10933–000.

c. *Date filed:* May 8, 1990.

d. *Applicant:* Albert J. Gilewicz, P.E.

e. *Name of Project:* Squaw Island-Black Rock Canal.

f. *Location:* On the Niagara River and Black Rock Canal, near Buffalo, in Erie County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Albert J. Gilewicz, P.E., President, Parker Bay Consultants, Inc., 1560 Harlem Road, Buffalo, NY 14206, (716) 894–9830.

i. *FERC Contact:* Mary C. Golato (202) 357–0804.

j. *Comment Date:* August 31, 1990.

k. *Description of Project:* The proposed Squaw Island-Black Rock Canal Hydroelectric Power Plant is located on Square Island, in Buffalo, New York, where the Corps of Engineers operates a lock at the extreme northern tip of the island for navigational purposes. No facilities exist there. The applicant proposes, however, to construct a new powerhouse on the east side of the Squaw Island land mass. From there, a new diversion channel or tunnel will be built from the Black Rock Canal to the Niagara River. The reservoir, Lake Erie, has a surface area of 10,300 square miles with an average elevation of 570.42 IGLD and outflows averaging 202,600 cubic feet per second. At the powerhouse, the applicant proposes to build three turbine generators for a total installed capacity of 3,600 kilowatts. Minimal transmission line construction is anticipated. The average annual generation would be approximately 10 million kilowatthours and the cost of the studies under permit is estimated to be about $250,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, & D2.

16 a. *Type of Applications* Preliminary Permit.

b. *Project No.:* 10936–000.

c. *Date filed:* May 14, 1990.

d. *Applicant:* Swift Creek Hydro, Inc.

e. *Name of Project:* Swift Creek.

f. *Location:* In the Mount Baker National Forest, on Swift Creek, in Whatcom County Washington, Township 37N Range 9E.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:*

Mr. Bill E. Covin, Hydro West Group, Inc., 1422–130th Avenue NE, Bellevue, WA 98005, (206) 445–0234.

i. *FERC Contact:* Michael Spencer at (202) 357–0846.

j. *Comment Date:* September 10, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a 13-foot-high, 100-foot-long concrete dam; (2) a 2,300-foot-long, 10-foot-diameter tunnel; (3) a powerhouse containing two generating units with a combined capacity of 12,400 kW and an estimated average annual generation of 46 GWh; (4) a 16-mile-long transmission line; and (5) a 4,800-foot-long access road to service the intake and powerhouse.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $300,000.

l. *Purpose of Project:* Project power would be sold.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

17 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10940–000.

c. *Date filed:* May 25, 1990.

d. *Applicant:* Boundary Hydropower, Inc.

e. *Name of Project:* Boundary Creek.

f. *Location:* In Kaniksu National Forest, on Boundary Creek, in Boundary County, Idaho. Township 64 N Range 2 W.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:*

Mr. David B. Van Otten, Boundary Hydropower, Inc., 699 E. South Temple, Suite 220, Salt Lake City, UT 84102, (801) 363–6111.

i. *FERC Contact:* Michael Spencer at (202) 357–0846.

j. *Comment Date:* September 10, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an 8-foot-high, 75-foot-long dam; (2) a 60-inch-diameter, 26,900-foot-long penstock; (3) a powerhouse containing 3 generating units with a combined capacity of 25,000 kW and an estimated average annual generation of 61.2 GWH; and (4) a 2.7-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $120,000.

l. *Purpose of Project:* Project power would be sold to the Eugene Water and Electric Board.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

18 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10942–000.

c. *Date filed:* June 1, 1990.

d. *Applicant:* Skykomish River Hydro, Inc.

e. *Name of Project:* Martin Creek.

f. *Location:* In the Mount Baker-Snoqualmie National Forest, on Martin and Kelley Creeks, in King County, Washington. Township 26N and Range 12E.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:*

Mr. Randal Fairbanks, Ebasco Environmental, 10900 N.E. 8th Street, Bellevue, WA 98004, (206) 451–4240.

i. *FERC Contact:* Michael Spencer at (202) 375–0846.

j. *Comment Date:* September 19, 1990.

k. *Description of Project:* The proposed project would consist of: (1) an 8-foot-high, 40-foot long dam on Martin Creek; (2) a 6-foot-high, 30-foot-long dam on Kelley Creek; (3) a 48-inch-diameter, 1,000-foot-long pipe from Martin Creek dam to the main penstock; (4) a 48-inch-diameter, 500-foot-long pipe from Kelley Creek to the main penstock; (5) a 48-inch-diameter, 9,500-foot long main penstock; (6) a powerhouse containing one generating unit with a capacity of 6,350 kW and an estimated average annual generation of 31.7 GWh; (7) a 7.3-mile-long transmission line; and (8) two ¼-mile-long access roads to service the intake and powerhouse.

No new access road will be needed to conduct the studies. The applicant estimates that there will be no additional studies conducted under the preliminary permit. So no additional costs will be incurred.

l. *Purpose of Project:* Project power would be sold.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

19 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10943–000.

c. *Date filed:* June 4, 1990.

d. *Applicant:* Cranberry Creek Hydro, Inc.

e. *Name of Project:* East Fork Nookachamps Creek.

f. *Location:* On East Fork Nookachamps Creek, in Skagit County Washington. Township 34 N Range 5 E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. Larry Kitchel, Cranberry Creek Hydro, Inc., P.O. Box 95, Coupeville, WA 98239, (206) 671–1150.

i. *FERC Contact:* Michael Spencer at (202) 357–0846.

j. *Comment Date:* September 10, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a 10-foot-high concrete dam; (2) a 30-inch-diameter, 6,300-foot-long penstock; (3) a powerhouse containing 2 generating units with a combined capacity of 3,000 kW and estimated average annual generation of 12 GWH; and (4) a 2.7-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $50,000.

l. *Purpose of Project:* Project power would be sold.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

20. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10948–000.

c. *Date filed:* June 11, 1990.

d. *Applicant:* City of Flint, Michigan.

e. *Name of Project:* Holloway Hydro Project.

f. *Location:* On the Flint River in Genesee County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. § 791 (a)—825(r).

h. *Applicant Contact:*

Charles W. Smith, P.E., 1101 S. Saginaw Street, Flint, MI 48502, (313) 766–7389

Robert C. Evans, 4520 Comanche Dr., Okemos, MI 48864, (517) 351–5400.

i. *FERC Contact:* Ed Lee (202) 357–0809.

j. *Comment Date:* August, 24, 1990.

k. *Competing Application:* Project No. 10879–000. Date Filed: January 25, 1990.

l. *Description of Project:* The proposed project would consist of: (1) the existing 3,948-foot-long and 25-foot-high earth dam; (2) existing 1,400-acre reservoir; (3) a proposed intake structure; (4) a new concrete powerhouse located downstream of the dam and housing two generating units for a total installed capacity of 700 kW; (5) a proposed tailrace; (6) a new 115–kV or equivalent transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual generation would be 2 GWh. The cost of the work and studies to be performed under the permit would be $250,000. The site is owned by the City of Flint Michigan. The applicant proposes that all power generated will be sold to Consumers Power Company.

m. *This notice also consists of the following standard paragraphs:* A8, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular

application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Public Law No. 88–29, and other applicable statutes. Recomended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 17, 1990, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 90–17072 Filed 7–20–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–50–011]

Florida Gas Transmission; Proposed Changes in FERC Gas Tariff

July 16, 1990.

Take notice that Florida Gas Transmission Company ("Florida Gas") on July 13, 1990, tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, Original Volume No. 2, and Original Volume No. 3, the tariff sheets listed on Appendix A and Appendix B attached to the filing.

The subject tariff sheets are being filed to comply with the Federal Energy Regulatory Commission's ("Commission") June 15, 1990 "Order approving and Rejecting Settlements, Granting Abandonments and Issuing Certificates" ("Order") issued in Docket Nos. RP89–50–000, *et al.* In the June 15 Order, the Commission granted to Florida Gas authorization to implement the provisions of a Stipulation and Agreement Filed on October 17, 1989 in the captioned proceeding, subject to certain conditions and modifications. Appendix A lists the tariff sheets which were revised pursuant to the June 15 Order. Appendix B lists those tariff sheets included in the October 17, 1989 Stipulation and Agreement for which modifications were not required by the Order.

Florida Gas respectfully requests that the Commission grant any and all waivers of its rules and regulations and tariff sheets as may be necessary so as to permit the above-listed tariff sheets to become effective on August 1, 1990; provided, however, that the proposed August 1, 1990 effective date is subject to no party filing an application for rehearing of the subject Order on or before July 16, 1990.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 24, 1990. Protests will be considered by the Commisison in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need to file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell.

Secretary.

[FR Doc. 90–17068 Filed 7–20–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF90–158–000]

Lee County Board of County Commissioners; Application for Commission Certification Qualifying Status of a Small Power Production Facility

July 16, 1990.

On July 2, 1990, Lee County Board of County Commissioners (Applicant), of 2178 McGregor Boulevard, Ft. Myers, Florida 33901, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commisson's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Central Lee County, Florida. The facility will consist of mass burn waterwall furnace boilers and a turbine generator. The net electric power production capacity will be 65 megawatts. The primary energy source will be municipal solid waste. Natural gas or oil may be used for start-up, however, such fossil fuel usage will not exceed 1% of the total energy input to the facility during any calendar year period.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-17071 Filed 7-20-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-82-002 and RP90-97-002

Northern Natural Gas Co. Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

July 16, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on July 12, 1990, tendered for filing proposed changes to its FERC Gas Tariff.

Northern states that this filing is being submitted pursuant to the terms and conditions set forth in a Letter Order issued on June 12, 1990 in Docket Nos. RP90-82-001 and RP90-97-001. In the order, certain of Northern's tariff sheets 1C.a were accepted subject to two minor corrections and Northern's furnishing of explanations on the TOP surcharge and ACA charge.

Northern further states that copies of this filing were served upon Northern's customers, parties to this proceeding and all 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 NW., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before July 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-17069 Filed 7-20-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-123-001]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 16, 1990.

Take notice that on July 13, 1990, Williams Natural Gas Company (WNG) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute First Revised Sheet No. 6G
Substitute Original Sheet Nos. 6H and 6I

WNG states that these sheets are being filed in compliance with the Commission's order dated June 29, 1990 in Docket No. RP90-123-000.

Ordering Paragraph (D) of the June 29 order directed WNG to file within 15 days of the date of the order revised tariff sheets changing the references on the tariff sheets from "RP89-X" to "RP90-123."

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests should be filed on or before July 24, 1990. 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 proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-17070 Filed 7-20-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During Week of May 28 Through June 1, 1990

During the week of May 28 through June 1, 1990, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Tri-Service Drilling Co., et al., 05/29/90, KEF-0135, et al.

The Office of Hearings and Appeals issued a Decision and Order implementing final procedures for disbursement of $3,984,443.57 in principal, plus accrued interest, which the DOE obtained in 11 cases. That sum represents remittances made by seven firms to settle enforcement proceedings. In four cases, the funds received represented revenues that exceeded recoupable allowed expenses under the Tertiary Incentive Program. The OHA decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

Refund Applications

Cincinnati Bell Telephone Co., 06/01/90, RF272-5434

The DOE issued a Decision and Order granting a refund from the crude oil overcharge funds to Cincinnati Bell Telephone Company (CBT), a telephone utility and end-user of motor gasoline. The DOE rejected a challenge filed by a group of States, finding that the States failed to support their assertion that CBT did not absorb the crude oil overcharges. CBT was granted a refund of $6,513.

Crown Central Petroleum Corporation/ Fisca Oil Co. Inc., 05/29/90, RF313-180

The DOE issued a Decision and Order considering an Application for Refund filed in the Crown Central Petroleum Corporation special refund proceeding by Fisca Oil Co., Inc. (Fisca), a purchaser of Crown refined petroleum products. The firm presented evidence that it experienced a competitive disadvantage in all of its purchases of Crown motor gasoline during the refund period. Therefore, DOE granted Fisca a refund based on the full amount of those purchases. The total refund approved in this Decision was $125,958, representing $103,840 in principal plus $22,118 in accrued interest.

Cunard Line Limited, 05/31/90, RF272-19928, RD272-19928

The DOE issued a Decision and Order concerning an Application for Refund, filed by Cunard Line Limited, a foreign cruise ship company, in the subpart V crude oil proceeding. A group of States and Territories (the States) objected to the application on the grounds that foreign firms are not eligible for crude oil refunds and ocean carriers recouped increased fuel costs through surcharges. The DOE granted the refund application, determining that foreign firms are eligible for crude oil refunds, cruise ship lines did not use surcharges, and the States had failed to show that Cunard Line Limited itself had passed through increased fuel costs. The DOE also

denied the States' Motion for Discovery. The total refund granted was $142,474.

Exxon Corp./Nelson's Exxon, et al., 05/30/90, RF307–837, et al.

The DOE issued a Decision and Order concerning 14 Applications for Refund filed in the Exxon Corporation special refund proceeding. The DOE determined that because all of the applicants were either end-users or resellers requesting a refund of less than $5,000, each was eligible to receive its full allocable share without demonstrating injury. The sum of the refund granted was $9,693 ($7,466 in principal and $2,227 in interest).

Exxon Corporation/Public Service Electric & Gas Co., 05/30/90, RF307–10008

The DOE issued a Decision and Order concerning an Application for Refund filed by Public Service Electric & Gas Co. (Public) in the Exxon Corporation special refund proceeding. Public, a public utility, purchased products directly from Exxon, and was found to be eligible to receive a refund equal to its full allocable share. Public certified that it would notify the appropriate regulatory body of any refund received, and pass through the entire refund to its customers. The sum of the refund granted in this Decision is $154,412 ($118,934 principal plus $35,478 interest).

Fitchett, Inc., 06/01/90, RF272–45452

The DOE issued a Decision and Order concerning an Application for Refund in the subpart V Crude Oil refund proceeding, filed by Fitchett, Inc., a reseller of refined petroleum products. Since the firm did not submit specific evidence demonstrating injury from the alleged crude oil overcharges, its application was denied.

Gulf Oil Corporation/Briarwood Gulf, 5/30/90, RF300–8174

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding on behalf of Briarwood Gulf. Briarwood Gulf purchased some of its Gulf products indirectly from a Gulf jobber. The jobber that supplied Briarwood Gulf demonstrated that it absorbed a portion of Gulf's alleged overcharges. For its indirect purchases, Briarwood Gulf received a refund $323, based on the portion of overcharges that its supplier passed through. The firm also received a refund of $1,422, based on its direct purchases of Gulf motor gasoline. The total refund granted in this Decision is $1,745.

Gulf Oil Corporation/Kirkpatrick's Grocery, 05/31/90, RF300–8559

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding on behalf of Kirkpatrick's Grocery. Kirkpatrick's Grocery purchased its Gulf products indirectly from a Gulf jobber, who received a refund in the Gulf proceeding under an injury presumption. Accordingly, Kirkpatrick's was eligible for a full volumetric refund under the small claims injury presumption. The total refund granted in this Decision is $696.

Gulf Oil Corporation/W.M.G., Inc., 06/01/90, RF300–11134

The DOE issued a Supplemental Order concerning an Application for Refund submitted by W.M.G., Inc. in the Gulf Oil Corporation special refund proceeding. The DOE had rescinded a refund previously granted to the firm, because it did not have a correct address to which to send a refund check. Subsequently, the applicant contacted the DOE and provided a current address. Accordingly, the DOE ordered that the previously rescinded refund check in the amount of $6,875 be reissued to W.M.G.

Gulf Oil Corporation/William C. Knolle, 05/30/90, RF300–11135

The DOE issued a Supplemental Order increasing a refund previously granted to William C. Knolle in the Gulf Oil Corporation special refund proceeding by $113, to $2,484.

Hershey Foods Corp. 05/31/90, RF272–22913, RD272–22913

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Hershey Foods Corporation (Hershey), based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant, a maker of confectionary and other food products, was an end-user of refined petroleum products. The DOE rejected the objections filed by a group of States asserting that the food industry in general did not suffer injury because food is a necessity that consumers must buy regardless of price increases, and found instead that Hershey's products consist of luxury food items rather than necessities. Accordingly, the DOE granted the applicant a refund of $45,797. The DOE also rejected the States' Motion for Discovery.

Kennecott Corporation, 06/01/90, RF272–12164

The DOE issued a Decision and Order denying an Application for Refund filed by Kennecott Corporation (Kennecott), a subsidiary of Standard Oil of Ohio (SOHIO), in the subpart V crude oil refund proceeding. The DOE's denial was based on the fact that SOHIO had been approved for a refund from the Refiners Escrow, and had thereby waived Kennecott's right to a refund in the crude oil refund proceedings.

Murphy Oil Corporation/Texaco Inc., 05/31/90, RF309–441

The DOE issued a Decision and Order granting in part an Application for Refund in the Murphy Oil Corporation (Murphy) special refund proceeding filed by Texaco Inc. Texaco was preliminarily identified as a spot purchaser of motor gasoline and distillate fuels from Murphy. Since Texaco did not show that it was a regular purchaser of motor gasoline or attempt to rebut the spot purchaser presumption of non-injury, the motor gasoline portion of its application was denied. Texaco demonstrated that it was not a spot purchaser of Murphy distillate fuels, by submitting detailed purchase records, and was therefore granted a refund of $10,228 ($8,046 in principal and $2,182) under the mid-level injury presumption. The refund was disbursed to Texaco, even though it must remit payments under a consent order to DOE over a six-year period, because (1) Texaco has satisfied its payment obligations to date, (2) the refund is small relative to Texaco's future payments to the DOE, and (3) Texaco's payment schedule is of several years' duration.

Shell Oil Company/Bob's Shell Food Mart, 06/01/90, RF315–9987

The DOE issued a Supplemental Order in the Shell Oil Company special refund proceeding that reduced the interest and total refund granted to Bob's Shell Food Mart by $1.

Shell Oil Company/Elberton Oil Co., Inc., Seigler Oil Co., Inc., Savannah Valley Gas Co., Inc., 05/29/90, RF315–2070, RF315–2071, and RF315–2072

The DOE issued a Decision and Order granting three Applications for Refund in the Shell Oil Company special refund proceeding filed by C.W. Seigler on behalf of three reseller firms that he owns. One of the applicants, Elberton Oil Co., Inc., had been purchased by Mr. Seigler during the refund period. As Mr. Seigler had purchased all of Elberton's stock, the DOE determined that the right to a Shell refund had been purchased in the sale, and Mr. Seigler was eligible to receive Elberton's refund. He was granted a refund under the appropriate injury presumption. The total refund granted in the Decision was $6,307 ($5,000 principal plus $1,307 in interest).

Shell Oil Company/United States Oil Co., Inc., Wisconsin Lubricating and Oil Corp., 05/30/90, RF315–4132, RF315–4674

The DOE issued a Decision and Order granting two Applications for Refund filed in the Shell Oil Company special refund proceeding by United States Oil Co., Inc. and Wisconsin Lubricating and Oil Corp. After the refund period, the successor corporations had purchased all of the applicants' stock, but the DOE determined that they had also purchased the right to the applicants' Shell refunds. Each firm was granted a refund of $5,000 in principal and $1,307 in interest, under the applicable presumption of injury.

Shell Oil Co./Valley Petroleum, Inc., 06/01/90, RF315–9963

The DOE issued a Supplemental Order reducing to $6,248 a refund granted to Valley Petroleum, Inc. in the Shell Oil Company special refund proceeding.

Standard Oil Co. (Indiana)/Belridge Oil Co./Maryland, 05/30/90, RM21–202, RM8–203

The DOE issued a Decision and Order correcting funding for the Maryland Energy Assistance Program (MEAP) in *Standard Oil Co. (Indiana)/Maryland*, to $460,936. Maryland also wished to use $6,691 in previously disbursed *Amoco I* and *Belridge* funds for a Weatherization Assistance Program, which assists individuals with low incomes in weatherizing their homes. The OHA approved the program because it was restitutionary.

REFUND APPLICATIONS

[The Office of Hearings and Appeals granted refunds to refund applicants in the following Decisions and Orders]

Name	Case no.	Date
Atlantic Richfield Co./Asarco, Inc. *et al*	RF304–4407	04/31/90
Atlantic Richfield Co./Bowers' Arco *et al*	RF304–6931	05/31/90
Exxon Corp./E.B. Donaldson	RF307–148	05/31/90
Exxon Corp./		
Ed's Exxon Service	RF307–161, RF307–162.	05/29/90
NGL Supply, Inc	RF307–9907	Do.
Juano & Tony Service Station	RF307–9962	Do.
Exxon Corp./Frank K. Nunn *et al*	RF307–2029	05/31/90
Exxon Corp./Homan & Siggins Fuel Oil Co. *et al*	RF307–9136	05/29/90
Exxon Corp./Tuxedo Exxon *et al*	RF307–1809	05/31/90
Exxon Corp./Wilson Tower Exxon Service Station *et al*	RF307–1826	05/29/90
Gulf Oil Corp./		
Bilger & Sons, Inc	RF300–7862	05/30/90
Selinsgrove Fuel Corp	RF300–7863	Do.
Beavertown Oil Supply, Inc	RF300–7864	Do.
Gulf Oil Corp.		
New Plaza Car Wash	RF300–6772	06/01/90
Plaza Car Wash, Inc	RF300–7200	Do.
Paschen Contractors, Inc. *et al*	RF272–31803	05/29/90
Shell Oil Co./Norfolk & Western Railway Co. *et al*	RF315–6085	05/29/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Ashland County Sheriff's Office	RF272–37077
Bill's River Service	RF315–1858
C.G. Wright Oil Co.	RF321–926
Continental Gulf	RF300–8245
Farmers Elevator of Zell	RF272–75540
Forest Hills Gulf Service	RF300–9649
Gulf Oil Company	RF300–3656
Handy Gulf	RF300–9942
Hannaford Oil Company	RF300–6281
Interstate Gulf	RF300–8252
J.W. Willis Gulf Service	RF300–8239
Joe's Texaco	RF321–1123
Larry Sanderson	RF304–4210
Pacific Northern Oil Corp.	RF304–9112
Paroquet Gulf Mini Mart	RF300–9692
Phillips Fule Co.	RF304–5977
Shallowater Texaco	RF321–484
Sid's Auto Service	RF300–8244
V&B Service	RF304–11757, RF304–11758, and RF304–11759
Walnut & Washburn Exxon	RF307–9427

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 16, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90–17152 Filed 7–20–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3812–3]

1987 Chesapeake Bay Agreement; Proposals for Review

Draft Baywide Fishery Management Plans for bluefish, weakfish and spotted seatrout, prepared pursuant to the 1987 Chesapeake Bay Agreement by the Living Resources Subcommittee of the Chesapeake Bay Program, are now available for public review. Comments will be accepted through September 5, 1990. Comments should be sent to Mr. Pete Jensen, Maryland Department of Natural Resources, Tidewater Fisheries, Tawes State Office Building C–2, Annapolis, MD 21401.

To obtain copies of the draft plans, call Mr. Jensen at 301/974–3558 or Mr. David Packer, EPA Chesapeake Bay

Liaison Office, 301/266–6873. For additional information, call Mr. Jensen.

Charles S. Spooner,

Director, Chesapeake Bay Liaison Office.

[FR Doc. 90–17158 Filed 7–20–90; 8:45 am]

BILLING CODE 6560–50–M

[WH-FRL-3812-4]

Drinking Water Health Advisories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Drinking Water Health Advisories for Volatile Organic Chemicals.

SUMMARY: This notice announces the availability of EPA Drinking Water Health Advisories (HAs) for 15 Volatile Organic Chemicals. Health Advisories are available for the following contaminants:

Bromochloromethane
Bromomethane
bis-2-Chloroisopropylether
Chloromethane
o-Chlorotoluene
p-Chlorotoluene
Dichlorodifluoromethane
Fluorotrichloromethane
Hexachlorobutadiene
Naphthalene
1,1,1,2-Tetrachloroethane
1,2,4-Trichlorobenzene
1,3,5-Trichlorobenzene
1,1,2-Trichloroethane
1,2,3-Trichloropropane

These Has were developed by the EPA Office of Water and the Office of Research and Development. The HAs provide information on the health effects, analytical methodology, and treatment technology for specific contaminants that would be useful in dealing with emergency spills or contamination situations. The HAs describe nonregulatory concentrations of drinking water contaminants that are considered protective of adverse health effects over specific durations of exposure. A margin of safety is incorporated to protect sensitive members of the population. Health Advisories are updated as new information becomes available.

SUPPLEMENTARY INFORMATION: The Office of Drinking water developed the HAs for these contaminants in 1988. In 1989, the HAs were peer reviewed and sent through Agency review. The comments received were reviewed and incorporated where appropriate.

ADDRESSES: To obtain copies of any or all of the 15 VOC Health Advisories, interested parties should contact the EPA Safe Drinking Water Hotline (800) 426–4791, for Alaska and the Washington, DC area call (202) 382–5533, Monday through Friday, 8:30 a.m. to 4:30 p.m. est.

FOR FURTHER INFORMATION CONTACT: Jennifer Orme, Health Advisory Program Manager, Office of Drinking Water (WH–550D), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or call (202) 382–7571.

Robert Wayland III,

Acting Assistant Administrator for Water.

[FR Doc. 90–17160 Filed 7–20–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Applications; S. Kent Lankford, et al.

1. The Commission has before it the following mutually exclusive applications for 5 new FM stations:

Applicant, City and State	*File No.*	MM docket No.
I		
A. S. Kent Lankford; Newton, IL.	BPH–880727MI	90–330
B. Jasper Broadcasting Company; Newton, IL.	BPH–880728MP	
Issue heading and applicants 1. Comparative, A,B 2. Ultimate, A,B		
A. Arthur Andrew Mobley; Buckeye, AZ.	BPH–880728MZ	90–329
B. Desert West Air Ranchers Corporation; Buckeye, AZ.	BPH–880728NE	
Issue heading and applicant 1. Air Hazard, A 2. Comparative, Both applicants 3. Ultimate, Both applicants		
III		
A. Smyrna Broadcasting Corporation; Smyrna, TN.	BPH–880511MB	90–332
B. Alice Randall Williams; Smyrna, TN.	BPH–880512MA	
C. George S. Flynn; Smyrna, TN.	BPH–880512MC	
D. Oneal Communications Group, Inc.; Smyrna, TN.	BPH–880512MD	
E. Laser Wave Broadcasting Company; Smyrna, TN.	BPH–880512ME	
Issue heading and applicants 1. See Appendix, D 2. See Appendix, D 3. See Appendix, D 4. Air Hazard, C,D,E 5. Comparative, All 6. Ultimate, All		
IV		
A. Pyramid Broadcasting, Inc; Whitehall, MI.	BPH–880915MY	90–328
B. P&B Communications, Whitehall, MI.	BPH–880915NP	
Issue heading and applicants 1. Air hazard, B 2. Comparative, A,B 3. Ultimate, A,B,		
V		
A. Peggie Post Mallery; Mosinee, WI.	BPH–881202MB	90–331
B. Dolson, Inc.; Mosinee, WI.	BPH–881205MH	
C. David Ewaskowitz a/k/a Dave Raven; Mosinee, WI.	BPH–881205MI	
D. Radio Ingstad Wisconsin, Inc.; Mosinee, WI.	BPH–881205MJ	
Issue heading and applicants 1. Air Hazard, A 2. Comparative, All Applicants 3. Ultimate, All Applicants		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services,

Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Smyrna, Tennessee)

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of D (Oneal).

2. To determine whether D's (Oneal's) organizational structure is a sham.

3. To determine, from the evidence adduced pursuant to Issues one and two above, whether D (Oneal) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90–17086 Filed 7–20–90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested paties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207–011291.

Title: DSR/Stinnes West Indies Service.

Parties:

Hugo Stinnes Schiffahrt GmbH

Deutsche Seereederei Rostock GmbH.

Synopsis: The proposed Agreement would establish and operate a joint service in the trade between North Europe and ports and points in Puerto Rico and the United States Virgin Islands.

By Order of the Federal Maritime Commission.

Dated: July 17, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–17050 Filed 7–20–90; 8:45 am]

BILLING CODE 6730-01-M

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:

Royal Caribbean Cruises Ltd., 903 South America Way, Miami, Florida 33132.

Vessel: MONARCH OF THE SEAS.

Dated: July 17, 1990

Joseph C. Polking,

Secretary.

[FR Doc. 90–17049 Filed 7–20–90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Aurora First National Co.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are indispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than August 16, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Aurora First National Company,* Aurora, Nebraska; to acquire Antelope Savings Bank, F.A., Aurora, Nebraska, a *de novo* thrift chartered to acquire the deposits of FirsTier Savings Bank, Neligh Branch, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

2. *Midwest Banco Corporation,* Cozad, Nebraska; to acquire Interim Federal Savings Bank of Imperial, Imperial, Nebraska, a *de novo* thrift chartered to acquire the deposits of FirsTier Savings Bank, Imperial Branch, and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associated Secretary of the Board.

[FR Doc. 90–17103 Filed 7–20–90; 8:45 am]

BILLING CODE 6210-01-M

Avantor Financial Corp., Norfolk, VA; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(I)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.2I(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or that the Board has determined by order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

I. *Avantor Financial Corporation,* Norfolk, Virginia; to engage *de novo* through a subsidiary, Sovran Investment Corporation, Richmond, Virginia, in providing valuations, fairness opinions and advice in connection with merger, acquisition, divestiture and similar financial transactions, including public and private financings; providing advice regarding loan syndications and financial strategies involving interest rate and currency swaps, interest rate caps, floors, and collars, and options on such instruments, as well as serving as broker or agent, (but not as originator or principal so as to avoid assuming any credit risk), with respect to the foregoing transactions and instruments; acting as agent for issuers (including affiliated issuers) in the private placement of all types of securities, including providing related advisory services, and buying and selling all types of securities on the order of investors as a "riskless principal"; the purchase and sale of mortgage loans and other extensions of credit in the secondary market; and advising customers in connection with their foreign exchange transactions and providing transactional services with respect to arranging for the execution of such transactions. These activities would be conducted pursuant to § 225.25(b)(1) and (b)(17) of the Board's Regulation Y, and prior Board Orders.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-17105 Filed 7-20-90; 8:45 am]

BILLING CODE 6210-01-M

First Bancorporation of Cleveland, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 16, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bancorporation of Cleveland, Inc.,* Cleveland, Texas; to engage *de novo* through its subsidiary, Bancorp Data Center, Inc., Cleveland, Texas, in providing to others financially related data processing and data transmission services, facilities, and data bases or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in the State of Texas.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-17106 Filed 7-20-90; 8:45 am]

BILLING CODE 6210-01-M

First Commercial Holding Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 16, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Commercial Holding Corporation,* Asheville, North Carolina; to acquire 100 percent of the voting shares of The Bank of Iredell, Statesville, North Carolina, which has a wholly-owned subsidiary that acts as a referral agent and receives referral fees from Investors Title Insurance Company, Chapel Hill, North Carolina, a

company that engages in title insurance activities.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bank Corporation-Indiana*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of Trustcorp Bank Columbus, National Association, Columbus, Indiana.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Country Bank Shares, Inc.*, Milford, Nebraska; to acquire 100 percent of the voting shares of Owens Investment Company, Weeping Water, Nebraska, and thereby indirectly acquire Nebraska State Bank, Weeping Water, Nebraska.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Philippine National Bank*, Manila, Philippines; to become a bank holding company by acquiring 100 percent of the voting shares of Century Holding Corporation, San Francisco, California, and thereby indirectly acquire Century Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-17107 Filed 7-20-90; 8:45 am]

BILLING CODE 6210-01-M

Security Bank Holding Co., Employee Stock Ownership Plan, Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817 (j)) and § 225.41 of the Board's Regulation Y (12 C.F.R. 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than August 6, 1990.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Security Bank Holding Company Employee Stock Ownership Plan*, Coos Bay, Oregon; to acquire an additional 7.4 percent of the voting shares of Security Bank Holding Company, Coos Bay, Oregon, and thereby indirectly acquire Security Bank, Coos Bay, Oregon.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-17108 Filed 7-20-90; 8:45 am]

BILLING CODE 6210-01-M

Swiss Bank Corp.; Proposal To Engage in Providing Investment Advice and Services; To Become a Specialist and Market Maker in Foreign Currency Options and To Trade and Broker Certain Options Contracts; and To Trade Options and Conduct Hedging in U.S. Government and Municipal Obligations

Swiss Bank Corporation, Basle, Switzerland ("SBC"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to conduct various activities through a joint venture, a *de novo* subsidiary, and an expansion of the activities of an existing subsidiary: (1) SBC would acquire the limited partnership interest in a joint venture with the partners of O'Connor Partners, Chicago, Illinois ("OP"), through the formation of SBC–O'C Services, L.P., Chicago, Illinois ("Partnership"). The Partnership will provide investment advice and services, including the execution of transactions, to SBC, O'Connor Associates, Chicago, Illinois ("OCA"), a sister partnership of OP, and the affiliates of each entity; (2) SBC will establish a de novo wholly-owned subsidiary, SBX, Chicago, Illinois, to be a specialist and a market maker in foreign currency options traded on the Philadelphia Stock Exchange ("the PHLX"), and to trade and broker certain options' contracts; and (3) SBC will expand the activities of SBC Government Securities, Inc., ("SBCGSI"), its wholly-owned government securities dealer, to include trading options on U.S. Government obligations and Eurodollars, and related hedging activities. SBC proposes that these activities be conducted worldwide.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or management or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1337 (D.C. Cir. 1975) ("*National Courier*"). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. "Board Statement Regarding Regulation Y," 49 Federal Register 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices."

SBC contends that the proposed activities are closely related to banking under the *National Courier* test, and that permitting bank holding companies to engage in the proposed activities would result in providing more stability and sophistication to the markets of these instruments. Also, as a market-maker and specialist, SBC will provide increased liquidity in the foreign currency options market and enhanced opportunities for financial institutions to hedge foreign exchange risk. The performance of these activities will increase the efficiency of SBC's operations and increase competition among the dealers in foreign currency markets.

In accordance with 12 U.S.C 1843(a)(2)(A) and 1843(c)(1)(C), as previously approved activities for bank holding companies, SBC has applied for Partnership to provide advisory services to SBC and its affiliates relating to: foreign currency, interest rate, government debt, and Eurodollar related trading and hedging activities; specialist

and market-maker activities; and the brokerage and hedging of derivative instruments. Also, SBC has also applied for Partnership and SBX to execute and clear exchange traded options and futures thereon. SBX will become a member of the following organizations: Philadelphia Stock Exchange; Chicago Board Options Exchange; The Intermarket Clearing Corporation; The Options Clearing Corporation; Chicago Mercantile Exchange, including the International Monetary Market Division and the Index and Option Division; Chicago Board of Trade; Chicago Board of Trade Clearing Corporation; and Philadelphia Board of Trade.

The following are the interest rate and currency-related instruments to be traded or executed and cleared for the purposes of this application: U.S. Treasury Bond Futures and options thereon, U.S. Ten Year Note futures and options thereon, U.S. Five Year Note Futures, 30-Day Interest Rate Futures, Eurodollar futures, and options thereon, Options on U.S. T-Bill Futures, 30-day LIBOR Futures and options thereon, Options on 30-Year U.S. T-Bonds Specific Issues, Options on Short Term Treasury Index, Options on Long Term Treasury Index, U.S. Treasury Bills, Notes and Bonds and options thereon, Forward Rate Agreements on Interest Rates of Major Currencies and options thereon, Currency and Interest Rate Swaps and options thereon, Caps, Floors, or Collars on Interest Rates of Major Currencies and options thereon, Warrants on Interest Rates of Major Currencies, U.S. Five Year T-Note Futures and options thereon, U.S. Two Year T-Note Futures, Eurodollar Futures and options thereon, U.S. Treasury Bond Futures and options thereon.

Other currency instruments to be traded are Options, Futures and Options on Futures on: Australian Dollars, British Pounds, Canadian Dollars, Deutsche Marks, Japanese Yen and Swiss Franc as well as Options and Futures on French Francs and European Currency Units. In addition, SBC will engage in trading through Spot Transactions, Forward Transactions, Warrants and Options on any of the following currencies or combination of currencies: U.S. Dollar, Deutsche Mark, French Franc, European Currency Unit, Swiss Franc, Japanese Yen, British Pound, Canadian Dollar, and the Australian Dollar.

SBC contends that the above instruments have been approved in 12 CFR 225.25(b)(16) and in the following Board orders: *See, The Sumitomo Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989); *Societe Generale*, 75 Federal Reserve Bulletin 580 (1989); *The Nippon Credit Bank, Ltd.*, 75 Federal Reserve Bulletin 308 (1989); *The Fuji Bank, Limited*, 75 Federal Reserve Bulletin 94 (1989); *The Sanwa Bank, Limited*, 74 Federal Reserve Bulletin 577 (1989); *Midland Bank PLC*, 74 Federal Reserve Bulletin 577 (1988); and *The Long-Term Credit Bank of Japan, Limited*, 74 Federal Reserve Bulletin 573 (1988).

SBC also proposes that Partnership provide advisory services to SBC and its affiliates in the following areas in accordance with 12 CFR 225.25(b)(4) (iii) and (iv): (1) In connection with trading options on U.S. Government and municipal debt, on general obligations of the States and their political subdivisions, and options on other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in pursuant to 12 U.S.C. 24 and 335; (2) in connection with offshore securities trading in over-the-counter ("otc") and exchange traded options, warrants and convertible securities on or in respect of equity securities; otc and exchanged-trade options on equity securities indices, otc and exchange-traded options on equity securities index futures contracts; other derivative instruments related to equity securities and indices as SBC and Partnership may from time to time agree; and spot, forward, futures and other transactions in such instruments executed for hedging purposes. Other advisory services will be in connection with interest rate options including "caps", "collars" and "floors" in respect of interest rates; interest rate swaps and options thereon; currency swaps; and options thereon. *See e.g., The Sumitomo Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989); *Canadian Imperial Bank of Commerce*, 74 Federal Reserve Bulletin 571 (1988); *The Royal Bank of Canada*, 74 Federal Reserve Bulletin 334 (1988).

SBC has also applied for Partnership to provide advisory services to OCA and its affiliates in connection with general securities trading activities and in connection with options, futures contracts and options thereon all related to gold and silver bullion and to oil and gas in accordance with 12 CFR 225.25(b)(4)(iii).

SBC has applied for SBX to be a market maker on the PHLX for options on the following foreign currencies: the British Pound, the Australian Dollar, the Canadian Dollar, the Deutsche Mark, the Swiss Franc, the European Currency Unit, the French Franc, and the Japanese Yen. SBC also proposes that SBX function as a specialist on the PHLX for options on Swiss Francs. *See, e.g., Societe Generale*, 75 Federal Reserve Bulletin 580 (1989).

SBX would hedge foreign currency related and interest rate related options positions on instruments traded in the interest rate and foreign currency-related spot, forward, futures, options, and options on futures markets. *See e.g., Societe Generale*, 75 Federal Reserve Bulletin 580 (1989); *The Nippon Credit Bank, Ltd*, 75 Federal Reserve Bulletin 308 (1989); *Midland Bank, PLC*, 74 Federal Reserve Bulletin 577 (1988); *The Long Term Credit Bank of Japan*, 74 Federal Reserve Bulletin 573 (1988).

Finally, SBC has applied to conduct, through SBX, a new activity through executing and clearing IRX and LTX options, *i.e.*, cash-settled exchange-listed options based on U.S. Treasury rates, which are traded on the Chicago Board Options Exchange. SBC believes that the activity is permissible as the instruments are functionally equivalent to "bank-eligible" securities.

SBC has applied for SBCGSI to trade options in the following areas: otc options on U.S. Government obligations; exchange-traded options on U.S. Government debt and indices of such obligations; and exchange-traded options on futures on U.S. Government debt, in accordance with 12 CFR 225.25(b)(16)); *See also, The Fuji Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989). SBCGSI would also hedge the above option trades through options on U.S. Government obligations; forward, futures and options on futures transactions in respect of U.S. Government debt; interest rate swap transactions and certain risk management products such as caps, floors, and collars. *See e.g., The Fuji Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989); *The Sumitomo Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standard of the BHC Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 10, 1990. Any request for a hearing on this application must, as required by

§ 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, July 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-17103 Filed 7-20-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket No. 9196]

Olin Corp.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This final order requires the respondent, a Stamford, Ct., based corporation, to divest the swimming pool chemicals business it acquired from FMC Corporation to a Commission-approved acquirer within twelve months, or else have the Commission appoint a trustee to effect the divestiture. In addition, for ten years, respondent must obtain FTC approval before acquiring any interest in a company that produces and sells swimming pool chemicals.

DATES: Complaint issued July 18, 1985. Final Order issued June 13, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Stephen Riddell, FTC/S-2308, Washington, DC 20580. (202) 326-2721.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Docket No. 9196]

Final Order

This matter has been heard by the Commission on the appeal of respondent from the initial decision, and on briefs and oral argument in support of and in opposition to the appeal. For the reasons stated in the accompnaying opinion, the Commission has determined to deny the appeal. Accordingly,

It is ordered, That the findings of fact and initial decision of the Administrative Law Judge be adopted insofar as not inconsistent with the findings of fact and conclusions of law contained in the accompanying opinion.

It is further ordered, That the following order be, and hereby is, entered:

The following definition shall apply in this order:

1. "FMC" means the FMC Corporation swimming pool chemicals business acquired by Olin Corporation from FMC Corporation, and specified in the agreement to maintain isocyanurate assets and to terminate the monsanto tolling agreement, an agreement entered into by Olin Corporation and the Federal Trade Commission, dated July 18, 1985, together with all of the assets, title and properties, tangible and intangible of said business, and its associated interests, rights and privileges, including without limitation all buildings, leaseholds, machinery, equipment, raw material reserves, inventory, customer lists, copyrights, trade names, trademarks, trade secrets, patents and other property of whatever description, together with all additions and improvements thereto made subsequent to the acquisition.

I

It is further ordered That Respondent Olin Corporation, a corporation, including its successors and assigns, and its officers, directors, agents, representatives, employees, subsidiaries and affiliates (hereafter "Olin"), shall divest, subject to the prior approval of the Commission, FMC within twelve (12) months from the date this Order becomes final.

II

It is further ordered That the divestiture required by this Order shall be accomplished absolutely and in good faith and shall transfer the assets to be divested as a viable, competitive concern engaged in the manufacture and sale of swimming pool chemicals, provided, however, that the Sulfolane process technology and know-how for the manufacture of cyanuric acid may be excluded from the divestiture required by this Order.

III

It is further ordered That pending any divestiture required by this Order, Olin shall not cause or permit impairment of the marketability or viability of FMC.

The Federal Trade Commission may seek civil penalties and other relief available to it pursuant to section 5(1) of the Federal Trade Commission Act, 15 U.S.C. 45(1), or any other statute enforced by the Commission, for any failure by Olin to comply with this Order, and the appointment of a trustee or the failure to appoint a trustee hereunder shall not preclude the Federal Trade Commission from seeking such civil penalties or other relief.

IV

It is further ordered That if Olin has not divested all of the properties, assets, or enterprises required to be divested pursuant to Paragraphs I and II of this Order within the twelve-month period provided therein, the Federal Trade Commission may appoint a trustee to effect divestiture and bring an action pursuant to section 5(1) of the Federal Trade Commission Act, 15 U.S.C. section 45(1), or any other statute enforced by the Commission, to appoint a trustee to effect divestiture. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

Any trustee appointed by the Federal Trade Commission pursuant to this Paragraph shall have the following powers, authority, duties, and responsibilities:

A. The trustee shall have the exclusive power and authority to divest any properties required to be divested pursuant to Paragraph I of this Order that have not been divested by Olin within the time period for the divestiture provided therein. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestiture, which shall be subject to the prior approval of the Federal Trade Commission. The Federal Trade Commission or the court may extend the appointment of the trustee if necessary to facilitate divestiture.

B. The trustee shall have full and complete access to the personnel, books, records and facilities of any of the properties that the trustee has the duty to divest, and Olin shall develop such financial or other information relevant to the properties to be divested as the trustee may reasonably request. Olin shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

C. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with this Order's absolute

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, etc. are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

and unconditional obligation to divest, and the purposes of the divestiture as stated in Paragraphs I and II of this Order.

D. The trustee shall serve, without bond or other security, at the cost and expense of Olin on such reasonable and customary terms and conditions as the Federal Trade Commission or a court may set. The trustee shall have the authority to retain, at the cost and expense of Olin, such consultants, attorneys, investment bankers, business brokers, accountants, appraisers, and other representatives and assistants as are reasonably necessary to assist in the divestiture. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Federal Trade Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to Olin and the trustee's power shall be terminated.

E. Within twenty (20) days after the appointment of the trustee, Olin shall transfer to the trustee all rights and powers necessary to accomplish divestiture.

F. Olin shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities to which the trustee may become subject, arising in any manner out of, or in connection with, the trustee's duties under this Order, unless the Federal Trade Commission determines that such losses, claims, damages, or liabilities arose out of the misfeasance, gross negligence, or the willful or wanton acts or bad faith of the trustee.

G. If the trustee ceases to act or fails to act diligently, a substitute trustee may be appointed.

H. The trustee may ask the Federal Trade Commission or the court-appointed trustee to issue, and the Federal Trade Commission or the court may issue, such additional orders or directions as may be necessary and appropriate to accomplish the divestiture required under this Order.

I. The trustee shall have no obligation or authority to operate or maintain any of the properties, assets, or enterprises required to be divested pursuant to Paragraph I of this Order.

J. The trustee shall report in writing to Olin and the Federal Trade Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

V

It is further ordered That for a period of ten (10) years from the date this Order becomes final, Olin shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Commission, the whole or any part of the stock, share capital, or assets of, or any interest in, any concern, corporate or noncorporate, engaged in the manufacture and sale of swimming pool chemicals, including entering into any agreement, understanding or arrangement with any such concern by which Olin would obtain the market share, in whole or in part, of such concern in the manufacture and sale of swimming pool chemicals. One year from the date this Order becomes final and annually thereafter Olin shall file with the Commission a verified written report of its compliance with this paragraph.

VI

It is further ordered That within sixty (60) days from the date this Order becomes final, and every sixty (60) days thereafter, until it has fully complied with Paragraphs I and II of this Order, Olin shall submit a report in writing to the Commission setting forth in detail the manner and form in which it intends to comply, is complying or has complied therewith. All such reports shall include, in addition to such other information and documentation as may hereafter be requested: (a) A specification of the steps taken by Olin to make public its desire to divest the FMC swimming pool chemicals assets; (b) a list of all persons or organizations to whom notice of divestiture has been given; (c) a summary of all discussions and negotiations related to divestiture together with the identity and address of all interested persons or organizations; and (d) copies of all reports, internal memoranda, offers, counteroffers, communications and correspondence concerning said divestiture.

VII

It is further ordered That Respondent Olin shall notify the Commission at least thirty (30) days before any proposed changes in the corporate Respondents which may affect compliance obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of successor corporations, or the creation or dissolution of subsidiaries.

By the Commission, Commissioner Strenio recused.

Donald S. Clark,

Secretary.

[FR Doc. 90-17131 Filed 7-20-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), University Occupational Safety Workshop; Meeting

Name: University Occupational Safety Workshop.

Time and Date:

8 a.m.–4:30 p.m., August 9, 1990.

9 a.m.–12 noon, August 10, 1990.

Place: Clarion Hotel, Commodore room, 141 W. 6th Street, Cincinnati, Ohio 45202.

Status: Open to the public, limited only by the space available.

Purpose: To provide current information about NIOSH safety research programs and to enhance communication among university training grant program directors and NIOSH research and training staff.

Contact Person for Additional Information: John T. Talty, P.E., NIOSH, CDC, Mailstop C10, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/533-8241 or FTS 684-8241.

Dated: July 16, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-17122 Filed 7-20-90; 8:45 am]

BILLING CODE 4160-19-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Nurse Practitioner and Nurse Midwifery Programs

The Health Resources and Services Administration (HRSA) announces the final funding priorities for Grants for Nurse Practitioner and Nurse Midwifery Programs, authorized under the authority of section 822(a) of the Public Health Service Act, as amended.

Section 822(a) of the Public Health Service Act, as implemented by 42 CFR part 57, subpart Y, authorizes assistance to meet the costs of projects to:

(1) Plan, develop and operate
(2) Expand, or
(3) Maintain programs for the training of nurse practitioners and/or nurse midwives.

Eligible applicants are public or nonprofit private schools of nursing and public health, public or nonprofit private hospitals, and other public or nonprofit private entities. Also eligible are public

or nonprofit private schools of medicine which received grants or contracts under section 822(a) prior to October 1, 1985.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the project plan adequately provides for meeting the requirements set forth in § 57.2405 of the program regulations and the appendix;
2. The potential effectiveness of the proposed project in carrying out the education purposes of section 822 of the Act;
3. The capability of the applicant to carry out the proposed project;
4. The extent to which the project has joint program direction or qualified nurse and physician educators;
5. The soundness of the fiscal plan for assuring effective utilization of grant funds; and
6. The potential of the project to continue on a self-sustaining basis after the project period.

Statutory Special Considerations

In accordance with the statute for section 822, the Secretary will give special consideration to applications for grants for programs for the education of nurse practitioners and nurse midwives who will practice in health manpower shortage areas (designated under section 332 of the PHS Act) and for programs for the education of nurse practitioners which emphasize education with respect to the special problems of geriatric patients (particularly problems in the delivery of preventive care, acute care and long term care—including home health care and institutional care to such patients) and education to meet the particular needs of nursing home patients and patients confined to their homes.

Final Funding Priorities for Fiscal Year 1991

Proposed funding priorities were published in the **Federal Register** of April 18, 1990 (55 FR 14478) for public comment. No comments were received during the 30 day comment period.

Therefore, as proposed, the following funding priorities will be used in making grant awards in fiscal year 1991. A funding priority will be given to:

(1) Graduate Degree Programs

Applicant institutions that have either a 3-year average enrollment of minority students in graduate nursing education in excess of the national average, or demonstrate an increase in minority enrollment in the graduate program which exceeds the program's prior 3-year average. Applicant institutions submitting applications to establish the first master's level nursing program in that institution may qualify for a funding priority if they can demonstrate an enrollment of minority students in their undergraduate program in excess of the national average for undergraduate nursing programs. The most recent data available indicate that the national average of graduate minority students in nursing is seven percent. This average is based on 1988 data.

(2) For Certificate Level Programs

Applicant institutions which demonstrate an increase in minority enrollment in the program which exceeds the program's prior 3-year average.

This program is listed at 13.298 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

Dated: July 17, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-17157 Filed 7-20-90; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services; HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of a new information collection for a Study of the Underlying Causes of Youth Homelessness.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk Officer of OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Study of the Underlying Causes of Youth Homelessness.

OMB No.: N/A.

Description: The purpose of this study is to provide the Administration for Children, Youth and Families (ACYF) with information on: (a) What services and other interventions are needed to prevent a youth from becoming homeless; and (b) what services are needed to terminate a youth's homeless status. The information obtained will be used to inform legislators, youth services providers, and child welfare planning and administrative staff about the origins and needs of homeless youth, and to provide a basis for improving the overall effectiveness of prevention activities and services for homeless youth.

Annual Number of Respondents: 480.

Annual Frequency: 1.

Average Burden Hours Per Response: 1.

Total Burden Hours: 480.

Dated: July 16, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-17061 Filed 7-20-90; 8:45 am]

BILLING CODE 4130-01-M

[Program Announcement No. 13631-90-01]

Developmental Disabilities, Availability of Fiscal Year 1990 Financial Assistance for Grant Awards Under the Data Collection and Pediatric AIDS Priority Areas for Projects of National Significance

AGENCY: Administration on Developmental Disabilities, Office of Human Development Services, HHS.

ACTION: Extension of deadline for applications for Development Disabilities Data Collection and Pediatric AIDS projects.

SUMMARY: The Administration on Developmental Disabilities, Office of Human Development Services (OHDS), announces that the deadline for accepting applications for funding of Data Collection (Priority Area 1.2) and Pediatric AIDS (Priority Area 1.4B) projects as published in the OHDS Coordinated Discretionary Funds Program announcement on March 8, 1990 (FR 8553-8608), has been extended.

DATES: The new closing date for receipt of applications is August 22, 1990.

ADDRESSES: Information on the application process can be obtained by writing or telephoning: Kay Smith,

Developmental Disabilities Program Specialist, Program Development Division, Administration on Developmental Disabilities, Room 336–D Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Telephone: (202) 245–2984. Applications should be sent to: Office of Human Development Services, Grants and Contracts Management Division, Room 349–F Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Attention: HDS–90–01, Priority Areas 1.2 and 1.4B.

SUPPLEMENTARY INFORMATION:

I. Background

The Administration on Developmental Disabilities (ADD) provides assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services, assistance and other opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity and integration into the community. Changes made by the Developmental Disabilities and Bill of Rights Act of 1987 (Pub. L. 100–146) emphasized that persons with developmental disabilities include those with severe functional limitations attributable to physical impairments, mental impairments, and combinations of physical and mental impairments.

In addition, ADD seeks to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential as well as ensuring the protection of their legal and human rights. ADD funds projects of national significance to States and public and private nonprofit agencies for projects relating to persons with developmental disabilities.

Public Law 100–146 included a provision that the Secretary of Health and Human Services may make grants and enter into contracts with public or private nonprofit agencies for technical assistance to expand or otherwise improve the programs and acitivites of the State Developmental Disability Planning Councils, University Affiliated Programs, and State Protection and Advocacy agencies.

On March 8, 1990, the Office of Human Development Services (OHDS) published in the **Federal Register** its fiscal year 1990 Coordinated Discretionary Funds Program announcement. ADD's fiscal year 1990 priority areas for projects of national significance were included as part of that announcement. That solicitation announcement resulted in an insufficient number of fundable applications in the Data Collection and Pediatric AIDS priority areas. Therefore, OHDS has determined that it is in the best interest of the Federal Government to extend the deadline for receipt of applications for these priority areas.

Those organizations which applied under the March 8, 1990 announcement and met the screening requirements need not reapply under this solicitation extension.

II. Priority Area Descriptions

1.2 Projects to Develop an Ongoing Data Collection System

Eligible Applicants: State, public or private nonprofit organizations, institutions or agencies.

Background Information: There is a need for continuing ADD's current data collection effort that will support State Developmental Disabilities Planning Councils, State Protection and Advocacy Agencies, and University Affiliated Programs (UAP) in providing data to meet State data collection and reporting requirements as well as to document progress made to date in improving the independence, productivity and integration into the community of people with developmental disabilities.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the application should:

- Identify data collection projects that provide baseline data on residential services, expenditures, and vocational services in order to determine the impact of services on enhancing the lives of persons with developmental disabilities.
- Include a plan to collect data on the types of services being provided, demographics of persons receiving and not receiving services, and the outcomes of the services provided, especially for underserved populations.

Project Duration: The length of the project must not exceed 24 months.

Federal Share of Project Costs: The maximum Federal share of the project is not to exceed $175,000 per budget period.

Matching Requirement: The minimum non-Federal matching requirement in proportion to the maximum Federal share $175,000 if $58,333 for the total project cost of $233,333 per year. This constitutes 25% of the annual project budget.

Anticipated Number of Projects to be Funded: It is anticipated that 3 projects will be funded.

1.4.B Pediatric AIDS

Eligible Applicants: State, public or private nonprofit organizations, institutions or agencies.

Purpose: To funds projects in one or more of the following areas that will address the needs of abandoned infants and young children who may test HIV positive, or who may be placed in foster care because the mother is HIV positive and unable or unwilling to care for the child: (1) Identification of at risk children; (2) development of early intervention strategies; (3) coordination of services; and (4) training.

Background Information: The number of children reported to the Centers for Disease Control with AIDS has doubled in each of the last two years. In 1987 there were approximately 500 known cases of children 0–12 years of age with AIDS. As of December 31, 1989, there were 1,995 cases. Ninety percent of these cases are due to perinatal transmission. Virtually all of these children develop neurological and developmental problems. The physical problems experienced by these children are frequent and of such seriousness as to require repeated hospitalization and continuing medical care. Some of these children remain with parents or other relatives, some are abandoned and require foster care, others are placed in foster care because of the unsuitability of the home. The early trauma of separation from the mother and failure to bond are believed to add to the developmental difficulties of these children.

Special Conditions: These grants will be supported by funds authorized under the Abandoned Infants Assistance Act of 1988 (the Act). The following assurances are required under section 101(b) of the Act if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from the parents:

- That a case plan of the type described in paragraph (1) of section 475 of the Social Security Act will be developed for each infant or young child (to the extent that such infant or young child is not otherwise covered by such a plan) for whom funds would be expended for foster care; and
- That the program includes a case review system of the type described in paragraph five (5) of section 475 of the Social Security Act (covering each such infant and young child who is not otherwise subject to such a system).

Sections 475(1) and 475(5) are reprinted below:

Paragraph (1) of section 475 of the Social Security Act reads as follows: The term "case plan" means a written document which includes at least the following:

A. A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1); and

B. A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

C. Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

• Paragraph five (5) of section 475 of the Social Security Act reads as follows: The term "case review system" means a procedure for assuring that:

A. Each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home consistent with the best interests and special needs of the child;

B. The status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship; and

C. With respect to such child, procedural safeguards will be applied, among other things, to assure each child of foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than eighteen months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to) whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care (on a permanent or long-term basis) and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

The following additional assurances are required by section 101(c) of the Act for all applicants:

• That if, during the majority of the 180-day period preceding October 18, 1988, the applicant carried out any program with respect to the care of abandoned infants and young children, the applicant will expend grant funds only for the purpose of significantly expanding activities above the level provided during the majority of that period;

• That the applicant will use the funds provided under this grant only for the purposes specified in the application;

• That the applicant will establish such fiscal control and accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds received under this grant; and

• That the applicant will report annually to the Secretary on the utilization, cost, and outcome of activities conducted, and services furnished under this grant.

• *Minimum Requirements for Project Design:* In order to successfully compete under this priority area, the application should address the minimum requirements specified in one or more of the following topical areas:

• *Identification of at-risk children:* Describe how the proposed project is intended to improve the early identification of abaondoned infants and young children who are at risk of developmental disabilities resulting from the child or the mother's testing HIV positive.

• *Development of early intervention strategies:* Describe how the proposed project will develop exemplary models and public education/information dissemination techniques that are focused in educating personnel and caregivers on the particular developmental needs of infants and young children who are infected with HIV or who have AIDS, or who are, who have been, or who are at risk of being associated with substance abuse.

• *Coordination of services:* Describe how the proposed project will increase and improve coordination and interaction among developmental disbility entities, maternal and child health service providers, and child protective service providers, including foster parents who are caring for children who test HIV positive.

• *Interdisciplinary Training:* Describe how the proposed project will provide interdisciplinary training for developmental disabilities service providers; maternal and child health providers; and foster, adoptive, and biological parents who are caring for abandoned infants and children who are diagnosed as having a developmental disability, or who are at risk of developing a developmental disability, as a result of the child or the mother testing HIV positive.

• *Caregiver Training:* Describe how the proposed project will provide training for developmental disabilities service providers and caregivers to increase their understanding of AIDS including the potential danger to unborn children. Training should specifically address enabling caregivers to interpret to others the meaning and impact of the HIV infection within their communities. This include settings such as daycare, preschool, and leisure-related programs.

• *Project Duration:* The length of the project must not exceed 24 months.

• *Federal Share of Project Costs:* The maximum Federal share of the project is not to exceed $100,000 per budget period.

• *Matching Requirement:* The matching requirement in proportion to the maximum Federal share of $100,000 is $33,333.

• Anticipated Number of Projects to be Funded: It is anticipated that up to 5 projects will be funded.

III. General Information and Requirements for the Application Process and Review

Applicants must meet the requirements contained in the following sections of the *Federal Register* announcement of March 8, 1990:

A. General Information
B. Application Screening Requirements
C. Evaluation Criteria
D. Components of a Complete Application
E. Instructions for Preparing the Application
F. The Application Package

G. Checklist for a Complete Application

IV. Waiver of Executive Order 12372 Requirements for a 60-Day Comment Period for the States' Single Point of Contact (SPOC)

The General Information section of the March 8, 1990 **Federal Register** (pp 3588–3589) includes the requirements for notification of the States' Single Point of Contact (SPOC). Because ADD must obligate the funds for these awards by September 30, 1990, the required 60-day comment period for State process review and recommendation has been reduced to 30 days and will end on September 27, 1990, in order for ADD to receive, consider, and accommodate SPOC input.

A list of the Single Points of Contact for each State and Territory is included on pages 8594 and 8595 of the March 8, 1990 **Federal Register**. (Please note that Louisiana is no longer a participant in the Executive Order process.)

V. The Application Process

A. Deadline for Submittal of Applications

The closing date for submittal of applications under this program announcement is August 22, 1990. The requirements for deadline and submittal of applications as published in the March 8, 1990 **Federal Register** (page 8589) apply to this resolicitation.

B. Availability of Forms

All instructions and forms for submittal of applications are included in the March 8, 1990 **Federal Register** announcement. Additional information can be obtained by writing or telephoning Kay Smith, Program Development Division, Administration on Developmental Disabilities, Room 336–D Humphrey Building, 200 Independence Avenue, SW., Washington, DC 2020. Telephone: (202) 245–2084.

(Federal Catalog of Domestic Assistance Number 13.631 Developmental Disabilities—Special Projects)

Dated: July 6, 1990.

Deborah L. McFadden,

Commissioner, Administration on Developmental Disabilities.

Approved:

Dated: July 16, 1990.

Mary Shella Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90–17060 Filed 7–20–90; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–90–3122]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to:

Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 11, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Handbook 4315.1, Property Disposition Handbook—Multifamily Propeties.

Office: Housing.

Description of the Need for the Information and its Proposed Use: When the Department becomes owner or mortgagee-in-possession of an apartment project, HUD contracts for professional real estate management services, including the inventorying of chattels, making a management survey, accounting for project expenses, and renting apartments.

Form Number: HUD Handbook 4315.1.

Respondents: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection varies from	75–2,200		1–1,150		1/60–22		9,885

Total Estimated Burden Hours: 9,855.

Status: Extension.

Contact: Marc A. Harris, HUD, (202) 708–4280; Scott Jacobs, OMB, (202) 395–6880.

Date: July 11, 1990.

Proposal: Substantial Equivalency Review Questionnaire.

Office: Fair Housing and Equal Opportunity (FHEO).

Description of the Need for the Information and its Proposed Use: The Questionnaire is designed to provide the Department with current information regarding an agency's ability to satisfactorily administer FHEO law or ordinance as required by the Regulation, Part 115. The Regional FHEO staff will use this information to conduct on-site performance assessments of the agency.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	30		1		5		150

Total Estimated Burden Hours: 150.

Status: Reinstatement.

Contact: Marion F. Connell, HUD, (202) 708–0455; Scott Jacobs, OMB, (202) 395–6880.

Date: July 11, 1990.

Proposal: Single Family Property Disposition; Demonstration Program for Sales to Non-Profits and Governmental Entities, FR–2835.

Office: Housing.

Description of the Need for the Information and its Proposed Use: The property disposition program will reduce the inventory of HUD-acquired properties in a manner that ensures maximum net return to the mortgage insurance funds while stabilizing, preserving, and improving neighborhoods and providing a source of affordable homeownership opportunities for low- and moderate-income buyers.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	100		1		50		5,000

Total Estimated Burden Hours: 5,000.

Status: New.

Contact: Jacqueline B. Campbell, HUD, (202) 708–0740; Scott Jacobs, OMB, (202) 395–6880.

Date: July 11, 1990.

[FR Doc. 90–17074 Filed 7–20–90; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–90–3123]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested person are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Dated: July 13, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Civil Rights Tenant Characteristics/Occupancy Report Insured Unsubsidized Housing Programs

Office: Fair Housing and Equal Opportunity

Description of the Need for the Information and its Proposed Use: Participants in HUD housing programs will be required to furnish information concerning race/ethnicity and gender characteristics to assist the Department in carrying out the responsibility for assuring that Federal statutes that prohibit discrimination and provide for fair housing are met.

Form Number: HUD–949

Respondents: Businesses or Other For-Profit

Frequency of Submission: Annually

Reporting Burden:

	Numnber of respondents	x	Frequence of response	x	Hours per response	=	Burden hours
HUD-949	4,000		1		⅙		667
Recordkeeping	4,000		1		1/12		333

Total Estimated Burden Hours: 1,000
Status: Extension
Contact: Lean Garrett, HUD, (202) 708–2740, Scott Jacobs, OMB, (202) 395–6880

Dated: July 13, 1990.

Proposal: American Housing Survey—1991 Metropolitan Sample
Office: Policy Development and Research

Description of the Need for the Information and its Proposed Use: American Housing Survey—1991 Metropolitan Sample is a longitudinal study that collects current information on the quality, availability, and cost of housing in 11 selected metropolitan areas. It also provides information on demographic and other characteristics of the occupants. The data collected will be used by Federal and local government agencies to evaluate housing issues.

Form Number: AHS–61, 62, 63, 66, 67, 68, and 590
Respondents: Individuals or Households
Frequency of Submission: Annually
Reporting Burden:

	Numnber of respondents	x	Frequence of response	x	Hours per response	=	Burden hours
Interview:							
Occupied Units	41,580		1		.62		25,641
Vacant Units	2,475		1		.33		825
Reinterviews	2,475		1		.16		412

Total Estimated Burden Hours: 26,878
Status: Revision
Contact: Duane T. McGough, HUD, (202) 708–8550, Scott Jacobs, OMB, (202) 395–6880

Dated: July 13, 1990.

[FR Doc. 90–17075 Filed 7–20–90; 8:45 am]
BILLING CODE 4710–01–M

[Docket No. D–90–927]

Designation and Order of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation and Order of Succession.

SUMMARY: The Manager of the Reno Office in Region IX is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of Manager.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Beverly G. Agee, Regional Counsel, Department of Housing and Urban Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, CA 94102. Telephone (415) 556–6110. This is not a toll-free number.

DESIGNATION OF ACTING MANAGER: Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy of the position of Manager; *Provided*, That no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unable to act by reason of absence, disability, or vacancy in said position.

1. Chief, Housing Development Branch.
2. Chief, Housing Management Branch.

This designation supersedes and cancels any previous designation, published or unpublished, that may be in effect prior to the effective date of this document.

Authority: Delegation of Authority by the Secretary of Housing and Urban Development effective October 1, 1970; 36 FR 3389, February 23, 1971.

Dated: July 1, 1990.

Andrew D. Whitten, Jr.,
Manager, 9.6S, Reno Office, Department of Housing and Urban Development, Region IX.

CONCUR:

Robert J. De Monte,
Regional Administrator—Regional Housing Commissioner, Region IX.

[FR Doc. 90–17076 Filed 7–20–90; 8:45 am]
BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. N–90–3055; FR–2813–N–01]

Federally Mandated Exclusions From Income

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: Under several HUD programs (Rent Supplement under part 215, Mortgage Insurance and Interest Reduction Payment for Rental Projects under part 236, Section 8 Housing Assistance programs and the Public and Indian Housing programs), the definition of income does not include amounts of other benefits specifically exempted by Federal law. Periodically, HUD announces the list of benefits so excluded. This notice reports that payments received from the Maine Indian Claims Settlement Act of 1980 are not to be considered as income or as resources for purposes of the above-mentioned programs. In addition, pursuant to an interim rule published on February 19, 1988, the Department is also announcing that, [r]elocation payments made pursuant to title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" are removed from the list of federally mandated exclusions. Hence, these payments will be considered as income or resources for purposes of HUD's assisted housing programs.

DATES: Effective Date: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: For Rent Supplement, Section 236, and Section 8 programs administered under 24 CFR parts 880, 881 and 883 through 886: James J. Tahash, Director, Program Planning Division, Office of Multifamily Management, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410, telephone-Voice: (202) 708–3944, TDD: (202) 708–4594.

For Section 8 programs administered under 24 CFR part 882 (Existing Housing, Moderate Rehabilitation) and under part 887 (Vouchers), and for the Public and

Indian Housing programs: Edward Whipple, Chief, Rental and Occupancy Branch, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410, telephone-Voice: (202) 708–0744, TDD: (202) 708–0850. (These are not toll-free numbers.)

Any member of the public who becomes aware of any other Federal statute which he or she believes required any other benefit to be excluded from consideration as income in these programs should submit information about the statute and the benefit program to one of the persons listed as contact or to the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: Under certain HUD subsidized housing programs, annual income is a factor in determining eligibility and level of benefits. Annual income is broadly defined as the anticipated total income from all sources received by every family member. Traditionally, HUD excludes certain types of benefits from applicants' and participants' annual income. In addition under 24 CFR 215.21(c)(10), 236.3(c)(10), 813.106(c)(10) and 913.106(c)(10), the definition of annual income excludes amounts specifically excluded by any other Federal statute from consideration for purposes of determining eligibility for or level of benefits to be received under the HUD programs in question.

The Maine Indian Settlement Claims Act of 1980 provides that payments received by any Indian or member of an Indian household, under this Act, are not to be considered as income or resources under this Act. PHAs and Owners who either have denied eligibility or have charged excess rent to recipients of payments under the Act because of those payments must review eligibility or rent payments, and make adjustments as appropriate.

The 1987 amendments to the Uniform Relocation (URA) mandated that "[r]elocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" not be included in the list of federally mandated exclusions from income. The Department published an interim rule on February 19, 1988, implementing that provision. Hence, this Notice discloses that the above-mentioned payments are to be considered as income or resources for purposes of HUD's assisted programs.

The Department published its last updated list of federally mandated exclusions from income on April 10, 1990. This notice supersedes that announcement.

The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion stated in 24 CFR 215.21(c)(10), 236.3(c)(10), 813.106(c)(10) and 913.106(c)(1)):

(i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 USC 2017(b));

(ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 USC 5044(g), 5058);

(iii) Payments received under the Alaska Native Claims Settlement Act (43 USC 1626(a));

(iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 USC 459e);

(v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 USC 8624(f));

(vi) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 USC 1552(b));

(vii) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94–540, 90 Stat. 2503–04);

(vii) The first $2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407–08) or from funds held in trust for an Indian tribe by the Secretary of the Interior (25 U.S.C. 117b, 1407);

(ix) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student Assistance programs, that are made available to cover the cost of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of a student at an educational institution (20 U.S.C. 1087uu);

(x) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)); and

(xi) Payments received after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(xii) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 94 Stat. 1785).

Dated: June 29, 1990.

Alfred A. DelliBovi,

Acting Secretary.

[FR Doc. 90–17078 Filed 7–20–90; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–90–3121; FR–2849–N–01]

Mortgage and Loan Insurance Programs under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning July 1, 1990, is 8⅝ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning July 1, 1990, is 9.0 percent.

FOR FURTHER INFORMATION CONTACT: Fred E. McLaughlin, Financial Services Division, Room 9132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–1591 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision

is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning July 1, 1990, is 9.0 percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 9.0 percent for the six-month period beginning July 1, 1990. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the last six months of 1990.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11⅛	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning July 1, 1990, is 8 ⅝ percent.

HUD expects to publish its next notice of change in debenture interest rates in January 1991.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

Authority: Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: July 16, 1990.

C. Austin, Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-17077 Filed 7-20-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the Department of the Interior Performance Review Boards. The publication of these appointments is required by section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454, 5 U.S.C. 4314(c)(4).

DATES: These appointments are effective upon publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Morris A. Sims, Director of Personnel, Office of the Secretary, Department of the Interior, 1800 C Street, NW., Washington, DC 20240, Telephone Number: 208-6761.

Department of the Interior; SES Performance Review Boards (PRB)—FY 1990

Assistant Secretary for Fish and Wildlife and Parks

Joseph E. Doddridge (CA), Chairperson
S. Scott Sewell (NC)
John M. Morehead (CA)
Robert Stanton (CA)
Joseph S. Marler (CA)
Jay L. Gerst (CA)
Lorraine L. Mintzmyer (CA)

Assistant Secretary for Indian Affairs

Jerry Jaeger (CA), Chairperson
Wilson Barber (CA)
Robert D. Baracker (CA)
Ronald D. Eden (CA)
Richard W. Whitesell (CA)

Assistant Secretary—Land and Minerals Management

James Hughes (NC) (Chairperson)
Ed Cassidy (NC)
Carson Culp (CA)
Robert Fagin (CA)
Thomas Gernhofer (CA)
Susan Recce-Lamson (NC)
Dean Stepanek (CA)

Office of the Secretary and Assistant Secretary—Policy, Management and Budget

Mary Ann Lawler (CA), Chairperson
Jonathan Deason (CA)
Gabe Paone (CA)
Carmen Maymi (CA)
Hazel Elbert (CA)
Marvin Pierce (CA)
Patricia Hastings (CA)

Office of the Solicitor

Martin J. Suuberg (NC), Chairperson
Lynn R. Collins (CA)
Lawrence E. Cox (CA)
Timothy S. Elliott (CA)
Thomas E. Robinson (CA)
Gina Guy (CA)

Assistant Secretary for Water and Science

Donald Glaser (CA), Chairperson
Lawrence Hancock (CA)
Peter Bermel (CA)
Stanley Sauer (CA)
David Brown (CA)
George Dooley (CA)
Margaret Carpenter (CA)

Departmental Performance Review Board

Lou Gallegos (PAS), Chairperson
R. Thomas Weimer (NC)
Charles (Ed) Kay (CA)
Morris A. Simms (CA)
Doyle G. Frederick (CA)
Jean Baines (CA)
Herbert Cables (CA)
Margaret Sibley (CA)

Dated: July 12, 1990.

Approved for the Executive Resources Board

Lou Gallegos

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 90-17064 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Environmental Impact Statement (EIS) for Proposed Lease on the Fort Mojave Indian Reservation, Mohave County, AZ

AGENCY: Department of the Interior: Bureau of Indian Affairs (BIA).

ACTION: Notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Department of the Interior, Bureau of Indian Affairs, in cooperation with the Fort Mojave Indian Tribe, intents to gather information necessary for the preparation of an EIS for the proposal to lease 556 acres of Indian trust lands for mixed residential, commercial, and recreational development in Mohave County, Arizona.

Public scoping meetings will be held to solicit suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. This notice is required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7).

DATES: Written comments should be received on or before September 10, 1990. The scoping meetings will be held to identify issues and alternatives to be evaluated in the EIS documentation. The dates and locations for the scoping meetings are as follows:

August 7, 1990, 7 p.m., Fort Mojave Tribal Chambers, 500 Merriman, Needles, California; August 8, 1990, 7 p.m., Mohave High School, 2251 Highway 95, Riviera, Arizona; and August 9, 1990, 1 p.m., BIA Phoenix Area Office (5th Floor Conference room), One North First Street, Phoenix, Arizona.

Comments and participation in the scoping process are solicited and should be directed to the BIA at the address below or to Sierra Delta Corporation, Attention: Cheryl McDonnell-Canan, 3281 S. Highland Dr., suite 805, Las Vegas, Nevada, 89109. Significant issues to be covered during the scoping process will include biotic resources; archaeological, cultural, and historic sites; socioeconomic conditions; land use; air, visual, water quality and resource patterns.

ADDRESSES: Comments should be addressed to Wilson Barber, Jr., Area Director, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona 85001, or the Sierra Delta Corporation at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ms. Ethel T. Goodman, Colorado River Agency—Real Estate Services, Route 1, Box 9-C, Parker Arizona 85344. The telephone number is (602) 669-6121.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, in cooperation with the Fort Mojave Indian Tribe, will prepare an EIS on the following lease sites, totalling 556 acres, located on the Arizona side of the Colorado River, north of the junction of Nevada, Arizona, and California. The Fort Mojave Indian Tribe has identified this area for a future development site.

Eagle Point to be developed by Great Southwestern, Inc. would include:

1. Proposed Lease Site A

(a) Residential:	
Single-family housing	200 acres.
Multi-family housing	37 acres.
Mobile homes	17 acres.
Subtotal	254 acres.
(b) Commercial:	
Commercial shopping	17 acres.
Clubhouse and pool	3 acres.
Sewage treatment plant	6 acres.
Subtotal	26 acres.
(c) Open Space:	
Off-site parks & ponds	22 acres.
Off-site streets/greenspace	174 acres.
Subtotal	196 acres.
Project Total	476 acres

The Mojave Apartments to be developed by Rio Mojave Development Corp. would include:

2. Project Lease Site

(a) Residential:	
Multi-family housing	80 acres.
Project Total	80 acres

Information describing the proposed action will be sent to the appropriate Federal, Tribal, State and Local agencies and to private organizations and citizens expressing an interest in this proposal. The principal alternatives identified are to build the project as planned, to build a smaller project, to use the land for other purposes or to leave the land in its natural state. Potential environmental impacts that may be of concern are water resources, biological resources, and transportation. We estimate the Draft EIS will be made available to the public in February 1991.

This notice is published pursuant to Sec. 1501.7 of the Council of Environmental Quality Regulations (40 CFR, part 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 437 et seq.), Department of the Interior Manual (516 DM I-6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM-8.

Dated: July 17, 1990.

Walter R. Mills,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 90-17063 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-320-00-4212-02]

Information Collection Submitted to the Office of Management and Budget (OMB)

The proposal for the collection of information listed below has been submitted to the OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the OMB, Paperwork Reduction Project (1004-0029), Washington, DC 20503, telephone 202-395-7340.

Title: Color-of-Title Application, 43 CFR part 2540

OMB approval number: 1004-0029

Abstract: Respondents supply identifying information to be used by the agency to process color of title applications to determine validity of a color-of-title claim to public lands.

Bureau form number: 2540-1

Frequency: Once

Description of respondents: Individuals applying for a color-of-title claim to public lands.

Estimated completion time: 30 minutes

Annual responses: 50

Annual burden hours: 25

Bureau Clearance Officer: Gerri Jenkins 202-653-8853

Dated: May 4, 1990.

Michael J. Penfold,

Assistant Director for Land and Renewable Resources.

[FR Doc. 90-17066 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-84-M

[AA-320-00-4212-02]

Information Collection Submitted to Office of Management and Budget (OMB) for Review

The proposal for the collection of information listed below has been submitted to the OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau of Land Management's (BLM) Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the BLM Clearance Officer and to OMB, Paperwork Reduction Project (1004-0010), Washington, DC 20503, telephone 202-395-7340.

Title: Conveyances Affecting Color or Claim of Title, 43 CFR part 2540.
OMB approval number: 1004-0010.
Abstract: Respondents supply identifying information to be used by the agency to determine validity of a color-of-title claim and aid in the documentation of title conveyance information in support of color-of-title applications to public lands.
Bureau form number: 2540-2.
Frequency: Once.
Description of respondents: Individuals applying for a color-of-title claim to public lands.
Estimated completion time: 1 hour.
Annual responses: 50.
Annual burden hours: 50.
BLM Clearance Officer (Alternate): Gerri Jenkins 202-653-8853.

Dated: April 20, 1990.

Henry Holdan,

Acting Assistant Director for Land and Renewable Resources.

[FR Doc. 90-17097 Filed 7-20-90; 8:45 am]
BILLING CODE 4310-84-M

[AA-320-00-4212-02]

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0011), Washington, DC 20503, telephone 202-395-7340.

Title: Color-of-Title Tax Levy and Payment Record, 43 CFR part 2540
OMB approval number: 1004-0011
Abstract: Respondents supply identifying information to be used by the agency to determine validity of a color-of-title claim and aid in the documentation of tax payment in support of color-of-title applications to public lands.
Bureau form number: 2540-3
Frequency: Once
Description of respondents: Individuals applying for a color-of-title claim to public lands.
Estimated completion time: 30 minutes
Annual responses: 50
Annual burden hours: 25
Bureau Clearance Officer: Gerri Jenkins 202-653-8853

Dated: May 4, 1990.

Michael J. Penfold,

Assistant Director for Land and Renewable Resources.

[FR Doc. 90-17098 Filed 7-20-90; 8:45 am]
BILLING CODE 4310-84-M

[AA820-00-4830-14]

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0109), Washington, DC 20503, telephone 202-395-7340.

Title: Payments in Lieu of Taxes, 43 CFR part 1881
OMB approval number: 1004-0109
Abstract: The information requested is statutorily required to compute payments due units of local government under the Payments in Lieu of Taxes Act (31 U.S.C. 6901-6907). The Act requires that the Governor of each State furnish a statement as to the amounts paid to units of local government under 11 receipt sharing statutes in the prior fiscal year. CFDA Number 15.216.
Bureau Form Number: None
Frequency: Annually.
Description of Respondents: States supplying Federal land payment information to the Bureau of Land Management
Estimated completion time: 20 hours
Annual responses: 50
Annual Burden Hours: 1,000
Bureau Clearance Officer (Alternate): Gerri Jenkins (202) 653-3853

Dated: June 26, 1990.

Carson W. Culp,

Acting Assistant Director, Management Services.

[FR Doc. 90-17099 Filed 7-20-90; 8:45 am]
BILLING CODE 4310-84-M

[AK-960-09-4230; AA-14015]

Waiver of Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order waives the application filing date for selection pursuant to subsection 14(h)(8) of the Alaska Native Claims Settlement Act in order for Sealaska Corporation to file selections on sections 13, 24, 25, and 36, T. 55 S., R.72 E., and W1/2W1/2 section 2, T. 56 S., R. 73 E., Copper River Meridian, Alaska.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Terry Hassett, BLM Alaska State Office, 222 West Seventh Street, No. 13, Anchorage, Alaska 99513-7599, 907-271-3229.

This order waives the application date for selections pursuant to subsection 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601 (1988), contained in 43 CFR 2653.4(c).

Waiver of Regulations

Sealaska Corporation, an Alaska Native regional corporation, has requested a waiver of subsection 14(h)(8) of the Alaska Native Claims Settlement Act selection period regulations in 43 CFR 2653.4(c).

It has been concluded that the request meets the criteria for waiver as provided in 43 CFR 2650.0-8.

It is hereby ordered, as authorized by 43 CFR 2650.0-8, that these regulations be waived for Sealaska Corporation, thus allowing for selection and conveyance of the following described lands:

Copper River Meridian, Alaska

T. 55 S., R. 72 E. (partially surveyed)
Sec. 13, lots 1 to 3;
Sec. 24, lots 1 to 4, W1/2NE1/4, SW1/4NE1/4, S1/2NW1/4, S1/2; and
Secs. 25 and 36.

Containing 1,904 acres as shown on plat of survey officially filed March 5, 1978.

T. 56 S., R. 73 E. (unsurveyed)
Sec. 2, W1/2W1/2.

Containing approximately 160 acres.
Aggregating approximately 2,064 acres.

Dated: July 5, 1990.

Michael J. Penfold,

Assistant Director, Land and Renewable Resources.

[FR Doc. 90-17100 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-JA-M

Geological Survey

Application Notice Establishing a Tentative Closing Date for Transmittal of Applications Under the Water Resources Grant Program for Fiscal Year (FY) 1991

Applications are invited for water research projects under the Water Resources Research Grant Program.

The purpose of this program is to provide matching grants for research concerning any aspect of water resource-related problems deemed to be in the national interest.

Applications may be submitted by water resources research institutes and other qualified educational institutions, private foundations, private firms, individuals, and agencies of State or local governments.

Closing Date for Transmittal of Applications: Applications are tentatively due on or before November 20, 1990. The announcement will state the actual due date for receipt of the application.

Program Information: This program supports research related to the following general areas of national interest: (1) Aspects of the hydrologic cycle; (2) supply and demand for water; (3) demineralization of saline and other impaired waters; (4) conservation and best use of available supplies of water and methods of increasing such supplies; (5) water reuse; (6) depletion and degradation of groundwater supplies; (7) improvements in the productivity of water when used for agricultural, municipal, or commercial purposes; and (8) the economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems.

Application Forms: The announcement is expected to be available on or about August 7, 1990. The announcement may be obtained by writing to Ms. Karen Phillips, U.S. Geological Survey, Office of Procurement and Contracts—MS 205C, 12201 Sunrise Valley Drive, Reston, Virginia 22092 and requesting a copy of announcement 7719. All organizations that applied for a FY 1990 award, all Historically Black Colleges and Universities, and all organizations that requested to be retained on the mailing list since the last announcement will be mailed a copy of the announcement.

Further Information: For further information contact Melvin Lew, U.S. Geological Survey, Water Resources Division—MS 424, 12201 Sunrise Valley Drive, Reston, Virginia 22092. Telephone: 703-648-6811.

(Catalog of Federal Domestic Assistance Number 15.806)

Dated: July 17, 1990.

Roy J. Heinbuch,

Chief, Office of Financial Management.

[FR Doc. 90-17141 Filed 7-20-90; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-290 (Sub-No. 99X)]

Exemption; Norfolk and Western Railway Co.; Discontinuance Exemption—In Buchanan and Dickinson Counties, VA

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over its 3.3-mile line of railroad between milepost CL-13.6, at Duty, and milepost CL-16.9, at Clinchfield Coal, in Buchanan and Dickinson Counties, VA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 22, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by August 2, 1990. Petitions for reconsideration must be filed by August 13, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corportion, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by July 30, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 9, 1990.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemptions. *See Exemption of Out-of-Service Rail Line*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encourged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–17006 Filed 7–20–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31710]

Exemption; SPCSL Corp.; Trackage Rights Exemption; Commuter Rail Division of the Regional Commuter Railroad Corp.

Commuter Rail Division of the Regional Commuter Railroad Corporation (Metra) has agreed to grant overhead trackage rights to SPCSL Corp. (SPCSL) over its line between milepost 40.56, at Joliet, IL, and milepost 5.0, at the Englewood yard, Chicago, IL, a distance of 35.56 miles. The trackage rights were to become effective on or after July 11, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, SPCSL Corp., One Market Plaza, Room 846, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: July 13, 1990.

By the Commission, Joseph H. Dettmar, Acting director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–17005 Filed 7–20–90; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans, Announcement of Vacancies and Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (The Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his/her functions under ERISA, and to submit to the Secretary or their designee recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on Wednesday, November 14, 1990. The groups or fields represented are as follows: employee organizations, corporate trust, investment management, employers (multiemployer plans), and the general public.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to, Attention: William E. Morrow, Executive Secretary, ERISA Advisory Council, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Suite N–5677, Washington, DC 20210. Recomendations msut be delivered or mailed on or before September 12, 1990. Recommendations may be in the form of a letter, resolution or petition, signed by the person making the recommendation or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation should identify the candidate by name, occupation or position, telephone number and address. It should also include a brief description of the candidate's qualifications, the group or field which he or she would represent for the purpsoes of section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, DC, this 17th day of July, 1990.

David George Ball,

Assistant Secretary of Labor for Pension and Welfare Benefit Programs.

[FR Doc. 90–17129 Filed 7–20–90; 8:45 am]

BILLING CODE 4510–29–M

Employment and Training Administration

Attestation by Facilities Temporarily Employing Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of expedited information collection clearance under the Paperwork Reduction Act.

SUMMARY: The Employment and Training Administration (ETA), Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35, 5 CFR 1320 (53 FR 16618, May 10, 1988)), is submitting a request for approval to the Office of Management and Budget for a health care form that employers use to attest to why they need foreign nurses, what they are doing to attract/retrain U.S. nurses and provide supporting documentation to justify each attestation. This attestation form will be completed once annually. Under strike/lockout situations, health care facilities will submit notices; if there is no bargaining representative for nurses at the health care facility, notices will be posted containing all of the necessary information of where the attestation is filed; and States may submit a State plan attesting that the State is subject to an approved State plan for the recruitment and retention of nurses as an alternative to attesting and submitting supporting documentation. Respondents may appeal either the attestation or the annual plan.

DATES: ETA has requested an expedited review of this submission under the Paperwork Reduction Act; this OMB review has been requested to be completed by August 22, 1990.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding the form and its associated activity or burden should be directed to Paul E. Larson, Departmental Clearance Officer, Office of Information Management, U.S. Department of Labor, 200 Constitution

Avenue, NW., room N–1301, Washington, DC 20210 (202–523–6331). Comments should also be sent to the Office of Information and Regulatory Affairs, Atten: OMB Desk Officer for ETA, Office of Management and Budget, room 3001, Washington, DC 20503 (202–395–6880).

Any member of the public who wants to comment on the information collection clearance package which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Average Burden Hours/Minutes Per Response: 3.334 hours.

Frequency or Response: (annually).

Number of Respondents: 1,024.

Annual Burden Hours: 3,415.

Affected Public: 1,024.

Respondents Obligation to Reply: Mandatory.

Signed at Washington, DC, this 16th day of July 1990.

Paul E. Larson,

Departmental Clearance Officer.

BILLING CODE 4510-30-M

Standard Form 83
(Rev. September 1983)

Request for OMB Review

Important

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 1320, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and for paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs
Office of Management and Budget
Attention: Docket Library, Room 3201
Washington, DC 20503

PART I.—Complete This Part for All Requests.

1. Department/agency and Bureau/office originating request
U.S. Department of Labor
Employment and Training Administration

2. Agency code
1 2 0 5

3. Name of person who can best answer questions regarding this request
Margaret Erickson

Telephone number
(202) 535-0169

4. Title of information collection or rulemaking
Attestation by Facilities Temporarily Employing Nonimmigrant Aliens as Registered Nurses

5. Legal authority for information collection or rule *(cite United States Code, Public Law, or Executive Order)*
8 USC 1101(a)(15)(H)(i) or P.L. 101-238, 103 Stat. 2099 (Dec. 18, 1990) INRA (1)(a) and 1182(m)

6. Affected public *(check all that apply)*

1 ☒ Individuals or households	3 ☐ Farms	5 ☒ Federal agencies or employees
2 ☒ State or local governments	4 ☒ Businesses or other for-profit	6 ☒ Non-profit institutions
		7 ☒ Small businesses or organizations

PART II.—Complete This Part Only If the Request Is for OMB Review Under Executive Order 12291

7. Regulation Identifier Number (RIN)
— — — — — — — — — —, or, None assigned ☐

8. Type of submission *(check one in each category)*

Classification	*Stage of development*	*Type of review requested*
1 ☐ Major	1 ☐ Proposed or draft	1 ☐ Standard
2 ☐ Nonmajor	2 ☐ Final or interim final, with prior proposal	2 ☐ Pending
	3 ☐ Final or interim final, without prior proposal	3 ☐ Emergency
		4 ☐ Statutory or judicial deadline

9. CFR section affected
_____CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320? . . . . . ☐ Yes ☐ No

11. If a major rule, is there a regulatory impact analysis attached? . . . . . 1 ☐ Yes 2 ☐ No
If "No," did OMB waive the analysis? . . . . . 3 ☐ Yes 4 ☐ No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with.

Signature of program official — Date

Signature of authorized regulatory contact — Date

12. *(OMB use only)*

PART III.—Complete This Part Only If the Request Is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.

13. Abstract—Describe needs, uses and affected public in 50 words or less 'Immigrants, Health Care Personnel, Health Services Administration'

The information provided on this form by Health Care Facilities will permit DOL to meet Federal responsibilities for program administration, management, and oversight.

14. Type of information collection *(check only one)*

Information collections not contained in rules

1 ☐ Regular submission

2 ☐ Emergency submission *(certification attached)*

Information collections contained in rules

3 ☐ Existing regulation *(no change proposed)*

4 ☒ Notice of proposed rulemaking (NPRM)

5 ☐ Final, NPRM was previously published

6 Final or interim final without prior NPRM

A ☐ Regular submission

B ☐ Emergency submission *(certification attached)*

7. Enter date of expected or actual Federal Register publication at this stage of rulemaking *(month, day, year)*: _____

15. Type of review requested *(check only one)*

1 ☒ New collection

2 ☐ Revision of a currently approved collection

3 ☐ Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection

4 ☐ Reinstatement of a previously approved collection for which approval has expired

5 ☐ Existing collection in use without an OMB control number

16. Agency report form number(s) *(include standard/optional form number(s))*

ETA 9029

17. Annual reporting or disclosure burden

1 Number of respondents	1
2 Number of responses per respondent	1
3 Total annual responses *(line 1 times line 2)*	1
4 Hours per response	1
5 Total hours *(line 3 times line 4)*	1

18. Annual recordkeeping burden

1 Number of recordkeepers	
2 Annual hours per recordkeeper	
3 Total recordkeeping hours *(line 1 times line 2)*	
4 Recordkeeping retention period	years

19. Total annual burden

1 Requested *(line 17.5 plus line 18.3)*	1
2 In current OMB inventory	0
3 Difference *(line 1 less line 2)*	1
Explanation of difference	
4 Program change	+ 1
5 Adjustment	

20. Current *(most recent)* OMB control number or comment number

21. Requested expiration date

July 1993

22. Purpose of information collection *(check as many as apply)*

1 ☒ Application for benefits

2 ☐ Program evaluation

3 ☐ General purpose statistics

4 ☒ Regulatory or compliance

5 ☐ Program planning or management

6 ☐ Research

7 ☐ Audit

23. Frequency of recordkeeping or reporting *(check all that apply)*

1 ☐ Recordkeeping

Reporting

2 ☐ On occasion

3 ☐ Weekly

4 ☐ Monthly

5 ☐ Quarterly

6 ☐ Semi-annually

7 ☒ Annually

8 ☐ Biennially

9 ☐ Other *(describe)*: _____

24. Respondents' obligation to comply *(check the strongest obligation that applies)*

1 ☐ Voluntary

2 ☐ Required to obtain or retain a benefit

3 ☒ Mandatory

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education programs? ☐ Yes ☒ No

26. Does the agency use sampling to select respondents or does the agency recommend or prescribe the use of sampling or statistical analysis by respondents? ☐ Yes ☒ No

27. Regulatory authority for the information collection

_____ CFR _____ ; or _____ FR _____ ; or, Other *(specify)*: Public Law 101-238

Paperwork Certification

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with.

Signature of program official

Caroline M. Teasley — 7/13/90

Signature of agency head, the senior official or an authorized representative — Date

16 JUL 90

☆ U.S. Government Printing Office: 1988—478-648/30252

Supporting Statement

1. On December 18, 1989 the Immigration Nursing Relief Act went into effect. Congress enacted this legislation based on the perception that it was necessitated by the shortage of registered nurses in the United States. Public Law 101.238 (copy attached) requires health care facility employers seeking access to temporary foreign RN nurses (under the newly created H–1A visa category) to file an "attestation with supporting documentation" with the Department of Labor on an annual basis.

The Department of Labor will review and approve filed attestations and notify the INS of health care facilities that cannot have access to temporary foreign RN's.

2. The information collected (such as the annual State plan and attestations) will be reviewed by DOL to insure that health care facilities are taking timely and significant steps to eventually reduce dependence on nonimmigrant nurses. The public can request to review and make copies of these attestations as well as file a complaint if a particular health care facility is not honoring its attestation. If this information is not collected DOL would not be able to determine whether a facility is trying to reduce its dependence on nonimmigrant nurses (RNs).

3. Information collected will be in health care employer's records and most likely is computerized (such as salary schedules, census of beds, no of nurses). Therefore, no unnecessary burden would be placed on the organizations.

4. Health care employer's records will be utilized as necessary and to our knowledge no information of similar nature exists. Information is only requested annually and each year something different can be attested to with supporting documentation to show that dependence on foreign nurses is being taken.

5. This is the first time health care employers must attest to why they need foreign nurses, what they are doing to attract/retrain U.S. nurses and provide supporting documentation to justify each attestation. Therefore, no similar information exists to the best of our knowledge.

6. This information collection does involve small business.

7. Information collected less frequently would not enable the Department of Labor to determine whether the dependence on foreign nurses (RNs) was being reduced by health care facilities and if these facilities were trying to attract as well as retain U.S. nurses in the nursing occupation.

8. This data collection is consistent with 5 CFR 1320.6.

9. DOL met with organizations for fact finding information. (See attached sheet.)

All comments received pertaining to the Proposed Rule Making will be taken into consideration.

10. Documentation is not exempt from disclosure under the FOIA. Public law requires that all attestations be available for public inspection at the Department of Labor.

11. Data does not involve sensitive questions.

12. The estimated average FTE for professional and clerical is $70,000 * (4). equipment $12,600. Approximate cost $292,600 the first year.

13. The number of respondents is estimated to be 1,000; estimated burden for collection of information is between 2 to 4 hours. The Health Care Facility employers must attach supporting documentation to attestations, such as pay schedule of prevailing wages, as opposed to previous pay schedule; documentation of provision of career development programs and other methods of facilitating health care workers to become registered nurses. The documentation should be easily found in their administrative files. Excerpts should be brief but precise when explanations are needed.

Under strike/lockout and layoff situations approximately 10 Health Care Facilities per year will be submitting notices. It is estimated that the reporting burden for this collection of information will be less than 1 hour per response, including the time for reviewing instructions, searching existing information/data sources gathering and maintaining the information/data needed and completing and reviewing the notice of strike or lockout.

It is estimated that less than 10 States per year will be submitting annual State plans. The State plan includes scope and coverage of attestations of individual health care facilities. It also addresses requirements of 8 U.S.C. 1182(m)(2)(b) (i) through (v). These include the qualifications referred to in section (m)101(a)(15)(H)(i)(a) with respect to an alien who is coming to the U.S. to perform nursing sevices for a facility, (2) the attestation referred to in section 101(a)(15)(H)(i)(a) with respect to a facility for which an alien will perform services. The public reporting burden of this collection of information is estimated to average less than 40 hours per response.

If there is no bargaining representatives for nurses at the Health Care Facility, a posting notice containing all the necessary information of where the attestation is filed should not take no more than one hour.

The appeal process should require no more than 1½ hours to gather and mail the necessary information.

The overall hours required for each respondent annually to produce required information are:

Attestations	1,000	× 3	=	3,000
Annual State Plans	10	× 40	=	400
Notices of Strikes & Lockouts	10	× 1	=	10
Appeals to Attestations or Annual Plan	2	× 1.5	=	3
Posting Notices	2	× 1	=	2
	1,024			3,415

14. This is a new data information collection request (ICR). The ICB reflects 1 hour since it is in the proposed rule making stage. Upon finalization, actual hours will be 3415.

15. No collection of information will be used for publication.

BILLING CODE 4510-30-M

*(This cost includes the time to process, analyze health care attestations)

Health Care Facility Attestation (H-1A)

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service

1. Name of Employer (Full Legal Name of Organization)

2. Address (Number, Street, City or Town, State and Zip Code)

3. Telephone (Area Code and Number)

OMB Approval No.:
Expires:

4. Facility's Federal Employer I.D. Number

5. Nature of Employer's Business Activity

6. Name of Chief Executive Officer

7. Employer Attestation

a. This facility has not laid off any registered nurses within the past year and there would be a substantial disruption through no fault of this facility in the delivery of health care services of the facility without the services of an alien(s).

b. The employment of the alien(s) will not adversely affect the wages and working conditions of registered nurses similarly employed.

c. The alien(s) will be paid the wage rate for registered nurses similarly employed by this facility.

d. (i) Check appropriate box:

☐ This facility has taken and is taking timely and significant steps designed to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible its dependence on nonimmigrant nurses; or

☐ This facility is subject to an approved State plan for the recruitment and retention of nurses. (If checked, skip item d(ii).)

(ii) Timely and significant steps being taken by this facility includes: (Check two or more appropriate boxes unless second step is unreasonable, see instructions.)

☐ Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

☐ Providing career development programs and other methods of facilitating health care workers to become registered nurses.

☐ Paying registered nurses at a rate higher than currently being paid registered nurses similarly employed in the geographic area.

☐ Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

☐ Providing reasonable opportunities for meaningful salary advancement by registered nurses.

☐ Other (Please describe briefly in space provided; see instructions)

e. There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of this facility.

f. A copy of this attestation is available at this facility for review by interested parties and copies of all visa petitions filed by the facility with INS for H-1A nurses will also be available for review at this facility, and

Check Appropriate Box:

☐ (i) Notice of this filing has been provided to the bargaining representative of the registered nurses at this facility; or

☐ (ii) Where there is no such bargaining representative, notice of this filing has been provided to registered nurses employed at this facility through posting in conspicuous locations.

g. For nurse contractors only.

(i) H-1A nurses shall be referred only to facilities which themselves have valid and current attestations.

(ii) This employer maintains copies of the valid attestation (Form ETA 9029 (H-1A)) from each facility where its H-1A nurses are working.

h. Documentation supporting the elements of this attestation, as set forth above, is attached.

8. DECLARATION OF EMPLOYER:

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

Signature

Date

FOR GOVERNMENT AGENCY USE ONLY:

By virtue of my signature below, I acknowledge that the attached documentation supporting the elements attested to above has been reviewed and has been found to conform with the requirements set forth at 20 CFR Part 655.310 and that therefore this attestation is accepted for filing on (date) and will be valid through (date twelve months from the date it is accepted for filing).

Signature of DOL Official

Public reporting burden for this collection of information is estimated to average per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205-) Washington, D.C. 20503.

ETA 9029 (Rev. June 1990)

INSTRUCTIONS FOR COMPLETING FORM ETA 9029
HEALTH CARE FACILITY ATTESTATION (H-1A)

IMPORTANT: READ CAREFULLY BEFORE COMPLETING FORM

Print legibly in ink or use a typewriter. Sign and date each form in original signature.

To knowingly furnish any false information in the preparation of this form and any supporting documentation thereto, or to aid, abet or counsel another to do so is a felony, punishable by $10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001).

Item 1. Name of Employer. Enter full legal name of business, firm or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Address of Employer. Self explanatory.

Item 3. Telephone Number. In job offers for private households, enter a business and home telphone number when all adults are employed.

Item 4. Facility's Federal Employer I.D. Number. Enter the employer's Federal identification number assigned by the Internal Revenue Service.

Item 5. Nature of Employer's Business Activity. Enter a brief, non-technical description, i.e., acute care, long-term care, nursing contractor, private household.

Item 6. Name of Chief Executive Officer. Self explanatory.

Item 7. Employer Attestation. In order to be eligible to hire temporary foreign nonimmigrant nurses, an employer must attest to the conditions listed in elements (a) through (h). The attestation cannot be accepted for filing if the required documentation supporting these elements is not attached to the Form ETA 9029 (H-1A). Refer to Section —.303 (d) through (i) of the regulations for information on the documentation that must be attached to the Form ETA 9029 (H-1A) to support each of the elements. Private households need not submit documentation on (a), (c), (e), or (f) or working conditions under (b).

Timely and Significant Steps

The Immigration and Nationality Act requires that a covered facility shall attest that it has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

The facility shall take at least two such steps, unless it demonstrates that taking a second step is not reasonable. The steps described on the form are not an exclusive list of the significant steps that may be taken to meet this requirement.

The facility need not take more than one step, if the facility demonstrates in documentation attached to this form that taking a second step is not reasonable. The facility is not required to have taken any of these steps prior to December 18, 1989.

Other possible steps

The five steps listed on the form are not an exclusive list of timely and significant steps which might qualify. Facilities are encouraged to be innovative in devising other steps, but such steps shall be shown in the documentation accompanying the attestation to be of comparable timeliness and significance to qualify. A facility choosing to take steps other than the five listed shall submit with this form documentation describing the nature and the general effect of the steps it is taking. Examples of such other steps which may be considered to be of comparable timeliness and significance, depending upon all of the circumstances, are monetary incentives, special prerequisites, work schedule options, and other training options.

Unreasonableness of second step

The listed steps are not an exclusive list of the significant steps that may be taken to meet the requirements of the Act. Nothing shall require a facility to take more than one step, if the facility can demonstrate through documentation attached to this form that taking a second step is not reasonable. However, a facility shall make every effort to take at least two steps.

The taking of a second step may be considered unreasonable, if it would result in the facility's financial inability to continue providing the same quality and quantity of health care or if direct patient care would otherwise be jeopardized by taking of such a step. If the single step which is taken is one of the five listed steps, the facility shall submit, with this form, documentation, with respect to each of the four listed steps not taken, demonstrating why it would be unreasonable for the facility to take such step. Such facility also shall submit, with this form, documentation demonstrating why it would be unreasonable for the facility to take any other steps designed to recruit and retain sufficient U.S. nurses to meet its staffing needs.

If the single step which is taken is not one of the five listed steps, the facility shall submit, with this form, documentation, with respect to each of the five other steps not taken, demonstrating why it would be unreasonble for the facility to take such step, and also shall submit, with this form, documentation demonstrating why it would be unreasonable for the facility to take any other steps designed to recruit and retain sufficient U.S. nurses to meet its staffing needs.

Alternative to criteria for each specific step after the first year of attestation

Instead of complying with the specific criteria for each of the steps in the second and succeeding years, a facility may include with its prior year's Form ETA 9029 (H-1A), in addition to the actions taken under Steps One through Five, that it shall reduce the number of alien (H-1 and H-1A visaholders) nurses it employs one year from the date of attestation by at least 10 percent. This shall be achieved without reducing the quality or quantity of services provided. If this goal is achieved (as demonstrated by documentation submitted by the facility with its subsequent year's Form ETA 9029 (H-1A)), the facility's subsequent year's Form ETA 9029 (H-1A) may simply include the Form ETA 9029 (H-1A), documentation demonstrating that this goal has been achieved and an attestation that it shall again reduce the number of alien nurses it employs one year from the date of attestation by at least 10 percent.

Item 8. Declaration of Employer. All copies of this form must bear the original signature of the chief executive officer of the facility (or the chief executive officer's designee). By signing this form, the chief executive officer is attesting to the conditions listed in Item 7 and to the accuracy of the information provided in the supporting documentation. False statements are subject to Federal perjury and fraud penalties.

If the attestation and the supporting documentation are found by the Department of Labor to meet the requirements set forth in section 655.303 of the regulations, the Department shall accept the attestation for filing and shall document such acceptance on each of the three Forms ETA 9029 (H-1A) submitted. One of these original attestation forms indicating the Department's acceptance will be returned to the health care facility. The facility may then file a visa petition with INS for temporary nonimmigrant nurses in accordance with INS regulations. The facility shall include a copy of the Form ETA 9029 (H-1A) with each visa petition filed with INS.

[FR Doc. 90-17153 Filed 7-20-90; 8:45 am]

BILLING CODE 4510-30-C

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Addition to List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: This addition to the list of labor surplus areas is effective August 1, 1990.

SUMMARY: The purpose of this notice is to announce an addition to the list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4470, Attention: TEESS, Washington, DC 20210. Telephone: 202–535–0189.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Order 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations, the Assistant Secretary of Labor published the annual list of labor surplus areas on October 24, 1989 (54 FR 43353).

Subpart B of part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The area described below has been classified by the Assistant Secretary of Labor as a labor surplus area pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and is effective August 1, 1990.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on July 13, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

ADDITION TO THE ANNUAL LIST OF LABOR SURPLUS AREAS

[July 1, 1990]

Labor surplus area	Civil jurisdiction included
Rhode Island: Woonsocket City	Woonsocket City.

[FR Doc. 90–17154 Filed 7–20–90; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meetings

ACTION: Notice of meeting.

SUMMARY: The National Commission on Migrant Education will hold its fifth meeting on Tuesday, August 7, 1990, for the purpose of conducting a hearing. The Commission was established by Public Law 100–297, April 28, 1988.

DATE, TIME, AND PLACE: Tuesday, August 7, 1990, 8:30 a.m. to 3:30 p.m., Ramada-Inn, Tally Ho Room, 2634 Emmitsburg Road, Gettysburg, Pennsylvania.

TYPE OF MEETING: Public Hearing—Open.

AGENDA: Solicit information on the topics of: (1) MSRTS utilization, (2) interstate/interagency coordination in migrant education, and (3) parental involvement. In addition to scheduled testimony, the public is invited to testify on any and all matters relevant to migrant education between 2:20 p.m. and 3:30 p.m. There will be a 5-minute time limit; however, the Commission will accept written statements and incorporate them in the official record of the proceedings.

FOR ADDITIONAL INFORMATION: Contact Nancy Watson, 301–492–5336, National Commission on Migrant Education, 8120 Woodmont Avenue, Fifth Floor, Bethesda, Maryland 20814.

Linda Chavez,

Chairman.

[FR Doc. 90–17120 Filed 7–20–90; 8:45 am]

BILLING CODE 6820–DE–M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of a New System of Records Notice

AGENCY: National Labor Relations Board.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the National Labor Relations Board publishes this notice of its intention to establish a previously unpublished system of records to be entitled "NLRB–17, Personnel Security Files." This new system of records will permit the collection, retention, and retrieval of information relevant to the Agency's personnel security/suitability program. A complete listing of the Agency's 16 notices of systems of records was last published in 53 FR 17262 on May 16, 1988.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the Board as warranting modification of the notice as herewith to be published, it is the intention of the Board that the notice as herewith published shall be effective upon expiration of the comment period without further action by this Agency.

DATES: Written comments, views, or arguments must be submitted no later than September 21, 1990.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the Board in connection with the proposed new system of records should file same with the Executive Secretary, National Labor Relations Board, Washington, DC 20570. Copies of such communications will be available for examination by interested persons during normal business hours (8:30 a.m. to 5 p.m., Monday through Friday excluding Federal holidays) in the Office of the Executive Secretary, Room 701, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, National Labor Relations Board, Room 701, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

Dated: Washington, DC, July 9, 1990.
By Direction of the Board.

John C. Truesdale,
Executive Secretary.

NLRB-17

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Administration, Security Staff, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NLRB employees and applicants for employment with the NLRB.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains active and inactive personnel security files on current employees, former employees, and applicants including Federal agency name checks, police checks, and other relevant inquiries. Also, investigative summaries reflecting the reasoning behind suitability recommendations, security data cards, NLRB identification cards, and employee photographs are included.

Note: Copies of investigative information regarding an individual that were created by the Office of Personnel Management, the FBI, the Department of the Army, or other agencies that provide NLRB with information on a restricted basis under their authorities remain the property of those agencies and requests regarding such material must be directed to them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450; 5 U.S.C. 3301; Federal Personnel Manual, Chapter 732; and NLRB Administrative Policies and Procedures Manual, Title 6, Sections 2620–42.

PURPOSE:

These records are used by the NLRB Security Staff for administrative reference in determining suitability for initial and continuing employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records or information therefrom are disclosed to:

1. NLRB officials to make a determination that the employment of an applicant or retention of employment of a current employee within the NLRB is clearly consistent with the interest of national security.

2. The appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

3. A Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information if necessary to obtain information relevant to an NLRB decision concerning the hiring or retention of an employee, or the issuance of a security clearance.

4. A Federal agency in response to its request in connection with the hiring or retention of an employee or the issuance of a security clearance, to the extent that the information is relevant and necessary to the requesting agency's decisions on that matter.

5. A congressional office in response to an inquiry from the congressional office made at the request of the subject individual.

6. A court or other adjudicative body before which the Agency is authorized to appear, when either (a) the Agency or any component thereof, (b) any employee of the Agency in his or her official capacity, (c) any employee of the Agency in his or her individual capacity, where the Agency has agreed to represent the employee, or (d) the United States where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the Agency determines that disclosure of the records to a court or other adjudicative body is compatible with the purpose for which the records were collected.

7. The Department of Justice for use in litigation when either (a) the Agency or any component thereof, (b) any employee of the Agency in his or her official capacity, (c) any employee of the Agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (d) the United States where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Agency to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records on current employees and applicants are maintained in file folders and on index cards.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are maintained in combination safes in the personnel security officer's custody and access is limited to the personnel security officer and his duly authorized representatives.

RETENTION AND DISPOSAL:

The files are disposed of according to applicable provisions of the General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Security Officer, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

NOTIFICATION PROCEDURE:

An individual may inquire whether this system contains a record pertaining to him or her by directing a request to the System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORDS ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to him or her should contact the System Manager in accordance with the procedures set forth in 29 CFR 102.117(g). Current NLRB employees employed in bargaining units covered by a collective-bargaining agreement should refer to the applicable provisions of that agreement.

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

Office of Personnel Management and other Federal agencies, law enforcement

agencies, Security Officer, and individual involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system may contain investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications regarding Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would:

1. Reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence or

2. Reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

The National Labor Relations Board has claimed these exemptions from the requirements of 5 U.S.C. 552a (c)(3) and (d). These requirements relate to providing an accounting of disclosures to the individual whom the records are about and access to and amendment of records.

[FR Doc. 90-17101 Filed 7-20-90; 8:45 am]
BILLING CODE 7545-01-M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by August 22, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follow:

1. Applicant—90-16

Diana W. Freckman, Department of Nematology, University of California, Riverside, CA 92521.

Activity for Which Permit Requested

Enter site of Special Scientific Interest. The applicant is conducting research on the effect of soil biota on nutrient cycling processes, in particular the distribution and trophic structure of nematode communities in Antarctic dry valleys. The applicant requests permission to enter Site of Special Scientific Interest No. 12, Canada Glacier, Lake Fryxell, Taylor Valley to collect soil samples.

Location

Site of Special Scientific Interest No. 12, Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land, Antarctica.

Dates

January 1991-February 1991.

2. Applicant—90-17

Gary D. Miller, Biology Department, University of New Mexico, Albuquerque, NM 87131.

Activity for Which Permit Requested

Taking. The applicant is conducting research on reproductive strategies of South Polar Skuas and Adelie Penguins. He proposes to capture, weight, band and release up to 600 South Polar skuas, and up to 300 chicks; and capture, weigh, band, and release up to 200 Adelie penguins and up to 3000 chicks.

Location

Cape Bird, Ross Island, Antarctica.

Dates

October 1990-March 1992.

Charles E. Myers,
Permit Office.
[FR Doc. 90-17062 Filed 7-20-90; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-217 and 50-218]

Baltimore Gas and Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR part 50.71, "Maintenance of records, making of reports," subsection (e), to the Baltimore Gas and Electric Company (BG&E/licensee) for the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, located at the licensee's site in Calvert County, Maryland.

Environmental Assessment

Identification of Proposed Action

The licensee would be exempted from the requirements of 10 CFR 50.71, subsection (e)(4), to the extent that a one-time extension for submitting Revision 10 of the UFSAR would be granted from the currently required annual submittal date of July 20, 1990, to October 20, 1990, which is a three month extension. All future UFSAR updates will be submitted on an annual basis by the required July 20 date.

The Need for the Proposed Action

Internal Quality Assurance audits and NRC inspections conducted in 1989 identified weaknesses in the licensee's updating process for the annual update of the UFSAR. Weaknesses were noted in the methods for identfying modifications which required updating and failure to incorporate safety evaluation reports, Generic Letters, and other material as described in 10 CFR 50.71(e).

The licensee's subsequently initiated an investigation to determine the cause of the lack of adequate administrative controls for the updating process. The lack of central oversight and adequate administrative procedures resulted in relying on individuals being responsible, thus, many required items were not

included in the periodic updates of the UFSAR as required by the regulations.

The licensee has initiated corrective actions for the identified weaknesses which include centralized control utilizing an experienced consultant on a full basis for the short-term and has increased its supervisory involvement in the updating process.

It was determined that the Revision 10 update to the UFSAR would require additional interface with the responsible design engineers to ensure both completeness and quality of the updates to be incorporated.

The schedule extension is needed in the short-term, for the reasons discussed above, to assure adequate time is available to allow the licensee to provide a complete and quality update. The extended time also allows the long-term effort to improve the update process, which is being pursued in parallel, to achieve the benefits of the lessons learned in the current update effort. Both the short-term and long-term effort are being handled primarily by the same individuals.

Environmental Impact of the Proposed Action

The proposed exemption constitutes a three month delay in the annual update of the UFSAR. The requested exemption is a temporary one and is necessary to assure both improvement in the completeness and quality of the Revision 10 update and future update submittals. The additional time also allows the feedback necessary to assure the final procedures used for futher submittals are workable, efficient and will result in quality submittals.

The licensee has made a good faith effort to comply with the regulations by initiating corrective actions, both short-term and long-term, to improve its submittals when the deficiencies were identified by both its internal process and the NRC inspection process. Therefore, the exemption would only provide temporary relief from the applicable regulation and the extenstion would allow time for an improved update both for Revision 10 and future annual updates.

The proposed exemption will not change plant equipment, operation or procedures, and does not adversely affect either the probability or the consequences of any accident at this facility. The exemption does not affect radiological effluents from the facility or radiation levels at the facility. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

The proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission has concluded there are no measurable environmental impacts associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemptions would be to require rigid compliance with the schedular requirements of 10 CFR 50.71(e)(4) for the USFSAR update. Such action would not enhance the protection of the environment and could result in an unsatisfactory update lacking all the required information specified in the regulation.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement for the Calvert Cliffs Nuclear Power Plant, Units 1 and 2.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significent effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee letter dated June 8, 1990. This letter is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland.

Dated in Rockville, Maryland, this 16th day of July 1990.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-17136 Filed 1-20-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

GPU Nuclear Corp., et. al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commisison) is considering issuance of an amendmet to Facility Operating License No. DPR-50 issued to GPU Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 1 (TMI-1), located in Dauphin County, Pennsylvania.

Environment Assessment

Identification of Proposed Action

The licensee submitted a license amendment request by letter dated March 23, 1990. The purpose of this license amendment would be to extend the duration of the operating license to forty (40) years from the date of issuance of the full-power license. This represents a license extension of 5 years and 11 months to allow operation for the full design life. The current license expiration data of May 18, 2008 is based upon 40 years from issuance of the construction permit. A license term of 40 years from the date of issuance of the full-power license is permitted by NRC regulations, specifically 10 CFR 50.51, and the basis for granting this request has been established by the Commission's current policy in granting operating licenses to new plants. Commission approval of the proposed amendment would be consistent with recent NRC actions.

The Need for the Proposed Action

The granting of the proposed license amendment would allow the licensee to operate Three Mile Island Unit 1 for approximately 6 additional years beyond the currently approved expiration date. Without issuance of the proposed license amendment, Three Mile Island Unit 1 would be shut down at the conclusion of the currently approved license duration.

Environmental Impacts of the Proposed Action

In December 1972 the U.S. Atomic Energy Commisson issued the "Final Environmental Statement Related to Operation of Three Mile Island Nuclear Station, Units 1 and 2" (NUREG-0552). This document evaluates the environmental impact associated with the operation of Three Mile Island Units 1 and 2. The Final Environmental

Statement (FES) assumed a 40-year operating lifetime for each unit and was based upon a design thermal rating of 2535 MWt for Unit 1 and 2772 MWt for Unit 2. Subsequently, the staff issued a Programmatic Environmental Impact Statement (NUREG–0683) in 1981 and three supplements thereto concerning cleanup of TMI–2. In addition, in July 1988, the staff reviewed the FES to determine if any significant environmental impacts, other than those previously considered, would result from raising the licensed thermal power level for TMI–1 from 2325 MWt to 2568 MWt in response to a licensee request to uprate the power level. Following this review, the staff published an environmental assessment (53 FR 27093, July 18, 1988) and issued License Amendment No. 143 on July 26, 1988, to raise the authorized power level to 2568 MWt.

The staff has reviewed the above assessments, information provided in the licensee's March 23, 1990, request, and other sources of information to determine the environmental impact of operation of TMI–1 for an additional 6 years.

Radiological Impacts

The staff has considered potential radiological impacts for the general public in residence in the vicinity of TMI–1. These impacts include potential accidents, routine radiological exposure to workers, and the impact on the uranium fuel cycle and the transportation of fuel and waste. These impacts, are summarized in the following sections.

General Public

The FES discussed population growth or decline by municipality between 1960 and 1970 but did not project population growth for the operating lifetime of TMI–1. However, the FES implied an overall population growth in the area parimarily related to growth of Harrisburg International Airport. The trend of population in this area has generally increased very little between 1970 and 1980. In fact, the population of Harrisburg (nine miles northwest of TMI–1) has declined over the past two decades. The population within a 10-mile radius of TMI–1 is predicted to decline from about 167,000 in 1990 to about 157,000 in 2010. The existing Environmental Report estimates 281,446 by the year 2011. Therefore, the existing Environmental Report bounds the anticipated population growth in the immediate vicinity of the plant and would be expected to remain bounding to the year 2014 based on the 1980 population projection trend. The region in the immediate vicinity of the plant site is primarily rural with a number of small communities located within the 10-mile radius.

The 1989 Radiological Environmental Monitoring Report for the Three Mile Island Nuclear Station, submitted to the staff on April 30, 1990, indicates that radiation does to the public from TMI–1 operation continue to be well below all regulatory limits and well within the assumptions used in the staff's FES. For example, the FES calculated the maximum exposure to an individual due to liquid and airborne effluents would be 0.72 mrem per year. The environmental monitoring report conservatively estimated this dose to be 0.073 mrem for the year 1989, or about 10% of the FES assumption. By comparison, a typical individual living in the Harrisburg area in 1989 would be expected to receive an annual dose of approximately 288 mrem from natural causes, including radon. The lower observed levels in radioactive effluents from the plant results in a substantially lower radiological impact than assumed in the FES. Therefore, the staff concludes that the radiological impact due to liquid and airborne effluents from TMI–1 is insignificant and is bounded by the FES. A similar comparison can be shown for direct radiation exposure (i.e., irradiation directly from the reactor itself rather than from effluents released from the rector systems) to members of the public at the site boundary and for potential exposure due to postulated reactor plant accidents. These exposures were conservatively calculated in the FES and were shown to be low.

The staff has assessed the public risks from reactor accidents per year of operation at other reactors of comparable design and power level. In all cases, the estimated risks of early fatalities and latent cancer fatalities per year of reactor operation have been small compared to the risks of many non-reactor type of accidents to which the public is typically exposed, and the natural incidence of fatal cancers. The annual risks associated with reactor accidents did not increase with longer periods of operation of the reactor. If similar risks were estimated for TMI–1, we could expect a similar conclusion. Further, as stated in FES, the integrated exposure to the population within a 50-mile radius of TMI–1 from each postulated accident would be orders of magnitude smaller than that from naturally occurring background radiation, (i.e., about 0.1 Rem/year). When considered with the probability of occurrence, the annual potential radiation exposure form all the postulated accidents is a small fraction of exposure from natural background radiation.

The staff concludes that the proposed additional years of operation would not significantly increase the annual public risk from radiation exposure or from reactor accidents.

Uranium Fuel Cycle Transporation of Fuel and Waste.

In addition to the impact associated with the operation of the reactor, there are impacts associated with the uranium fuel cycle. The uranium fuel cycle consists of those facilities (e.g., uranium mines and mills, fuel fabrication plants, etc.) that are necessary to support the operation of the reactor. Various NRC reports describe the impacts associated with the uranium fuel cycle (e.g., NUREG–1064). These reports typically assume a 100 MWe model plant with one initial core load and 29 annual refuelings (approximately one-third of the core is replaced during each refueling). Considering all environmental impacts associated with the uranium fuel cycle for such a plant, the staff has in the past concluded that both the does commitments and health effects of these activities are very small when compared with the does commitments and potential health effects to the U.S. population resulting from all natural background sources. These effects are summarized in 10 CFR 51.51. The incremental increase in fuel cycle impacts due to extending operation of TMI–1 by 6 years is, therefore, also very small.

The staff reviewed the environmental impacts attributable to the transporation of fuel and waste to and from the TMI–1 site. With respect to the normal conditions for transport and possible accidents in transport, the staff concludes that the environmental impacts are bounded by those identified in 10 CFR 51.52. The basis for this conclusion is that 10 CFR 51.52 data is based on an annual refueling and shipment of 60 spent-fuel assemblies per reactor year. Presently, TMI–1 is on an 18-month refueling cycle which would, by itself, require fewer spent fuel shipments per reactor year. Future fuel cycles are expected to be as long as 24 months. Reducing the number of fuel shipments reduces the overall impacts related to population exposure and accidents. However, GPU Nuclear has not shipped any TMI–1 irradiated fuel off-site to date and has no plans to do so in the near future. In terms of transportation of solid radioactive (other than fuel) from TMI–1, the number of

shipments has been well within the assumptions of the FES. The FES stated that from 50 to 200 truckloads of solid radioactive waste would be shipped per year from the TMI site. In 1989, TMI–1 shipped only 24 truckloads of solid radioactive waste.

Occupational Exposures

TMI–1 maintains an aggressive commitment to as low as reasonably achievable (ALARA) exposures. Exposure goals are established for station man-rem to minimize collective doses. ALARA reviews and evaluations of workplans and plant modifications projected to exceed 5 man-rem are conducted. Additional work steps are built into the workplan, where appropriate, to reduce occupational exposure. Pre-job briefings and mockups are utilized, as well as post-job reviews. Robotics and closed circuit television are being used more extensively to perform and monitor tasks resulting in reduced exposurers.

Occupational exposure since commercial operation began at TMI–1 is a total of 4,339 person-rem through September 1989. Annual exposure in recent years has been well below the industry average. For example, the annual TMI–1 exposures for 1987, 1988, and 1989 were 148, 210, and 54 person-rem, respectively, compared to an average of about 550 person-rem/year for PWRs. The projected dose for TMI–1 for the years 2008–2014 is also expected to be below the PWR continue to reflect ALARA commitments.

Non-Radiological Impact

Terrestrial

Specific areas of interest originally included the effects of cooling towers on vegetation due to salt stress, and bird impaction. Monitoring programs for both showed minimal impact and have been discontinued with NRC concurrence through License Amendment No. 51, dated January 28, 1980.

Aquatic

Specific areas of interest were impingement of fish into the river water systems. Based on approximately 9 years of aquatic monitoring, the NRC and the Pennsylvania Department of Environmental Resources concluded that there were no adverse environmental impacts resulting from the impingement of fish. Previous aquatic monitoring programs have been discontinued

Chemical and Thermal Discharge Effect

Chemical and thermal discharges are now controlled by the effective National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act and Pennsylvania's Clean Streams Law. A review of the history of the Environmental Reports provided annually shows no adverse impact to the environment from the site. Adequate controls are provided to ensure continued monitoring of the plant discharges to the environment throughout plant life. Extension of the operation license by 5 years and 11 months would not adversely affect the environment.

Economic Assessment

Operation of TMI–1 beyond its current operating license period will provide a financial benefit to the customers served by the plant. TMI–1 currently provides approximately 13% of the total electric power requirements of the GPU System. The operation of TMI–1 for an additional 5 years and 11 months would defer the need to design and construct an 800 MW coal-fired replacement facility, and the environmental impacts associated with such construction. The installed cost of this facility, which is assumed to utilize Fluidized-Bed Combustion (FBC) technology, is estimated to cost $4 billion in 2009. Present value net benefits of operating TMI–1 during the 2009–2014 time period are estimated to be $100-200 million. These estimated net savings would reduce consumer rates compared to the coal replacement option.

Plant Design Changes

Many modifications and design changes have taken place at TMI–1 since the FES was issued. Those that are safety related or important to safety or require a change to the Facility Operating License or Technical Specifications are submitted to the NRC for review and approval prior to implementation in accordance with 10 CFR part 50. This review and approval includes a determination of both radiological and non-radiological environmental effects of the proposed change. Changes that are determined to be outside the scope of those listed above may be implemented by the licensee without prior NRC approval; however, the licensee must have first completed a safety analysis with respect to the proposed change and retain a copy of this analysis on site for NRC inspection and audit. A description of the changes including a summary of the associated safety analysis is then submitted to the NRC annually. A complete detailed description of the changes and their impact on plant operations and procedures is also included where applicable in required annual updates of the Final Safety Analysis Report (FSAR). These annual submittal are reviewed by the staff to verify that the license has correctly determined that these changes did not require prior NRC review and approval. In general, these changes improve plant reliability and do not adversely impact the environment. All changes are conducted in accordance with approval procedures, current license requirements and Technical Specifications and the current NPDES permit. While it is recognized that the requested license extension will require futher routine design changes and modifications similar in nature to those already conducted, it is not anticipated that these would have any adverse affect on the environment.

Alternatives to the Proposed Action

The principal alternative to issuance of the proposed extension would be to deny application. In this case, TMI–1 would shut down upon expiration of the present operating license.

In Chapter XI of the December 1972 FES, a cost-benefit analysis is presented for operation of TMI–1. Included in the analysis is comparsion among various options for producing an equivalent electrical power capacity. Even considering significant changes in the economics of the alternatives, operation of TMI–1 in its present plant configuration for an additional 5 years and 11 months would only require incremental yearly costs. These costs would be substantially less than the purchase of replacement power or the installation of new electrical generating capacity. Moreover, the overall cost per year of the facility would increase since the large initial capital outlay would be averaged over a greater number of years. In summary, the cost-benefit advantage of TMI–1 compared to alternative electrical power generating capacity improves with the extended plant lifetime.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with December 1972 FES.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action. The staff has reviewed the proposed license amendment relative to the requirements

set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and will not change any conclusions reached by the Commission in the FES. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action. Based upon this environmental assessment, the Commission concludes that the proposed action will not have significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated March 23, 1990, 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 Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland this 16th day of July, 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate, I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–17048 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

Application for License To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export the special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC Export License Application

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., 7/06/90, 7/10/90, XSNM02553.	93.35% Enriched Uranium	16.08	15.0	Fabrication of Target Mat'l for Medical Isotopes.	Canada

Dated this 17th day of July 1990, at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Acting Assistant Director for International Security, Exports and Materials Safety, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 90–17135 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 22nd meeting on July 30 and 31, 1990, Room P–110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. each day. Portions of this meeting will be closed to discuss internal personnel practices and information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6).

The purpose of the meeting will be to review and discuss the following topics:

A. Review the staff's safety evaluation report and decommissioning plans for the Pathfinder Atomic Power Plant (Open).

B. Briefed on the first update of the regulatory strategy and schedules for the High-Level Waste Repository Program (Open).

C. Briefed on the current NRC staff approach for dealing with uncertainties in implementing the EPA High-Level Waste Standards (Open).

D. Review a branch technical position which deals with the cementation of low-level radioactive wastes (waste form) (tentative) (Open).

E. Briefed on the Commission's Below Regulatory Concern policy statement (Open).

F. Briefed on waste management activities in the U.S.S.R. (Open).

G. Discuss and prepare proposed reports to the NRC as appropriate (Open).

H. The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate (Open/Closed).

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the

meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: July 16, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–17043 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor, Safeguards Subcommittee on Human Factors; Meeting

The Subcommittee on Human Factors will hold a meeting on July 31, 1990, Room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, July 31, 1990—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the reports on procedural violations (Chernobyl Spin-off), and organizational factors.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 301/492–7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 16, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–17137 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

Below Regulatory Concern Policy; Public Meetings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will hold a series of five public meetings at locations across the country on its Below Regulatory Concern Policy Statement that was published on July 3, 1990, in the **Federal Register** (55 FR 27522–37). The meetings will enable NRC staff members to discuss the policy with attendees, hear statements from the public, and answer questions about the policy. NRC licensees, Agreement State licensees, government officials, and all interested members of the public are encouraged to attend.

Meeting Locations and Dates

Chicago, Illinois, August 28, 1990, 1 p.m., Holiday Inn—O'Hare Airport, 5440 North River Road, Rosemont, Illinois.

King of Prussia, Pennsylvania (near Philadelphia), September 18, 1990, 9 a.m., Sheraton Valley Forge Convention Center, Philadelphia Area Room, North Gulph Road and First Avenue, King of Prussia, Pennsylvania.

Atlanta, Georgia, September 20, 1990, 1 p.m., Westin Peachtree Plaza Hotel, Peachtree Battle/Dunwoody Room, 8th Floor, Peachtree and International Boulevards, Atlanta, Georgia.

Arlington, Texas (near Dallas—Fort Worth), September 25, 1990, 1 p.m., Arlington Convention Center, 1200 Stadium Drive East, Arlington, Texas.

Oakland, California, September 27, 1990, 9 a.m., Holiday Inn—Oakland Airport, 500 Hegenberger Road, Oakland, California.

FOR FURTHER INFORMATION CONTACT: The appropriate NRC Regional Office for each of the following meetings:

King of Prussia: Region I—Ms. Marie T. Miller, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania, 19406; telephone (215) 337–5000

Atlanta: Region II—Mr. J. Philip Stohr, U.S. Nuclear Regulatory Commission, 101 Marietta Street, Suite 2900, Atlanta, Georgia, 30323; telephone (404) 331–4503

Chicago: Region III—Mr. Charles E. Norelius, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois, 60137; telephone (708) 790–5500

Arlington: Region IV—Mr. A. Bill Beach, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, 76011; telephone (817) 860–8100

Oakland: Region V—Mr. Ross A. Scarano, U.S. Nuclear Regulatory Commission, 1450 Maria Lane, Suite 210, Walnut Creek, California, 94596; telephone (415) 943–3700

SUPPLEMENTARY INFORMATION: On July 3, 1990, the NRC published its policy statement on Below Regulatory Concern (BRC) (55 FR 27522–37). The policy establishes the basis for future agency regulations and licensing decisions that would exempt very low-level radioactive material from regulatory controls where the Commission determines that such controls are not necessary to protect public health and safety.

Practices for which exemptions may be granted include the following: (1) The release for unrestricted public use of lands and structures containing residual radioactivity; (2) the distribution of consumer products containing small amounts of radioactive material; (3) the disposal of very low-level radioactive waste at other than licensed disposal sites; and (4) the recycling of slightly contaminated equipment and materials. The policy statement establishes a consistent risk framework for regulatory exemption decisions, ensures an adequate and consistent level of protection of the public in their use of radioactive materials, and focuses the Nation's resources on reducing the most significant radiological risks from practices under NRC's jurisdiction.

The NRC will hold a series of five public meetings on the BRC policy at locations near its Regional Offices around the country. Representatives from the NRC Regional and Headquarters Offices will attend the meetings to discuss the policy, hear statements, and answer questions. These meetings are intended to generally increase public understanding of the development of the policy, its components, and the methods by which the NRC will implement the policy. NRC licensees, Agreement State licensees, government officials, and all interested

members of the public are encouraged to attend.

Tentative Agenda for Each Meeting

1. NRC Staff Remarks on the BRC Policy: Policy Development, Policy Implementation, Past Practices, Specific Examples of Application
2. Prepared Oral Statements from Attendees
3. Questions and Answers

Conduct of the Meetings

1. The meetings will be open to the public. Seating will be on a first-come/first-served basis. For planning purposes, persons who plan to attend a meeting are requested to contact the appropriate person listed herein.
2. All meeting attendees will have ample opportunity to ask questions about the BRC policy.
3. Persons may make prepared oral statements or submit written statements at the meeting. Requests to make oral statements must be submitted in writing or by telephone at least 7 days before the meeting to the appropriate contact person listed herein. Oral statements will be limited to 5 minutes, and may be limited further if a large number of requests are received. Oral statements may be supplemented by written statements. All written statements must be clear and reproducible, and must identify the name, affiliation, and address of the author.
4. The meetings will be transcribed. The transcripts and any other documents associated with the meetings will be available for inspection and copying for a fee, at the NRC Public Document Room, 2120 L Street, NW., (Lower Level) Washington, DC 20555. The NRC will publish a summary report of the meetings.

Dated at Rockville, Maryland, this 16th day of July, 1990.

For the U.S. Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 90-17046 Filed 7-20-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-20567-EA, ASLBP No. 90-603-02-EA]

American Radiolabeled Chemicals, Inc.; Order Suspending License EA 89-257

July 13, 1990.

Before Administrative Judges: John H. Frye, III, Chairman, Gustave A. Linenberger, Frank F. Hooper.

Please take notice that the prehearing conference in the above captioned matter scheduled to take place at 1:30 p.m. Wednesday, July 18, 1990, in the NRC Hearing Room, Fifth Floor, 4350 East-West Highway, Bethesda, Maryland, has been cancelled and will be rescheduled at another time.

For the Atomic Safety and Licensing Board.

John H. Frye, III

Chairman, Administrative Judge.

[FR Doc. 90-17138 Filed 7-20-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (the licensee), for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The amendment would establish a limit of 160 failed fuel rods (of any type) during operation. The proposed limit of 160 failed fuel rods is consistent with the dose equivalent iodine limit of 1.0MCi/gm in the Technical Specifications.

Prior to 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.

By August 20, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A

petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

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 ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to 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, Counselers at Law, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated June 25, 1990, 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, the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 12th day of July 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–17047 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF GOVERNMENT ETHICS

Senior Executive Service; Performance Review Board

AGENCY: Office of Government Ethics.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the Office of Government Ethics (OGE) Performance Review Board.

EFFECTIVE DATE: July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Robert E. Lammon, Office of Administrative Services, Office of Government Ethics, 1201 New York Avenue NW., Suite 500, Washington, DC 20005–3917, telephone (202/FTS) 523–5757.

SUPPLEMENTARY INFORMATION: 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 at 5 CFR part 430, subpart C and § 430.307 thereof in particular, one or more Senior Executive Service (SES) performance review boards. Since OGE is a small-sized executive agency, only one board is being established at this time for review of the performance of OGE Senior Executive Service members.

Furthermore, in order to insure an adequate level of staffing and to avoid a constant series of recusals, the members of the OGE board are being drawn from the SES ranks of other agencies because OGE itself has only three SES members. The Acting Director of OGE will chair OGE's Performance Review Board in his capacity as Deputy Director of the agency. The board shall review and evaluate the initial appraisal of OGE senior executives' performance by the supervisor, along with any recommendations in each instance to the appointing authority relative to the performance of the senior executive.

Approved: July 18, 1990

Donald E. Campbell,

Acting Director, Office of Government Ethics.

The following have been selected as regular members of the Performance Review Board of the Office of Government Ethics:

Donald E Campbell [Chair], Deputy Director, Office of Government Ethics.
Jeanne S. Archibald, Deputy General Counsel, Department of Treasury.
Llewellyn M. Fischer, General Counsel, Merit Systems Protection Board.
Hoyle Robinson, Executive Secretary, Federal Deposit Insurance Corporation.
Sandar Shapiro, Associate General Counsel, Department of Health and Human Services.

[FR Doc. 90–17155 Filed 7–20–90; 8:45 am]

BILLING CODE 6345–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–17588; 812–7522]

PaineWebber Inc.; Application and Temporary Order

July 16, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Temporary order and notice of filing of application for permanent order of exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: PaineWebber Incorporated ("PaineWebber" or "Applicant").

RELEVANT 1940 ACT SECTIONS: Permanent order requested, and temporary order granted, under section 9(c) of the Act granting exemption from section 9(a).

SUMMARY OF APPLICATION: PaineWebber has been granted a temporary order, and has requested a permanent order, exempting it from the provisions of section 9(a) to relieve PaineWebber from any ineligibility resulting from the employment of three individuals who are subject to injunctions in Commission actions (the "Subject Employees").

FILING DATE: The application was filed on May 23, 1990 and amended on June 13, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be

received by the SEC by 5:30 p.m. on August 10, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Robert M. Berson, Esq., PaineWebber Incorporated; 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Thomas Sheehan, Staff Attorney, at (202) 272–7324, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. PaineWebber, a Delaware corporation, is a registered broker-dealer and registered investment adviser with over 265 offices in the United States. PaineWebber is a wholly owned subsidiary of Paine Webber Group Inc. ("PW Group"). PaineWebber serves as the investment adviser and principal underwriter for each of the following registered open-end investment companies or portfolios thereof, which had aggregate assets of approximately $12 billion on April 30, 1990 (portfolios are identified parenthetically): PaineWebber Cashfund, Inc; PaineWebber RMA Money Fund, Inc. (PaineWebber Retirement Money Fund, Money Market Portfolio, U.S. Government Portfolio); PaineWebber RMA Tax Free Fund, Inc.; PaineWebber Managed Municipal Trust (PaineWebber RMA New York Municipal Money Fund, PaineWebber RMA California Municipal Money Fund).

2. PaineWebber is the sole depositor and principal underwriter of PW Pathfinders Treasury & Growth Stock Series 9, PW Equity Trust Growth Stock Series 6 TELETECH, and PW Municipal Bond Trust Series 226, unit investment trusts registered as investment companies under the 1940 Act ("UITs"). PaineWebber is also a depositor and principal underwriter for the following UITs: EIF Concept Series Ecological Trust 1990; Equity Income Fund 14th Utility Common Stock Series; Equity Income Fund 1st S&P 500 Index 1st MPS; EIF Concept Series New Europe Trust; Municipal Investment Trust Fd 152 Insured Series; Municipal Investment Trust Fd Multi-State Series 6X Florida (Insured); Municipal Investment Trust Fd 150 Intermediate Term Series Short/Intermediate Maturities; Municipal Investment Trust Fd Multi State Series 6Y New Jersey (Insured); Municipal Investment Trust Fd Multi State Series 6Z California (Insured); Municipal Investment Trust Fd Multi State Series 6Z Massachusetts (Insured); Municipal Investment Trust Fd Multi State Series 6Z Michigan (Insured); Municipal Investment Trust Fd Multi State Series 6Z Pennsylvania (Insured); Municipal Investment Trust Fd Multi State Series 7A Connecticut; Municipal Investment Trust Fd Multi State Series 7A New York (Insured); Municipal Investment Trust Fd Multi State Series 7A Ohio (Insured); Municipal Investment Trust Fd 151 Intermediate Term Series; GSIF US Treasury Series 7 Laddered Zero Coupons; GSIF Monthly Payment US Treasury Series 8 (Laddered Maturities); GSIF Monthly Payment US Treasury Series 6 (Laddered Maturities); GSIF Monthly Payment US Treasury Series 4 (Intermediate Maturities); GSIF GNMA Series 1P; Corporate Income Fund Select High Yield Series 1; Corporate Income Fund Fifth Insured Series; Corporate Income Fund Two Hundred Ninety Eight MPS; International Bond Fund Australian and New Zealand Dollar Bonds Series 40; and International Bond Fund Twenty-First Multi-Currency Series. PaineWebber anticipates serving as principal underwriter and depositor for future series of the above-referenced UITs and for other unit investment trusts which may be organized in the future.

3. Mitchell Hutchins Asset Management Inc. ("Mitchell Hutchins"), a wholly-owned subsidiary of PaineWebber, serves as investment adviser to each of the following registered investment companies and portfolios thereof (portfolios are identified parenthetically), which had aggregate assets of approximately $4.9 billion on April 30, 1990: PaineWebber America Fund (PaineWebber Classic Dividend Growth Fund) (PaineWebber Classic Growth and Income Fund); PaineWebber Atlas Fund (PaineWebber Classic Atlas Fund); PaineWebber California Tax-Exempt Income Fund; PaineWebber Classic Regional Financial Fund Inc.; PaineWebber Fixed Income Portfolios (GNMA Portfolio) (Investment Grade Bond Portfolio) (High Yield Bond Portfolio); PaineWebber Investment Series (PaineWebber Classic Europe Growth Fund) (PaineWebber Classic World Fund) (PaineWebber Master Energy-Utility Fund) (PaineWebber Master Global Income Fund); PaineWebber Managed Municipal Trust (PaineWebber Tax-Exempt Income Fund); PaineWebber Master Series, Inc. (PaineWebber Master Income Fund) (PaineWebber Master Growth Fund) (PaineWebber Asset Allocation Fund) (PaineWebber Master Money Fund); PaineWebber Municipal Series (PaineWebber Classic High Yield Municipal Fund) (PaineWebber Classic New York Tax-Free Fund); PaineWebber Olympus Fund (PaineWebber Classic Growth Fund); PaineWebber Series Trust (Asset Allocation Portfolio) (Corporate Bond Portfolio) (Global Growth Portfolio) (Global Income Portfolio) (Government Portfolio) (Growth Portfolio) (Growth and Income Portfolio) (High Yield Bond Portfolio) (Money Market Portfolio); Cypress Fund Inc.; Flexible Bond Trust, Inc.; and Global Income Plus Fund, Inc.

Each of the above-referenced companies is an open-end investment company except Cypress Fund Inc., Flexible Bond Trust, Inc. and Global Income Plus Fund, Inc., which are closed-end investment companies. Prior to various dates in 1988 and 1989, PaineWebber served as the investment adviser to all of the open-end investment companies and portfolios now served by Mitchell Hutchins which were then in operation, and as principal underwriter to all such funds and portfolios except PaineWebber Series Trust.

4. Applicant currently employs three individuals subject to securities-related injunctions: Albert Halegoua, Douglas A. Olsen and Paul J. Williams.

5. Halegoua is a registered representative in PaineWebber's Philadelphia branch office. He has been employed by PaineWebber since 1986. In 1971, Halegoua consented to the entry of a permanent injunction in a suit brought by the Commission alleging net capital, recordkeeping, and credit extension violations. In 1974, after finding that Halegoua had participated in the activities for which the injunction was issued and that he had engaged in the offer and sale of unregistered securities and had made misrepresentations concerning such securities, the Commission suspended Halegoua for a period of 90 days from being associated with any broker or dealer and barred him from being so associated thereafter except as a supervised employee in a nonsupervisory capacity upon a

showing to the Commission that he would be adequately supervised. The New York Stock Exchange subsequently allowed Halegoua to reassociate with a brokerdealer on two occasions, in 1975 and 1986.

6. Olsen is a registered representative in PaineWebber's Minneapolis branch office. He has been employed by PaineWebber since 1986. In 1974, Olsen consented to the entry of a permanent injunction in a suit filed by the Commission alleging that as an officer and director of an unregistered inadvertent investment company, he had aided and abetted a violation of section 7(a) of the Investment Company Act, and, in violation of section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5, had made material misstatements and omitted to state material facts concerning, among other things, the principal business in which such company would be engaged and the use and application of the proceeds from the sale of such company's stock. The consent injunction barred Olsen from directly or indirectly causing an investment company to engage in the sale or purchase of securities or transact any other business in interstate commerce. The New York Stock Exchange authorized Olsen to associate with PaineWebber as a registered representative in 1987.

7. Williams is a registered representative in PaineWebber's Youngstown, Ohio branch office. He has been employed by PaineWebber since 1986. In 1985, Williams consented to the entry of a permanent injunction in a suit filed by the Commission alleging insider trading violations of section 10(b) of the 1934 Act and Rule 10b–5 thereunder. Following entry of the consent injunction, the Commission suspended Williams from association with any broker, dealer, investment adviser, or investment company for 30 days. The New York Stock Exchange authorized Williams to associate with PaineWebber as a registered representative in 1986.

8. The existence of the injunctions against the Subject Employees disables PaineWebber, under section 9(a)(3) of the Act, from acting as an investment adviser to a registered investment company, as a principal underwriter of a registered open-end investment company, or as a principal underwriter or depositor of a registered unit investment trust, unless an exemption is obtained pursuant to section 9(c).

9. PaineWebber previously knew of the existence of each of the injunctions, but was unaware until recently of their significance for purposes of section 9(a) of the Act. Prior to the present time, PaineWebber did not have in place procedures to screen specifically for section 9(a) disqualifications.

10. To Applicant's knowledge, since the entry of their respective injunctions, none of the Subject Employees has been subject to any injunctive actions, nor have any complaints been filed against them with or by the Commission (except as discussed in ¶5 with respect to the order involving Halegoua), with any self-regulatory organization, or with any state securities commission. Williams, however, was the subject of a censure by his prior employer in 1984, resulting from his borrowing of municipal securities from customers, with their prior knowledge and consent, in order to support a debit balance in his own margin account. The former employer reported the censure to the New York Stock Exchange, which determined that no further action on its part was necessary.

11. Senior members of PaineWebber's Legal Department have reviewed each of the Subject Employees' records during the course of his employment with PaineWebber with his branch manager and found it to be satisfactory. Except as set forth below with respect to Halegoua (see ¶12) there have been no customer complaints against any of the Subject Employees during their employment with PaineWebber, nor, to PaineWebber's knowledge, is there any basis for such a complaint.

12. There have been two customer complaints relating to Halegoua during his employment with PaineWebber. One complaint alleged that Halegoua did not follow a customer's price limit instructions. The second involved the execution of an option order. In response to the first complaint, although Halegoua's branch manager did not think that the facts established that Halegoua was at fault, he agreed to adjust the customer's account in the amount of $900. In response to the second complaint, PaineWebber's Consumer Affairs department denied the allegations as having no merit, and the client has taken no further action on the matter.

13. None of the Subject Employees is employed by any PW Group affiliate other than PaineWebber, serves in any capacity related to the provision of investment advice to any registered investment company, or acts as principal underwriter or depositor to any registered open-end investment company, or as principal underwriter or depositor to any registered unit investment trust. None of the Subject Employees is an officer of PaineWebber or serves in a policy making role. None of the Subject Employees has any relation to PaineWebber's management or administrative activities relating to registered investment companies.

14. The conduct that precipitated the injunctive actions against the Subject Employees was unrelated to the provision of investment advice or to acting as depositor or underwriter for any registered investment company.

15. The Subject Employees disclosed the existence of the prior regulatory matters to PaineWebber prior to becoming employed by PaineWebber. PaineWebber and each of the Subject Employees took necessary steps to obtain the approval of their principal self-regulatory organization for these employees to associate with the firm.

16. Pending disposition of PaineWebber's request for temporary relief, PaineWebber has required each of the Subject Employees to take a leave of absence with pay. If temporary relief is granted, PaineWebber will permit each to return to work on a normal basis pending determination as to permanent relief.

17. PaineWebber is amending its employment and hiring procedures to assure that any prospective employee subject to a statutory disqualification under section 9(a) is not employed by any PaineWebber company involved in registered investment company activities as a principal underwriter, depositor or investment adviser, until all section 9(c) issues are resolved. These new procedures include notification of the Legal Department whenever a statutory disqualification is disclosed in an employment application for prospective employees, or in a background investigation which will be made for certain types of prospective employees.

18. Upon recognizing the significance of the injunctions under section 9(a), PaineWebber had each investment company or portfolio for which it is investment adviser accrue investment advisory fees into an escrow account.

Applicant's Legal Analysis

1. Each of the Subject Employees is ineligible to serve or act as an investment adviser, principal underwriter or depositor for a registered investment company. Each of these individuals is an employee, and thus an "affiliated person" of PaineWebber. PaineWebber is therefore ineligible under section 9(a)(3) of the Act to serve or act in the capacities enumerated unless it obtains an exemption under section 9(c).

2. The prohibitions of section 9(a) are unduly or disproportionately severe as

applied to PaineWebber, and the conduct of PaineWebber does not make it against the public interest or the protection of investors to grant the application.

3. The activities that give rise to the injunctions are not sufficiently related to PaineWebber or to the investment companies for which PaineWebber acts as investment adviser, principal underwriter, or depositor to justify denying the application. Furthermore, there is no basis to assert that the employment of the Subject Employees may affect PaineWebber's performance of its responsibilities to any registered investment company.

4. Because the activities that gave rise to the injunction are remote in time, and because there has been no indication of subsequent wrongdoing except for the Commission's 1974 order involving Halegoua and Williams' censure by his former employer, it would be unduly and disproportionately severe to permit the injunctions to interrupt the investment advisory, underwriting, and depositor services that have been made available to the shareholders of the investment companies which the Applicant serves.

5. A denial of the application would harm many of PaineWebber's employees, and is not necessary for the protection of investors in the investment companies served by the Applicant.

6. The balance of fairness requires that the application be granted. In particular, PaineWebber argues if the exemption is not granted, it would be required to terminate the employment of the Subject Employees in order to continue the affected business. PaineWebber contends that such a result would be manifestly unfair since each of the Subject Employees has fulfilled the terms of his sanction and has performed his duties satisfactorily over the years.

Conditions to the Requested Relief

1. Applicant will continue to escrow all investment advisory fees until the Commission acts on PaineWebber's request for a permanent exemption. Amounts paid into the escrow account will be disbursed to the investment companies or to PaineWebber after the Commission has acted on PaineWebber's application for permanent relief and discussions with the investment companies involved.

2. PaineWebber will not employ any of the Subject Employees in any capacity related directly to the provision of investment advisory services for registered investment companies or to acting as a principal underwriter for a registered open-end investment company or as a principal underwriter or depositor for a unit investment trust without first making further application to the Commission.

3. PaineWebber will take appropriate steps to confirm that there are no other employees subject to a Statutory Disqualification. These steps may include reviewing the personnel files of other employees, requesting employees to confirm that they are not subject to a Statutory Disqualification, or utilizing some other combination of procedures that may vary depending on the level and type of employee. PaineWebber will notify the Commission in writing when these steps have been completed.

4. PaineWebber will file as an exhibit to this application a representation, attested to by its General Counsel and/or Chief Executive Officer, stating that he has reviewed the compliance procedures described in the application, that he believes those procedures have been fully implemented and that he believes they are reasonable and appropriate to prevent persons subject to a Statutory Disqualification from becoming affiliated with PaineWebber in the future.

Temporary Order

The Commission has considered the matter and finds under the standards of section 9(c), that Applicant has made the necessary showing to justify granting a temporary exemption.

Our decision to grant the requested relief is based primarily on two factors. First, the individuals creating the statutory disqualification have not been, and (without further Commission action) will not be, engaged in investment adviser or investment company activities. Second, PaineWebber has represented that it is correcting the deficiencies in its compliance procedures that allowed these violations of section 9(a) to occur. It is also relevant to our determination that each of these employees fully disclosed the existence of the injunctions to PaineWebber on a timely basis, and was authorized by action of the New York Stock Exchange to associate with PaineWebber as a registered representative. The Commission's decision to allow PaineWebber to continue to employ these individuals in non-investment adviser, non-investment company activities is thus consistent with the actions of the self-regulatory organization.

The Commission recognizes that PaineWebber promptly undertook a review of its employees and its section 9(a) compliance procedures following the Commission's recent determination in *Smith Barney Harris & Co., Inc.*, Investment Company Act Release Nos. 17404 and 17404A (April 2 and April 11, 1990) (notice and temporary order), 17501 (May 21, 1990) (permanent order). We must nevertheless express our concern with PaineWebber's compliance system, which allowed multiple violations of section 9(a) to go undetected for an extended time period. Our decision to grant relief in this case should not be read as an indication that the Commission views violations of section 9(a) as unimportant, or that we would regard any repeat of this problem by PaineWebber with anything other than the most serious concern.

Accordingly, *It is ordered*, under section 9(a) of the 1940 Act, That Applicant is hereby temporarily exempted from the provisions of section 9(a) for the shorter of 90 days or until the Commission takes final action on the application for an order granting Applicant a permanent exemption from the provisions of section 9(a).

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-17127 Filed 7-20-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Informal Airspace Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meetings.

SUMMARY: This notice announces a series of fact-finding informal airspace meetings to solicit additional information from airspace users and others concerning the alteration of the Denver, Co, Terminal Control Area (TCA). The alteration to the Denver TCA is necessary to coincide with the proposed opening of the new Denver International Airport.

DATES: Comments must be received on or before October 30, 1990, or 45 days after the close of the last meeting, whichever is later. The informal airspace meetings will be held on September 11, 12, and 13.

ADDRESSES: The informal airspace meeting locations are as follows:

Date: Tuesday, September 11, 1990.
Time: 7 p.m.
Location: Arapahoe County Administration Building, Santa Fe and Prince Street, Littleton, CO.
Date: Wednesday, September 12, 1990.

Time: 7 p.m.
Location: Brighton High School, 270 S. 8th Avenue, Brighton, CO.
Date: Thursday, September 13, 1990.
Time: 7 p.m.
Location: Front Range Airport Terminal Building Watkins, CO.

FOR FURTHER INFORMATION CONTACT: George Orr, System Management Branch (ANM–530), Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region Headquarters, 17900 Pacific Highway South, C–68966, Seattle, WA 98168; telephone: (206) 431–2530.Q04

Issued in Washington, DC, on July 13, 1990

Harold W. Becker,

Manager, Airspace–Rules and Aeronautical Information Division.

[FR Doc. 90–17113 Filed 7–20–90; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Elko, NV; Closing

Notice is hereby given that on or about July 13, 1990, the Flight Service Station at Elko, Nevada, will be closed. Services to the general aviation public of Elko, formerly provided by this office, will be provided by the Flight Service Station in Reno, Nevada. This information will be reflected in the next reissuance of the FAA organization statement.

(Sec. 313(a), 72. Stat. 752; 49 U.S.C. 1354.)

Issued in Lawndale, California, on July 5, 1990.

Jerold M. Chavkin,

Regional Administrator, Western-Pacific Region.

[FR Doc. 90–17112 Filed 7–20–90; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Apenac County, MI

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 the proposed improvements of US–23 from M–13 to M–65, Arenac County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. James Kirschensteiner, District Engineer, Federal Highway Administration, 315 W. Allegan Street, room 211, Lansing, Michigan 48933; or Mr. Jan Raad, Manager, Environmental Section, Bureau of Transportation Planning, Michigan Department of Transportation (MDOT). Telephone: (517) 377–1851 or (FTS) 374–1844.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the MDOT will prepare an environmental impact statement (EIS) for the proposed improvements of US–23 from M–13 to M–65 in Arenac County, Michigan. The proposed project is needed to relieve congestion in Standish and to increase capacity.

Alternatives under consideration include: 1) No Action, 2) Low Capitol Improvements, 3) Improvements on Existing, 4) Standish Bypass and Improvements on Existing, and 5) Southern Bypass.

The Low Capitol Alternate proposed the possibility of passing relief lanes, intersection and interchange improvements and other minor traffic safety modifications.

The Improvements to Existing Alternate would carry five lanes through Standish, four lanes through Omer and four lanes divided the rest of the segment between Standish and M–65.

The Standish Bypass would be a multi-lane controlled access bypass of Standish just one mile east of US–23 to join existing US–23 northeast of Standish and the two cemeteries. The roadway would then be four lanes divided on existing alignment east to M–65, except through Omer where it would be four lanes undivided.

The Southern Bypass would be a four-lane divided roadway with controlled access between county roads. The intersections with county roads would be at grade. The route would begin at the existing US–23/M–13 interchange and head cross country in a northeasterly direction tying back into existing US–23 just west of M–65.

Several other alternates have already been eliminated from further study through public and agency comments. These include a northern Bypass, any freeway cross-section, four lanes undivided on existing, and five lanes on existing.

Early coordination with a number of Federal, State, and local agencies has identified the more significant issues to be addressed in the EIS. Accordingly, no agency scoping meeting is planned. The U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and the Corps of Engineers are requested to be cooperating agencies in the development of the proposed action. A scoping document has been prepared identifying the alternates being considered and the social, economic, and environmental issues involved. The scoping document is available to all interested agencies, organizations, and individuals on request. A pre-study meeting was held in November 1989, to provide the public an opportunity to discuss the proposed action. Comments on the scoping document and issues identified are invited from all interested parties. Requests for a copy of the scoping document or any comments submitted should be addressed to the above contact persons. The closing date for comments is August 31, 1990.

The draft EIS is scheduled for completion in 1991, and will be available for public and agency review.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: July 13, 1990.

James A. Kirschensteiner,

District Engineer, Federal Highway Administration.

[FR Doc. 90–17102 Filed 7–20–90; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0121.
Form Number: 1116.
Type of Review: Revision.
Title: Foreign Tax Credit—Individual, Fiduciary, or Nonresident Alien.
Description: Form 1116 is used by individuals (including nonresident aliens) and fiduciaries who paid foreign income taxes on U.S. taxable income, to compute the foreign tax credit. This information is used by IRS to verify the foreign tax credit.
Respondents: Individuals or households.

Estimated Number of Respondents: 589,900.

Estimated Burden Hours Per Response/ Recordkeeping:

Recordkeeping—2 hours, 44 minutes.

Learning about the law or the form—40 minutes.

Preparing the form—1 hour, 24 minutes.

Copying, assembling, and sending the form to IRS—35 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/ Reporting Burden: 3,173,662 hours.

OMB Number: 1545-0619.

Form Number: 6765.

Type of Review: Revision.

Title: Credit for Increasing Research Activities (or for claiming the orphan drug credit).

Description: Internal Revenue Code section 38 allows a credit against income tax (determined under Internal Revenue Code section 41) for an increase in research activities of a trade or business. Section 28 allows a credit for clinical testing expenses in connection with drugs for certain rare diseases. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 13,500.

Estimated Burden Hours Per Response/ Recordkeeping:

Recordkeeping—7 hours, 39 minutes.

Learning about the law or the form—1 hour, 5 minutes.

Preparing and sending the form to IRS—1 hour, 16 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting burden: 135,135 hours.

OMB Number: 1545-1027.

Form Number: 1120-PC.

Type of Review: Revision.

Title: U.S. Property and Casualty Insurance Company Income Tax Return.

Description: Property and casualty insurance companies are required to file an annual return of income and pay the tax due. The data is used to insure that companies have correctly reported income and paid the correct tax.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 7,500.

Estimated Burden Hours Per Response/ Recordkeeping:

Recordkeeping—105 hours, 42 minutes.

Learning about the law or the form—32 hours, 15 minutes.

Preparing the form—52 hours, 09 minutes.

Copying, assembling, and sending form to IRS—4 hours, 50 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/ Reporting burden: 1,461,975 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW. Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer

[FR Doc. 90-17115 Filed 7-20-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 141
Monday, July 23, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 3, 1990.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90–17261 Filed 7–19–90 2:45 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 10, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb.

Secretary of the Commission.

FR Doc. 90–17262 Filed 7–19–90; 2:45 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 17, 1990.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb.

Secretary of the Commission.

FR Doc. 90–17263 Filed 7–19–90 2:45 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 24, 1990.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90–17264 Filed 7–19–90; 2:45 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 31, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb.

Secretary of the Commission.

FR Doc. 90–17265 Filed 7–19–90 2:45 pm]

BILLING CODE 6351–01–M

FEDERAL ENERGY REGULATORY COMMISSION

Notice

July 18, 1990.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–49), 5 U.S.C. 552B:

DATE AND TIME: July 25, 1990, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400.

This a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agency; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 921st Meeting—July 25, 1990, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 1417–017, Central Nebraska Public Power and Irrigation District
Project No. 1835–036, Nebraska Public Power District

CAH–2.
Project No. 9022–003, JDJ Energy Company, Inc.

CAH–3.
Project No. 6939–012, City of Jackson, Ohio

CAH–4.
Project No. 6901–009, City of New Martinsville, West Virginia

CAH–5.
Project No. 2788–005, F.W.E. Stapenhorst, Inc.

CAH–6.
Project No. 10645–001, City of Richmond, Virginia

CAH–7.
Project No. 3756–006, City of Bountiful, Utah

CAH–8.
Project No. 7633–004, Kenai Hydro, Inc.

CAH–9.
Project No. 10724–002, Blycol, Inc.

CAH–10.
Project No. 10838–001, City of Fredericksburg, Virginia

CAH–11.
Project No. 9246–007, John C. Simmons

CAH–12.
Project No. 400–015, Colorado-Ute Electric Assocation, Inc.

Consent Agenda—Miscellaneous

CAM–1.
Docket No. RM90–11–000, Streamlining Commission Procedures for Review of Staff Action

Consent Agenda—Electric

CAE–1.
Docket Nos. ER90–373–000 and ER90–390–000, Northeast Utilities Service Company

CAE–2.
Docket No. ER90–395–000, Northeast Utilities Service Company

CAE–3.
Docket No. ER90–450–000, New England Hydro-Transmission Electric Company, Inc. and New England Hydro-Transmission Corporation

CAE–4.
Docket No. ER90–349–000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

CAE–5.
Docket No. ER84–348–014, American Electric Power Service Corporation

CAE–6.
Docket No. ER90–315–001, Duke Power Company

CAE–7.
Docket No. ER90–284–001, New England Power Company

CAE–8.
Docket No. EL89–48–001, Wisconsin Power & Light Company

CAE–9.

Docket No. EL89-55-001, New England Power Company
CAE-10.
Docket No. ER90-54-001, People's Electric Cooperative
CAE-11.
Docket No. EL90-6-001, Illinois Power Company
CAE-12.
Docket No. EL89-30-001, Soyland Power Cooperative, Inc. v. Central Illinois Public Service Company
CAE-13.
Docket Nos. EL89-11-000 and ER89-312-000, Vermont Yankee Nuclear Power Corporation
CAE-14.
Docket No. RM90-12-000, Generic Determination of Rate of Return of Common Equity for Public Utilities
CAE-15.
Docket No. RM90-9-000, Modification of Regulations of Form No. EIA-714, Annual Electric Power System Report
CAE-16.
Docket No. ER90-289-001, Central Power and Light Company
CAE-17.
Docket No. QF85-199-002, Vulcan/BN Geothermal Power Company
Docket No. QF86-727-003, Del Ranch, L.P.
Docket No. QF86-1043-001, Desert Power Company
Docket Nos. QF87-511-002 and QF89-297-001, Earth Energy, Inc.
CAE-18.
Docket No. ER79-150-015, Southern California Edison Company

Consent Agenda—Gas and Oil

CAG-1.
Docket No. RP90-135-000, Valero Interstate Transmission Company
CAG-2.
Docket No. RP90-136-000, Transwestern Pipeline Company
CAG-3.
Docket No. RP90-137-000, Williston Basin Interstate Pipeline Company
CAg-4.
Docket Nos. RP90-140-000 and RP88-94-029, Natural Gas Pipeline Company of America
CAG-5.
Docket No. TM90-11-17-000, Texas Eastern Transmission Corporation
CAG-6.
Docket Nos. TQ90-4-43-000 and TM90-8-43-000, Williams Natural Gas Company
CAG-7.
Docket No. TQ90-12-4-000, Granite State Gas Transmission, Inc.
CAG-8.
Docket No. TA90-1-61-000, Bayou Interstate Pipeline System
CAG-9.
Docket Nos. TA90-1-49-000 and 001, Williston Basin Interstate Pipeline Company
CAG-10.
Docket No. TA90-1-52-000, Western Gas Interstate Company
CAG-11.
Docket No. TA90-1-29-000, Transcontinental Gas Pipe Line Corporation
CAG-12.
Docket Nos. CP 86-578-029 and CP89-1740-003, Northwest Pipeline Corporation
CAG-13.
Docket No. GT90-34-000, Midwestern Gas Transmission Company
CAG-14.
Docket No. GT90-333-000, Overthrust Pipeline Company
CAG-15.
Docket Nos. TQ89-1-46-005, 025, 026 and RP86-166-005, Kentucky West Virginia Gas Company
CAG-16.
Docket Nos. TA90-1-46-000, 001 and 002, Kentucky West Virginia Gas Company
CAG-17.
Docket No. RP89-132-001, El Paso Natural Gas Company
CAG-18.
Docket Nos. RP88-127-001, 002, RP88-90-001, TQ88-1-63-000, 001, TA88-2-63-000, 001, 002 and TA89-1-63-000, Carnegie Natural Gas Company
CAG-19.
Docket No. PR90-2-000, Coronado Transmission Company
CAG-20.
Docket No. PR90-3-000, Galaxy Energies, Inc.
CAG-21.
Docket No. RP90-139-000, Southern Natural Gas Company
CAG-22.
Docket Nos. RP85-58-030 and 031, El Paso Natural Gas Company
CAG-23.
Docket Nos. RP85-209-026, RP86-93-000, RP86-158-000, RP88-8-000, CP86-246-000, RP87-34-000, TC88-6-000, RP88-92-000, RP88-27-000, RP88-263-000, RP88-264-000, RP88-265-000, CP88-440-000, CP87-524-000, CP88-329-000, CP88-478-000, RP84-42-000, IN86-5-001 and CP88-6-001, United Gas Pipe Line Company
CAG-24.
Docket Nos. RP88-228-031, RP88-249-005, RP89-29-009, RP89-84-006, RP89-149-004 and PL89-2-004, Tennessee Gas Pipeline Company
CAG-25.
Docket No. TQ90-3-43-001, Williams Natural Gas Company
CAG-26.
Docket No. RP90-112-002, Texas Gas Pipe Line Corporation
CAG-27.
Docket No. RP87-15-028, Trunkline Gas Company
CAG-28.
Docket Nos. RP90-65-002, and RP88-211-009 CNG Transmission Corporation
CAG-29.
Docket No. RP90-104-002, Texas Gas Transmission Corporation
CAG-30.
Docket Nos. RP85-209-028, RP86-93-010, RP86-158-013, CP86-246-006, RP87-34-013, TC88-6-011, RP88-8-013, RP88-27-022, RP88-92-022, RP88-265-007, RP88-263-015, RP88-264-018, RP84-42-009, RP89-138-008, CP88-6-008, CP88-329-003, CP88-478-004 and IN86-5-015, United Gas Pipe Line Company
Docket No. CP88-440-004, Southern Natural Gas Company
Docket No. CP87-524-011, Texas Gas Transmission Corporation
CAG-31.
Docket No. RP90-102-004, Tarpon Transmission Company
CAG-32.
Docket Nos. RP90-109-001, RP87-62-005 and RP86-148-006, Pacific Gas Transmission Company
CAG-33.
Docket No. CP88-651-003, Northwest Pipeline Corporatin
CAG-34.
Docket No. RP90-111-001, East Tennessee Natural Gas Company
CAG-35.
Docket No. TF90-2-17-001, Texas Eastern Transmission Corporation
CAG-36.
Docket No. IS90-30-001, Amoco Pipeline Company
CAG-37.
Docket No. IS90-34-001, ARCO Pipe Line Company
CAG-38.
Docket No. RP89-183-010, Williams Natural Gas Company
CAG-39.
Docket No. RP89-161-014, ANR Pipeline Company
CAG-40.
Docket No. RP87-30-029, Colorado Interstate Gas Company
CAG-41.
Docket No. RP90-2-004, Williston Basin Interstate Pipeline Company
CAG-42.
Docket No. RP88-68-028, Transcontinental Gas Pipe Line Corporation
CAG-43.
Docket Nos. IS90-21-000 and IS90-22-000, Williams Pipe Line Company
CAG-44.
Docket Nos. RP82-58-026, RP82-105-009 and RP88-262-000, Panhandle Eastern Pipe Line Company
CAG-45.
Docket Nos. RP88-88-006 and RP88-262-000, Panhandle Eastern Pipe Line Company
CAG-46.
Docket Nos. RP85-194-000 and RP86-49-000, Panhandle Eastern Pipe Line Company
CAG-47.
Docket Nos. RP86-10-008 and CP86-110-000, Williston Basin Pipeline Company
CAG-48.
Docket Nos. RP88-227-019, CP90-767-000 and CP78-221-003, Paiute Pipeline Company
Docket No. CP90-849-000, Northwest Pipeline Corporation
CAG-49.
Docket Nos. RP86-186-004, RP90-20-002, RP86-35-014, CP81-225-009, CP87-164-007, CP87-467-007, CP87-474-008, CP88-145-001, CP88-307-007, CP88-310-005, CP88-397-005, CP88-539-005, CP88-599-004, CP88-719-001, CP88-826-002, CP89-1251-002, CP89-1331-000, CP89-1681-000, CP89-1947-000, CP89-2196-000, CP89-2197-000 and CP89-2198-000, Great Lakes Gas Transmission Company
CAG-50.

Docket Nos. RP86–159–000 and RP89–56–000, Blue Dolphin Pipe Line Company

CAG–51.
Docket Nos. RP89–33–000, Northern Border Pipeline Company

CAG–52.
Docket Nos. RP89–14–000,001 RP89–235–000 and 001, Inter-City Minnesota Pipelines, Ltd., Inc.

CAG–53.
Docket No. RP89–141–000, Sea Robin Pipeline Company

CAG–54.
Docket No. RP89–162–000, Ringwood Gathering Company

CAG–55.
Docket No. TQ89–1–46–000, *et al.*, RP86–165–000, *et al.*, *RP86–166–000, et al.* and CP90–1544–000, Kentucky West Virginia Gas Company

CAG–56.
Docket No. IS86–1–000, Milne Point Pipe Line Company

CAG–57.
Docket Nos. RP90–128–000 and RP86–86–000, Chandeleur Pipe Line Company

CAG–58.
Docket Nos. ST90–359–000 and 001, Transok, Inc.

CAG–59.
Docket No. GP88–27–001, Quintana Petroleum Corporation NGPA Section 103 Determination State of Louisiana Department of Natural Resources

CAG–60.
Docket No. GP84–42–001, Oil Conservation Division of the State of New Mexico

CAG–61.
Docket No. CP89–1343–001, Northwest Pipeline Corporation

CAG–62.
Docket No. CP88–180–008, Texas Eastern Transmission Corporation

CAG–63.
Docket No. CP88–683–001, East Tennessee Natural Gas Company

CAG–64.
Docket No. CP90–989–001, National Fuel Gas Supply Corporation

CAG–65.
Omitted

CAG–66. (A)
Docket No. CP90–1214–001, CNG Transmission Corporation

CAG–66. (B)
Docket Nos. CP90–316–000 and CP90–317–000, Empire State Pipeline

CAG–66. (B)
Docket Nos. CP90–316–000 and CP90–317–000, Empire State Pipeline
Docket No. CP90–854–000, CP90–820–000, CP90–967–000 and CP90–968–000, National Gas Supply Corporation

CAG–66. (C)
Docket No. CP90–316–000, Empire State Pipeline

CAG–66. (D)
Docket No. CP90–967–000, National Fuel Gas Supply Corporation

CAG–67.
Docket No. CP90–23–000, Texas Gas Transmission Corporation

CAG–68.
Docket No. CP90–387–000, Texas Gas Transmission Corporation

CAG–69.
Docket Nos. CP88–712–000 and 002, CNG Transmission Corporation
Docket No. CP90–189–000, CNG Transmission Corporation and Texas Eastern Transmission Corporation

CAG–70.
Docket No. CI90–58–000, New England Power Company and the Narragansett Electric Company

CAG–71.
Docket No. CP89–2094–000, Williston Basin Interstate Pipeline Company

CAG–72.
Docket Nos. CP90–1167–000, Colorado Interstate Gas Company

CAG–73.
Docket No. CP90–574–000, Iowa-Illinois Gas and Electric Company

CAG–74.
Docket No. CP90–1614–000, Colorado Interstate Gas Company

CAG–75.
Docket No. CP90–1674–000, Panhandle Eastern Pipe Line Company

CAG–76.
Docket No. CP90–1634–000, United Gas Pipe Line Company

CAG–77.
Docket No. CP90–1721–000, Texas Eastern Transmission Corporation

CAG–78.
Docket No. CP90–1722–000, Trunkline Gas Company

CAG–79.
Docket No. CP90–187–000, Oklahoma-Arkansas Pipeline Company

CAG–80.
Docket No. CP90–239–000, Gulf States Transmission Corporation

CAG–81.
Docket Nos. ST89–1706–001, ST89–1775–001 and ST88–2555–004, Louisiana Intrastate Gas Corporation

Hydro Agenda

H–1. (A)
Project No. 9711–000, Inghams Corporation. Order on motion to dismiss permit applications.

H–1. (B)
Project No. 9712–000, Beardslee Corporation. Order on motion to dismiss application.

H–2.
Project No. 9556–002, Kamargo Corporation
Project No. 9557–002, Black River Hydro Corporation
Project No. 9564–002, Norwood Hydro Corporation
Project No. 9565–002, Raymondville Hydro Corporation
Project No. 9566–002, East Norfolk Hydro Corporation
Project No. 9553–002, School Street Hydro Corporation
Project No. 9563–002, Herrings Hydro Corporation
Project No. 9552–002, Deferiet Corporation
Project No. 9554–002, Colton Hydro Corporation
Project No. 9555–002, Higley Corporation
Project No. 9567–002, Hannawa Corporation
Project Nos. 2320, 2330, 2539 and 2569, Niagara Mohawk Power Corporation. Order on remand.

H–3.
Project Nos. 588–004 and 2683–006, James River Inc., II. Order on petitions for declaratory order concerning Glines Canyon Dam.

Electric Agenda

E–1.
Docket Nos. ER88–630–000, ER88–631–000, ER89–38–000 (Phases I and II), New England Power Company. Opinion and order on initial decision concerning incremental cost rate design and other matters.

E–2.
Docket No. ER90–164–000, Tampa Electric Company. Order on rate filings concerning affiliates

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1. (A)
Docket Nos. RP87–15–019 and RP89–160–000, Trunkline Gas Company. Initial decision on refunctionalization of gathering costs.

PR–1. (B)
Docket No. RP87–15–000 (Phase I), Trunkline Gas Company. Remand on minimum bill and LNG costs.

PR–1. (C)
Docket No. RP–87–15–001, Trunkline Gas Company. Rehearing on a suspension order.

PR–2. (A)
Docket Nos. CP88–434–001, 003, 004, RP88–185–001, 002, 003 and RP88–44–000, El Paso Natural Gas Company. Rehearing of GIC certificate issued by Opinion No. 336 and compliance filing on comparability of service competitive market, Account No. 191 balance, and exempt customer pricing options.

PR–2. (B)
Docket Nos. TA89–1–33–000, 001, 003, RP89–132–004 and RP89–132–007, El Paso Natural Gas Company. Rehearing and technical conference on Account No. 191 balance.

PR–3. (A)
Docket Nos. TA88–4–42–000 and TQ89–1–42–000, Transwestern Pipeline Company. Initial decision on pricing adjustment costs.

PR–3. (B)
Docket No. TA89–1–42–000, Transwestern Pipeline Company. Technical conference on producer pricing settlement amounts.

II. Producer Matters

PF–1.
Reserved

III. Pipeline Certificate Matters

PC–1. (A)
Docket No. RM90–14–000, Interim revision to Governing the replacement of facilities and construction of facilities pursuant to section 311. Interim rule.

PC–1. (B)
Docket No. RM90–1–000, Revisions to Regulations Governing Certificates for Construction. Interim rule.

PC–2. (A)

Docket No. RM90–13–000 Interim revisions to regulations governing transportation under section 311 of the Natural Gas Policy Act of 1978 and blanket transportation certificates. Interim rule.

PC–2. (B)

Docket No. RM90–7–000, Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportion Certificates

Docket No. GP88–11–002, Hadson Gas Systems, Inc.

Docket No. CP88–286–004, Cascade Natural Gas Corporation v. Northwest Pipeline Corporation

Docket Nos. CP88–81–014, RP88–67–033 and RP88–175–002, Texas Eastern Transmission Corporation. Notice of proposed rulemaking and order on remand from *Associated Gas Distributiors v.FERC.*

PC–3.

Docket Nos. CP88–136–022 and 023, Texas Eastern Transmission Corporation. Order on requests for rehearing and clarification of transportation assignment program.

PC–4.

Docket No. CP89–2107–000, Arkla Energy Resources, Inc.

Docket No. CP89–5–002, CNG Transmission Corporation.

Docket No. CP88–332–014, El Paso Natural Gas Company.

Docket No. CP88–546–004, Equitrans, Inc.

Docket No. CP89–1179–001, Kentucky-West Virginia Gas Company

Docket No. CP88–312–006, Natural Gas Pipeline Company of America

Docket No. CP88–2–010, Northern Natural Gas Company

Docket No. CP89–634–003, Panhandle Eastern Pipe Line Company

Docket No. CP88–473–004, Southern Natural Gas Company

Docket No. CP89–759–001, Transcontinental Gas Pipe Line Corporation

Docket No. CP88–99–012, Transwestern Pipeline Company

Docket No. CP90–235–001, Williams Natural Gas Company. Report on interruptible sales and service (ISS) technical conference and order regarding changes in existing ISS certificates.

PC–5.

Docket No. CP88–328–004, Transcontinental Gas Pipe Line Corporation. Order amending blanket certificate to authorize an interim transportation assignment program.

PC–6.

Docket Nos. CP88–171–000 and 001, Tennessee Gas Pipeline Company

Docket No. CP89–712–000, CNG Transmission Corporation

Docket Nos. CP88–194–000 and 001, National Fuel Gas Supply Corporation

Docket No. CP89–7–000, 001 and 002, Transcontinental Gas Pipe Line Corporation

Docket No. CP88–195–000, PennEast Gas Services Company

Docket No. CP88–195–001, CNG Transmission Corporation

Docket Nos. CP88–195–002 and 005, Texas Eastern Transmission Corporation

Docket No. CP89–711–000, Texas Eastern Transmission Corporation

Docket No. CP88–187–000, 001 and 002, Algonquin Gas Transmission Corporation

Docket Nos. CP89–2205–000, and 001, Transcontinental Gas Pipe Line Corporation

Docket No. CP80–710–000, Transcontinental Gas Piple Line Corporation

Docket No. CP89–892–000, Great Lakes Transmission Company

Docket No. CP88–183–000, PennEast Gas Services Company and CNG Transmission Corporation. Order on Phase III of the Niagara Import Points Projects.

PC–7.

Docket Nos. CP89–634–000, 001 and CP89–815–000, Iroquois Gas Transmission System, L.P.

Docket Nos. CP89–629–000 and 001, Tennessee Gas Pipeline Company

Docket No. CP89–1263–000, Texas Eastern Transmission Corporation

Docket No. CP89–1339–000, Long Island Lighting Company, the Brooklyn Union Gas Company and Consolidated Edison of New York, Inc. Opinion and order on Iroquois/Tennessee Project.

Lois D. Cashell,

Secretary.

FR Doc. 90–17279 Filed 7–19–90; 3:55 pm]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

July 19, 1990.

FCC To Hold Open Commission Meeting, Thursday, July 26, 1990

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Thursday, July 26, 1990, which is scheduled to commence at 3:00 p.m., in Room 856, at 1919 M Street, N.W., Washington D.C.

Item No., Bureau, and Subject

1—Mass Media—Title: Competition, Rate Deregulation, and the Commission's Policies Relating to the Provision of Cable Television Service. (MM Docket No. 89–600). Summary: The Commission will consider whether to adopt a *Report* to Congress regarding the cable television industry.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: July 19, 1990.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–17209 Filed 7–19–90; 10:39 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 28864.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: July 18, 1990–10:00 a.m.

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 90–17226 Filed 7–19–90; 11:47 am]

BILLING CODE 6730–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors will be held on July 30, 1990. The meeting will commence at 9:00 a.m.

PLACE: Old Colony Inn, 625 First Street, Ballrooms A & B, Alexandria, VA 22314, (703) 548–6300.

STATUS OF MEETING: Open [A portion of the meeting will be closed to discuss personnel, privileged or confidential, personal, investigatory and litigation matters under the Government in the Sunshine Act [5 U.S.C. 552b (c) (2), (4), (5), (7), and (10) and 45 CFR 1622.5 (a), (c), (d), (e), (f), and (h)].

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes.
   —June 25, 1990
3. Election of Vice Chairman of the Board of Directors.
4. Chairman's Remarks.
   (a) Report on Status of Nomination Process.
   (b) Report Pursuant to 45 C.F.R. Section 1601.12(b) of LSC Regulations.
   (c) Remarks by Jo Betts Love Regarding Client Involvement and Self-Help.
   (d) Discussion of August Meeting Date and Location.
5. President's Report.
6. Testimony by California Rural Legal Assistance as to Proposed Reduction in Funding.
7. Discussion and Consideration of Reauthorization "Mark-Up" Meeting and Reform Proposals.

Closed Session:

1. Discussion of Personnel, Privileged or Confidential, Personal, Investigatory and Litigation Matters.
2. Review of Presidential Search Matters.
3. Presidential Search Interviews.

Open Session:

8. Report on Issues Regarding the Office of the Inspector General.
9. Selection of President of the Legal Services Corporation.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date Issued: July 19, 1990.

Maurine R. Bozell,

Corporation Secretary.

[FR Doc. 90–17277 Filed 7–19–90; 3:49 pm]

BILLING CODE 7050–01–M

RESOLUTION TRUST 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 10:03 a.m. on Wednesday, July 18, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to: (1) Certain matters relating to the resolution of a failed thrift institution; (2) recommendations regarding the selection of a contractor to design, develop, implement, and operate a Cash Management Information (C/MI) System; and (3) matters regarding the Corporation's internal administration activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan Jr., (Director of the Office of Thrift Supervision), and concurred in by Chairman L. William Seidman, 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)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, N.W., Washington, D.C.

Dated: July 18, 1990.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 90–17210 Filed 7–19–90; 10:39 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [55 FR 29451 July 19, 1990].

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, July 17, 1990.

CHANGE IN THE MEETING: Addition item.

The following additional item will be considered at an open meeting on Thursday, July 25, 1990, at 9:30 a.m.

Consideration of two proposed changes to its rule 80A submitted by the New York Stock Exchange, to impose conditions on the execution of index arbitrage orders or transactions in New York Stock Exchange stock baskets whenever the Dow Jones Industrial Average moves up or down fifty points from the previous day's close. For further information, please contact Mark McNair at (202) 272–2882.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Hirsch at (202) 272–2100.

Dated: July 19, 1990.

Jonathan G. Katz,

Secretary.

FR Doc. 90–17278 Filed 7–19–90 3:50 am]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 55, No. 141
Monday, July 23, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-88-205]

Shelled Pistachio Nuts; Grade Standards

Correction

In rule document 90-16432 beginning on page 28746 in the issue of Friday, July 13, 1990, make the following correction:

§ 51.2557 [Corrected]

On page 28747 in the third column in the table in § 51.2557(a) the headings "Percent" and "Factors (Tolerances by weight)" were switched.

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Agricultrual Marketing Service

7 CFR Part 918

[Docket No. FV-90-156 PR]

Peaches Grown In Georgia; Proposed Rule Redefining Grower Representation Districts and Reapportioning Membership on the Georgia Peach Industry Committee

Correction

In proposed rule document 90-13800 beginning on page 24096, in the issue of Thursday, June 14, 1990, make the following correction:

§ 918.116 [Corrected]

On page 24097, in the second column, in § 918.116(b), in the seventh line from the end, after "Cherokee, Pike," insert "Clarke, Coweta, Elbert, Butts, Banks, Carroll, Chatooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-90-4214-11; IDI-010061, et al]

Notice of Proposed Continuation of Withdrawals; Idaho

Correction

In notice document 90-11507 beginning on page 20538, in the issue of Thursday, May 17, 1990, make the following correction:

1. On page 20539, in the first column, the 16th and 17th lines should read "Sec. 27, W½W½SE¼SE¼SE¼ and SW¼SE¼SE¼.".

2. On the same page, in the same column, the 34th line should read "SE¼ SW¼.".

BILLING CODE 1505-01-D

federal register

Monday
July 23, 1990

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 921

National Estuarine Reserve Research System Program Regulations; Interim Final Rule

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

15 CFR Part 921

[Docket No. 70874-0133]

National Estuarine Reserve Research System Program Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Interim final rule.

SUMMARY: The regulations revise existing rules for national estuarine reserves in accordance with the Coastal Zone Management Reauthorization Act of 1985 (title IV, subtitle D, Pub. L. 99-272) and recommendations contained in the U.S. Department of Commerce, Office of Inspector General Report No. F-726-5-010, "Opportunities to Strengthen the Administration of the Estuarine Sanctuary Program." Effective with the signing of Public Law 99-272 on April 7, 1986, the name of the Estuarine Sanctuary Program changed to the National Estuarine Reserve Research System Program; estuarine sanctuary sites are now referred to as national estuarine research reserves. These regulations revise the process for designation of research reserves. Greater emphasis is placed on the use of reserves to address national estuarine research and management issues, and to make maximum use of the System for research purposes through coordination with NOAA and other Federal and state agencies which are sponsoring estuarine research. Additional emphasis is also given to providing financial assistance to states to enhance public awareness and understanding of estuarine areas by providing opportunities for public education and interpretation. The regulations provide new guidance for delineating reserve boundaries and new procedures for arriving at the most effective and least costly approach to acquisition of land. Clarifications in the total amount of financial assistance authorized for each national estuarine reserve, and criteria for withdrawing the designation of a reserve, have also been added.

DATES: *Effective Date:* These interim final regulations are effective July 23, 1990.

Comments: Comments are invited and will be considered if submitted on or before September 21, 1990.

ADDRESSES: Mr. Joseph A. Uravitch, Chief; Marine and Estuarine Management Division; Office of Ocean and Coastal Resource Management, NOS/NOAA; 1825 Connecticut Avenue NW.; Suite 714; Washington, DC 20235, (202) 673-5126.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Uravitch, (202) 673-5126.

SUPPLEMENTARY INFORMATION:

I. Authority

This notice of interim final rulemaking is issued under the authority of section 315(a) of the Coastal Zone Management Act of 1972 as amended, 16 U.S.C. 1461 (the Act). The National Estuarine Reserve Research System has been operating under regulations published June 27, 1984 (49 FR 26510).

II. General Background

On October 28, 1988 (53 FR 43816) NOAA published proposed regulations for continued implementation of the National Estuarine Reserve Research System (NERRS) Program pursuant to section 315 of the Act, 16 U.S.C. 1461. Written comments were accepted until December 30, 1988. These comments have been considered in preparing these final regulations. A summary of the significant changes to the proposed regulations is presented below.

These interim final regulations establish the Program's mission and goals and revise procedures for selecting, designating and operating national estuarine research reserves.

III. Changing the Name and Emphasis of the Program

The 1985 Coastal Zone Management Act and its amendments established the National Estuarine Reserve Research System (System). The System consists of (1) each estuarine sanctuary designated prior to April 7, 1986 which is the date of enactment of the Coastal Zone Management Reauthorization Act of 1985, and (2) each estuarine area designated after the Act. The term estuarine sanctuary no longer appears in regulations; the term research reserve or reserve appears in its place.

The Mission Statement for the System is much the same as for the National Estuarine Sanctuary Program which existed prior to the 1985 amendments. However, the goals for the National Estuarine Reserve Research System stress the use of reserve sites for promotion and coordination of estuarine research on a national level as the highest priority and reason for establishing the System. The protection and management of estuarine areas and resources are clearly intended to support the research mission, not as ends in themselves. Consultation by the Secretary with other Federal and state agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research is also a clearly defined goal of the System. The regulations also emphasize the use of a reserve's natural resources and ecology to enhance public awareness and understanding of estuarine areas, and to provide suitable opportunities for public education and interpretation. This education goal has been elevated to become one of the essential criteria for designation of a reserve.

IV. Revision of the Procedures for Selecting, Designating and Operating National Estuarine Research Reserves

(A) *Revision of Designation Criteria.* The Coastal Zone Management Reauthorization Act of 1985 established, for the first time, statutory criteria for designating an area as a national estuarine research reserve. An area may be designated by the Secretary of Commerce as a national estuarine research reserve if:

(1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

(2) the Secretary finds that:

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

Some of these criteria for designation are either new or substantially more specific than those contained in the former regulations. For example, under these regulations the Governor of a coastal state must nominate an estuarine area for designation, and findings are required that the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research and that designation of the area will serve to enhance public awareness and understanding of estuarine areas. The criteria in the existing regulations have been revised accordingly.

(B) *Revision of Site Criteria and Procedures.* The criteria for selecting an estuarine area for designation as a national estuarine research reserve have been expanded to provide guidance for determining boundaries for the proposed site. The Office of Inspector General Report No. F–726–5–010 criticized the lack of specific guidelines for setting limits on boundaries around estuarine sanctuaries to ensure that only land essential to the mission of the program be included inside the sanctuary. References in the existing regulations to ensure that the boundaries encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit are too vague, particularly since terms are not defined. The proposed regulations define key land and water areas as a "core area" within the reserve which is so vital to the functioning of the estuarine ecosystem that it must be under a level of control sufficient to ensure the long-term viability of the reserve for research on natural processes. The determination of key land and water areas must be based on scientific knowledge of the area. The concept of a "buffer" zone to protect the core area and provide additional protection for estuarine-dependent species has also been defined in the regulations. The buffer zone may include an area necessary for facilities required for research and interpretation, and additionally, to accommodate a shift of the core area as a result of biological, ecological or geomorphological change which reasonably could be expected to occur. States will be required to use scientific criteria to justify the boundaries selected for a proposed site.

The information requirements for NOAA approval of a proposed site under existing regulations were confusing and now have been clarified.

NOAA has recognized the need to conduct studies to develop a basic description of the physical, chemical, and biological characteristics of the site. As a result, states may now be eligible for Federal funding of these studies after NOAA approval of a proposed site.

(C) *Management Plan Development.* Once NOAA approves the proposed site and decides to proceed with designation, the state must develop a draft management plan. The contents of the plan, including the memorandum of understanding (MOU) between NOAA and the state, are specified in the regulations. The acquisition portion of the plan has been greatly expanded to implement recommendations in the Office of Inspector General Report No. F–726–5–010. It is proposed that states be required to justify the use of fee simple acquisition methods and make greater use of non-fee simple methods to conserve expenditure of funds. For each parcel, both in the core area and the buffer zone, states must determine, with appropriate justification (1) the minimum level of control(s) required, (2) the level of existing state control, and (3) the level of additional state control(s) required; states must also examine all reasonable alternatives for attaining the additional level of control required, perform a cost analysis of each, and rank, in order of cost, the alternative methods of acquisition which were considered. The cost-effectiveness assessment must also compare short-term and long-term costs. The state shall give priority consideration to the least costly method(s) of attaining the minimum level of long-term control required, which is sufficient to meet the statutory requirement that "the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research. See 16 U.S.C. § 1461(b)(2)(B).

(D) *Financial Assistance Awards for Site Selection and Post Site Selection.*

The first of five types of awards under the National Estuarine Reserve Research System is for site selection and post-site selection, which includes preparation of a draft management plan (including MOU) and the collection of information necessary for preparation of the environmental impact statement. The maximum total Federal share of these awards has been raised to $100,000 as described in § 921.10. Of this amount, up to $25,000 may be used to conduct the site selection process as described in § 921.11. After NOAA's approval of a proposed site and decision to proceed with the designation process, the state may expend (1) up to $40,000 of this amount to develop the draft management plan and collect information for preparation of the environmental impact statement; and (2) up to the remainder of available funds to conduct studies to develop a basic description of the physical, chemical, and biological characteristics of the site.

(E) *Financial Assistance Awards for Acquisition, Development, and Initial Management.* The regulations divide eligibility for financial assistance awards for acquisition and development into two phases. In the initial phase, states are working to meet the criteria required for formal research reserve designation, *i.e.*, establishing adequate state control over key land and water areas in accordance with the draft management plan and preparing a final management plan. In this predesignation phase, funds are available for acquiring interest in land, which is the primary purpose of this award, and for minor construction (*e.g.*, nature trails and boat ramps), preparation of architectural and engineering plans and specifications, development of the final management plan, and hiring a reserve manager and other staff as necessary to implement the NOAA approved draft management plan.

The length of time for this initial phase of acquisition and development may be up to three years. After the site receives Federal designation as a national estuarine research reserve, the state may request additional financial assistance to acquire additional property interests (*e.g.*, for the buffer zone), for construction of research and interpretive facilities, and for restorative activities in accordance with the approved final management plan.

The Coastal Zone Management Reauthorization Act of 1985 specifies that the amount of financial assistance provided with respect to the acquisition of land and waters, or interests therein, for any one national estuarine research reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

The amount of Federal financial assistance provided under the regulations for development costs directly associated with major facility construction (*i.e.*, other than land acquisition) for any one national estuarine research reserve must not exceed 50 per centum of the costs of such construction or $1,500,000, whichever amount is less.

(F) *Financial Assistance Awards for Operation and Management.* The amount of Federal financial assistance available to a state to manage the reserve and operate programs consistent with the mission and goals of the National Estuarine Reserve Research System has been raised from $50,000 to $70,000 for each twelve month period. Up to ten per cent of the total award (Federal and state) each year may be used for construction-type activities.

(G) *Financial Assistance for Research.* The Coastal Zone Management Reauthorization Act of 1985 specifically affects the conduct of the System's research program by establishing the requirement for developing Estuarine Research Guidelines for the conduct of research within the system and specifying what these guidelines shall include. The legislation also requires the Secretary of Commerce to require that NOAA, in conducting or supporting estuarine

research, give priority consideration to research that uses reserves in the System, and that NOAA consult with other Federal and state agencies to promote use of one or more reserves by such agencies when conducting estuarine research.

The research guidelines, which are referred to in the regulations, but are not part of them, state that NOAA will provide research grants only for proposals which address research questions and coastal management issues that have highest national priority as determined by NOAA, in consultation with prominent members of the estuarine research community.

One significant addition to the regulations is that research awards are available on a competitive basis to any coastal state or qualified public or private person, thus making it possible for public or private persons, organizations or institutions to compete with coastal states and coastal state universities for NOAA research funding to work in research reserves.

(H) *Financial Assistance for Monitoring.* The Coastal Zone Management Reauthorization Act of 1985 authorizes the award of grants for the purposes of conducting research and monitoring. While objectives in estuarine research and estuarine monitoring are mutually supportive, monitoring is generally designed to provide information over longer time frames and in a different spatial context. Consequently a separate subpart addressing specifically the development and implementation of monitoring projects has been included in the regulations.

(I) *Financial Assistance Awards for Interpretation and Education.* The Coastal Zone Management Reauthorization Act of 1985 authorizes the award of grants for the purposes of conducting educational and interpretive activities. To stimulate the development of innovative or creative interpretive and educational projects and materials which will enhance public awareness and understanding of estuarine areas, the regulations provide for funds to be available on a competitive basis to any coastal State entity. These funds are provided in addition to any other funds available to a coastal state under these regulations.

Categories of potential educational and interpretive projects include:

(1) Design, development and distribution/placement of interpretive or educational media (*i.e.*, the development of tangible items such as exhibits/displays, publications, posters, signs, audio-visuals, computer software, and maps, which have an educational or interpretive purpose, and techniques for making available or locating information concerning reserve resources, activities, or issues);

(2) Development and presentation of curricula, workshops, lectures, seminars, and other structured programs or presentations for on-site facility or field use;

(3) Extension/outreach programs; or

(4) Creative and innovative methods and technologies for implementing interpretive or educational projects.

Interpretive and educational projects may be oriented to one or more research reserves or the entire System. Those projects which would benefit more than one research reserve, and, if practical, the entire National Estuarine Reserve Research System, shall receive priority consideration for funding.

V. Summary of Significant Comments on the Proposed Regulations and NOAA's Responses

NOAA received comments from 16 sources. Reviewers included Federal and state agencies, academic institutions, and the National Estuarine Research Reserve Association. The comments of the National Estuarine Research Reserve Association (NERRA) are a summary of comments submitted to NERRA by most of the managers of the existing and proposed national estuarine research reserves. All comments received are on file at the Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management and are available at that office for review upon request. Each of the major issues raised by the reviewers has been summarized and NOAA's responses are provided under the relevant subheading in this section.

General:

Three reviewers recommended that more emphasis be placed on developing an information network among research reserves and between research reserves and research and educational groups and institutions. Two of these reviewers noted the absence in the proposed regulations of a paragraph which had addressed this subject in the existing regulations (49 FR 26502, June 27, 1984). The deleted paragraph concerned the development and Federal administration of a research and education information exchange network for the System.

Response: NOAA agrees. The section referring to information exchange between NOAA and the Reserves has been reinstated in § 921.1(h).

Specific:

Section 921.1—Mission, Goals, and General Provisions

Proposed § 921.1(c)—One reviewer suggested the deletion of the first sentence of this provision which states, "National estuarine research reserves shall be open to the public." This reviewer noted that in multiple component reserves some components may not be appropriate for general public access; either because of the purpose or emphasis of management at that site (*e.g.*, research) or due to the limited interest which the managing entity has in the component (*e.g.*, a conservation easement which does not provide for unlimited public access). This reviewer expressed concern that state denial of general public access at such components of a reserve could be challenged on the basis of this provision.

Response: Consistent with the goal of the National Estuarine Reserve Research System to "enhance public awareness and understanding of the estuarine environment and provide suitable opportunities for public education and interpretation," public access should be allowed to the greatest extent possible permitted under State and Federal law within national estuarine research reserves. However, the statement, "National estuarine research reserves shall be open to the public", does not require that all components of a multi-component reserve or the entire area within the boundaries of a single component reserve be open to the general public unconditionally. The last sentence of § 921.1(c) reads, "Consistent with resource protection and research objectives, public access may be restricted to certain areas within a research reserve." Where unconditional public access is not consistent with resource protection and research objectives as stated in the approved management plan (*e.g.*, public access would interfere with reserve research or is likely to diminish the value of reserve resources for future research) it must be limited accordingly. Just as certain areas are identified in reserve management plans as being more or less sensitive to public access impacts in single component reserves, the same is true of components in multi-component reserves. Frequently in management plans for multi-component reserves one or more components will be identified as those for which the relative management emphasis will be public education and interpretation. Similarly, other components are identified as those

which emphasize research and resource protection.

Proposed § 921.1(d) and § 921.1(e)—Seven reviewers commented on these provisions. These comments ranged from one sentence requesting clarification to approximately six pages of comments dedicated to these provisions alone. These comments also ranged from expressing concern or objection regarding the proposed limitations on habitat manipulation to suggesting a more restrictive approach.

One reviewer expressed strong support for an outright prohibition on habitat manipulation, whether for management or research, except for restoration activities where such restoration can avoid long-term adverse impacts. Another reviewer commented extensively on this provision; expressing strong objections to a prohibition on habitat manipulation activities for management purposes. This reviewer stated that the "preservation" of a habitat requires active management involving habitat manipulation.

One reviewer requested clarification of the difference between restoration activities and habitat manipulation for research or management purposes. One reviewer suggested criteria for assessing the degree of "manipulation" a proposed research project may involve. One reviewer requested clarification of the intent of this provision and how it may apply to: (1) actions necessary to protect public health; (2) protection of existing species; and (3) allowance for restorative activities for historical preservation. One reviewer stated that whatever type of habitat manipulation determined allowable by NOAA, day-to-day site management decisions are best made by the professional staff of each reserve.

One reviewer requested clarification of the intent of this provision and of the differences between habitat manipulation for research, habitat manipulation for management, and habitat manipulation for restoration. This same reviewer stressed the primary importance of the ecological and representative integrity of a reserve.

Response: The mission of the National Estuarine Reserve Research System, as stated in § 921.1(a), "is the establishment and management, through Federal-state cooperation, of a national system of estuarine research reserves *representative of the various regions and estuarine types in the United States*" (emphasis added). The first Secretarial finding required for designation of an estuarine area as a national estuarine reserve under section 315(b)(2)(A) of the Act, 16 U.S.C. 1461(b)(2)(A), is that "the area is a *representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System*" (emphasis added).

The primary intent of § 921.1(d) and § 921.1(e) is to restrict and allow activities involving habitat manipulation to the degree necessary to ensure that reserves are, and continue to be, *representative estuarine ecosystems*. It is this mission, and requirement of the statute, that the System goals of § 921.1(b) are meant to support. This mission, and requirement of the statute, is the foundation upon which the System is built, the primary basis on which estuarine areas are selected and designated as reserves, and the underlying principle with which all other aspects of reserve development and operation must be consistent. As one reviewer stated, in no case should the ecological or representative integrity of a reserve be comprised.

Habitat manipulation activities conducted for a purpose other than (1) restoring the representative integrity of a reserve or (2) estuarine research, are not consistent with this requirement of the statute or the mission of the System. A reasonable limitation on the nature and extent of habitat manipulation activities conducted as a part of estuarine research is necessary to ensure that the representative integrity of a reserve is protected. Likewise, reasonable exceptions to these limitations on habitat manipulation activities are appropriate for reasons of public health and the protection of other sensitive resources (e.g., endangered/threatened wildlife and significant historical and cultural resources). If habitat manipulation is determined to be necessary in such a case, then such activities should be limited so as not to significantly impact the representative and ecological integrity of the reserve.

Contrary to the assertion of one reviewer, the intent of designating and managing a research reserve is not to "preserve" that particular habitat in a stasis condition. Estuarine ecosystems are naturally dynamic habitats which we have yet to fully understand. NOAA's intent in designating estuarine areas as national estuarine research reserves is to protect the representative character of each individual reserve and thereby establish a national system of estuarine areas representative of the biogeographic regions and estuarine types of the United States. These representative estuarine research reserves then provide opportunities for long-term research, education, and interpretation.

Generally, it is NOAA's belief that, given the less-than-perfect state of knowledge regarding both the functioning of estuarine ecosystems and the effects of natural and anthropogenic change that manipulation should be carefully limited within estuarine research reserves. Outside the context of a carefully planned, and peer reviewed, research or restoration activity, NOAA believes that habitat manipulation for management purposes involves a significant risk to the representative integrity and character of a national estuarine research reserve. As a result, the phrase in the proposed regulations "habitat manipulation for resource management purposes" is intended to mean habitat management for the promotion of a particular species or habitat, or for some purpose other than research involving or restoration of a representative "natural" estuarine ecosystem.

NOAA acknowledges that much research involves some degree of manipulation of the resource(s) and habitat(s) which are the subject of study. In this regard, reserves are not intended to be "control" habitats only, and some degree of habitat manipulation is recognized as an essential aspect of much important estuarine research. However, research activities conducted within a reserve should not involve manipulative activities that, because of their nature or extent, would significantly impair the "natural" representative value (i.e., representative character) of the reserve.

NOAA also acknowledges that restoration efforts may involve extensive habitat manipulation activities. Many estuarine areas have undergone some ecological change as a result of human activities (*e.g.*, hydrological changes, intentional/unintentional species composition changes—introduced and exotic species, etc.). In those areas designated as national estuarine research reserves, such changes may have diminished the representative character and integrity of the site. Where restoration of such degraded areas is determined necessary within this context, such activities must be carefully planned. Much research is necessary to determine the "natural" representative state of an estuarine area (*i.e.*, an estuarine ecosystem minimally affected by human activity or influence). Frequently, such restoration activities provide excellent opportunities for management oriented research .

In response to reviewers requests for clarification and consistent with the response provided above, § 921.1(d) and

§ 921.1(e) have been revised appropriately.

Proposed § 921.1(f)—(1) One reviewer recommended that a formula be established that would "pre-determine the minimum level (percentage) of funds that would be set aside within the total [System] budget for specific categories (Research, Education, Monitoring, Operation/Management, Acquisition, and Development)." In addition, this same reviewer recommended that the allocation of acquisition/development funds should be made on the basis of greatest need measured against predetermined criteria.

Response: NOAA acknowledges that under certain conditions establishment of predetermined percentages for allocating funds among programmatic categories could provide greater predictability in the distribution of Federal funds among reserves. However, the advantages of such an approach depend on a predictability in both the level of annual appropriations as well as major acquisition and development needs for the Reserve system. The uncertainties in appropriation levels and acquisition needs are sufficient enough to make an allocation formula among the six major funding categories (research, education, monitoring, predesignation, acquisition/development, operations) unfeasible.

NOAA attaches primary importance to long term support for the operational needs at each reserve as described in § 921.32 of these regulations, and to fulfilling the research, education and monitoring objectives of the program. unlimited eligibility for these for the awards.

(2) Four reviewers expressed concern or objection to limiting the funding eligibility of any one reserve under any type of award, particularly operation/management awards. These reviewer's comments ranged from general concern to recommending that all funding caps be removed from all types of awards. These reviewers also stated their general concern regarding a perceived lack of long term Federal financial commitment to the System.

Response: Annual appropriations are limited, not unlimited. Funding eligibility limits for each reserve have been established in regulations only where determined appropriate and necessary for the establishment and on-going support of the mission and goals of the System. These regulations establish annual eligibility limits for operations ($70,000 per year, per reserve) and program-life limits for site acquisition ($4 million per reserve). Funding eligibility limits have not been established for research, monitoring, and education grant funds. See subparts F, G, H. Site acquisition limits are statutory. (16 U.S.C. 1461(e)(3)(A))

Funding limits ensure that some funding is available for those types of awards which support most directly the mission and goals of the System (*i.e.*, generally, after designation of a reserve, the competitive awards). As importantly, funding limits are necessary to ensure that available funds are awarded in a relatively fair and proportional manner among national estuarine research reserves. In the absence of such limits, one or a few research reserves could receive the bulk of available funds at the expense of all other reserves. These limits prevent such a substantially disproportionate distribution of limited funding.

At present, some of the existing research reserves in the System are approaching the eligibility limits for acquisition and facility development awards, while most have received less than 50 per cent, and a number less than 25 per cent, of the eligibility limits of these type of awards—a difference between these categories of approximately one to three million dollars. These differences are justifiable on the basis of relative need, reserve size, property values, construction costs, etc. A greater difference in relative allocation of funds between reserves would favor disproportionally some reserves and, as a result, be detrimental to the System as a whole.

Eligibility limits are established for the purposes noted above and not to unreasonably restrict a research reserve from access to available Federal funds. On the basis of NOAA's experience in administering Federal financial assistance for the System and because of comments from many research reserves, the eligibility limit for operation/management awards was raised to a maximum of $70,000 per site per year. In response to comments on the proposed regulations, the eligibility limit for major facility construction has been raised 50 per cent in these final regulations (see response under proposed § 921.31 below).

Proposed § 921.1(g)—One reviewer disagreed with the requirement that land already in a protected status can be included within a reserve only if the managing entity commits to long-term non-manipulative management.

Response: NOAA believes this requirement is necessary consistent with the mission and goals of the System. Essentially this same subject is discussed in the response to comments on proposed § 921.1(d) and § 921.1(e). In order to clarify the intent of this provision, NOAA has revised this sentence to include a reference to the revised § 921.1(d) and § 921.1(e).

Section 921.2—Definitions

Proposed § 921.2(b)—It was noted that the Secretary of Commerce recently delegated authority for matters relating to National Estuarine Research Reserves to the Under Secretary for Oceans and Atmosphere.

Response: NOAA agrees with the recommended modification and has changed references from the Assistant Administrator to the Under Secretary throughout.

Proposed § 921.2(d)—One reviewer recommended a modification to the second sentence of the definition of estuary to include the term measurably diluted with freshwater rather than minimally diluted.

Response: NOAA agrees with the recommended modification the recommended term "minimal" should be the term "measurable". The definition has been changed accordingly.

Proposed § 921.2(e)—Five reviewers stated that some confusion has resulted in the reversed order of the terms research and reserve in the name of the System, National Estuarine Reserve Research System, and the name of each individual reserve, national estuarine research reserve.

Response: NOAA acknowledges that some confusion has arisen as a result of this difference. However, this is statutory language which only can be changed by amending the Act.

Section 921.4—Relationship to Other Provisions of the Coastal Zone Management Act.

It was noted that the existing program regulations describe this section as "Relationship to other provisions of the Coastal Zone Management Act and to the National Marine Sanctuary Program". Text describing the relationship between the Reserve and Sanctuary Programs was omitted. New marine sanctuaries and estuarine research reserves are being designated in close geographic proximity to one another and therefore improved coordination between the two programs is warranted.

Response: NOAA agrees. The revision of the Section heading and text should be adopted and strengthened. The omission of this information from the proposed regulations was an oversight. The Section heading and text have been revised appropriately.

Section 921.10—General

Proposed § 921.10(a)—Five reviewers objected to two or more states which

share a biogeographic region being limited to the development of a single reserve, even if it was a multicomponent reserve with components in each respective state (*e.g.*, Maryland and Virginia in the Chesapeake Bay subregion of the Virginia biogeographic region). These reviewers specifically objected to the eligibility limit on land acquisition funding (see § 921.10(b) and § 921.20) as it applies to any individual reserve, single or multiple component.

Response: NOAA agrees. Some of the System's biogeographic subregions are represented by more than one reserve in more than one state. As a result, in the case of a biogeographic region (see Appendix 1) shared by two or more states, each such state should be eligible for Federal financial assistance to establish a national estuarine research reserve within their respective portion of the shared biogeographic region. Section 921.10(a) has been amended to reflect this revision. Because of this revision, the phrase which begins "In the case of a multicomponent national estuarine * * *" in § 921.10(a), § 921.31, and § 921.32(c) is no longer necessary and has been deleted.

Proposed § 921.10(b)—Two reviewers commented that NOAA should consider a higher eligibility limit or relative greater funding for awards to multi-component reserves than to single component reserves.

Response: NOAA disagrees. Funding for the System is limited. A State elects to establish a multi-component reserve or expand a single component reserve with full knowledge of the identical eligibility limits on any individual reserve, whether single or multiple component. Establishing separate funding eligibility limits for, or disproportionally funding, multicomponent reserves would be likely to have a significant adverse impact on single component reserves and, as a result, the System as a whole. Further, acquisition and development funds are limited by the Act.

Section 921.11—Site Selection

Proposed § 921.11(c)(2)—One reviewer recommended that the last sentence be revised to eliminate reference to "a natural system."

Response: NOAA agrees that a minor revision is necessary to clarify the intent of this sentence. The sentence has been revised in a manner consistent with corresponding clarifying revisions to § 921.1(d) and § 921.1(e).

Proposed § 921.11(c)(3)—Three reviewers commented on the concept of "core" and "buffer" areas or zones. Two of these reviewers recommended deleting the concept of a buffer zone. The remaining reviewer recommended extensive revisions to the subsection to provide guidance on where habitat manipulation would be allowed.

Response: After careful review of this subsection, NOAA does not believe that the buffer zone concept should be deleted or that substantive revisions are appropriate. The basic approach presented is sound. A critical concept and distinction between the two areas which may have been overlooked is that key land and water areas ("core") and a buffer zone will likely require significantly different levels of control (see § 921.13 (a)(7)). In addition to the basic principles established in the regulations, NOAA has developed more detailed boundary guidance which is available to states attempting to conduct the difficult process of boundary delineation of a proposed site.

Proposed § 921.11(c)(5)—One reviewer recommended amending this site selection principle to include "the support of ongoing or planned management activities in nearby estuaries, including those in the National Estuary Program."

Response: NOAA considers § 921.11(c)(5) to encompass this concern in that the State is required to demonstrate how the proposed site is consistent with existing and potential land and water uses. Both the designation by NOAA of a reserve under the Act and management plans developed through the National Estuary Program of the U.S. EPA are submitted to the States for a determination of consistency under section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended. NOAA views this mechanism as an effective means for ensuring that Reserves support and advance the relevant coastal and estuarine management objectives including those of the National Estuary Program. Therefore, § 921.11(c)(5) has been amended to make more specific our intent that the site support estuarine management objectives.

Section 921.12—Post Site Selection

Proposed § 921.12(a)—Two reviewers recommended a separate type of award for monitoring that would provide long-term support for these activities.

Response: NOAA agrees. A new subpart G—Monitoring has been added to the regulations (subparts G and H of the proposed regulations being relettered as subparts H and I, respectively; and the section numbers being renumbered accordingly). Initial funding for basic characterization of the physical, geological, chemical, and biological characteristics of the site will continue to be provided under § 921.12—Post site selection. In addition, however, under the new subpart G, NOAA may provide financial assistance on a competitive basis for each phase of a monitoring program. These grant awards will be separate from those provided for estuarine research under subpart F.

Section 921.13—Management Plan and Environmental Impact Statement Development

Proposed § 921.13(a)(7)—Three reviewers provided comment on the acquisition plan guidance of this subsection. Two reviewers requested additional guidance on what constitutes "adequate state control" and commented that the requirement to assess the cost effectiveness of control alternatives is excessively burdensome. The remaining reviewer stated that having four million dollars in funds available for land acquisition is not consistent with the requirement to conduct an assessment of the cost effectiveness of acquisition alternatives.

Response: What constitutes "adequate State control" is dependent on site-specific circumstances and requirements. The most efficient use of available acquisition funds can only be ensured through the identification of reasonable control, or acquisition alternatives and an assessment of their relative cost and effectiveness. This does not necessarily mean that the least costly option in dollars is the alternative that must be selected. It does mean, however, that all reasonable control alternatives should be thoroughly examined and their relative costs identified. The development of an acquisition plan is an allowable cost (Federal or matching share). Four million dollars is not "available," but is the eligibility limit for land acquisition funds for any one reserve. Regardless of the amount of funding available, for land acquisition, a thorough assessment of acquisition alternatives and their cost effectiveness is necessary to ensure responsible and efficient use of Federal grant funds. At a minimum the degree of state control must provide adequate long term protection to ensure for reserve resources a stable environment for research.

Proposed § 921.13(a)(11)—One reviewer stated that NOAA's responsibility to make a consistency determination should be made clear early in the regulations.

Response: NOAA agrees. A reference to § 921.30(b) has been added to this subsection to clarify NOAA's consistency determination responsibilities early in preparation of the management plan.

Section 921.20—General

Proposed § 921.20—Two reviewers requested a clarifying revision to the last sentence of this subsection; the addition of the phrase "to a coastal state."

Response: NOAA agrees and the section has been revised accordingly.

Section 921.21(e)—Initial Acquisition and Development Awards

Two reviewers provided comment on this section. The first reviewer requested clarification that the provision regarding de-designation of a site applies only to properties acquired with Federal funds. The second reviewer stated that the provision to compensate the Federal government for its share of the acquisition cost in the event of de-designation, may be contrary to overall coastal protection objectives because the state may have to sell the property to development interests in order to fully compensate the Federal interest.

Response: Regarding the first comment, NOAA does not believe additional clarification is necessary. This subsection states specifically that these provisions apply to "any real property acquired in whole or part with Federal funds * * *." The second commenter acknowledges correctly that these requirements are designed to accomplish the goals of the National Estuarine Research Reserve System and that this provision helps ensure that reserves maintain the standards established for the system and, if they do not, that a percentage of the fair market value is available to other reserves. It should also be noted that these provisions are not new and have been in place since the inception of the Reserve program through grant directives contained in OMB Circular A–102. The provisions in the Reserve regulations are taken directly from the A–102 Circular and apply to all real property acquired in whole or part with Federal funds. It should also be noted that there are other alternatives aside from sale of the property. In the event of de-designation the state may retain title or transfer title to the Federal government. In these instances it is likely that the resources of the reserve could continue to be protected. While none of these alternatives are inexpensive they do, as noted by the commenter, help ensure that the site continues to be managed and maintained in conformance with research reserve goals and objectives.

Section 921.30—Designation of National Estuarine Research Reserves

Proposed § 921.30(a)—Two reviewers provided comments on the designation criteria listed in this subsection. One reviewer recommended a change in (a)(4) at variance with the Act. The other reviewer recommended an addition to the designation findings to include a requirement that, in the case of a State which contains, in whole or part, a national estuary program convened pursuant to section 320 of the Clean Water Act, suitable consideration has been given to integration of research and public education programs of the estuarine research reserve and the national estuary program. It has also been noted that the final management plan as the governing document for subsequent operations and management of the reserve should contain the signed designation findings. Subpart (a) of this section should also be revised to show that the Under Secretary is responsible for designation of reserves in accordance with the delegation of that authority from the Secretary of Commerce.

Response: The terms for designation of a National Estuarine Research Reserve are set forth in the statute. NOAA agrees that research and education programs should be integrated between the Environmental Protection Agency's National Estuary Program and NOAA's National Estuarine Reserve Research System. This effort has already been initiated through a memorandum of understanding between the programs at the National level and is being pursued at the local level, where appropriate. Therefore, NOAA believes it does not require restatement in the program regulations. However, NOAA agrees that the management plan should contain the findings of designation and the regulations should show that the Under Secretary is responsible for designation. The regulations have been revised accordingly.

Section 921.31—Supplemental Acquisition and Development Awards

Proposed § 921.31—Four reviewers expressed concerns that the eligibility limit of $1,000,000 in Federal financial assistance for facility construction may not be adequate to meet anticipated long term needs and should be increased or eliminated.

Response: NOAA agrees. The eligibility limit for facility construction has been increased 50 percent to $1,500,000.

Section 921.32—Operation and Management: Implementation of the Management Plan

Proposed § 921.32(a–d)—Seven reviewers objected to the eligibility limit on operations and management awards. They noted that the statute contains no provision for withdrawal of Federal support for continued operation of the reserves. The termination of Federal support for the individual sites is viewed as a lack of Federal commitment to the long-term maintenance of a representative system of estuarine research and education sites.

Response: The Reserve Program was designed and continues to be a State-Federal partnership. The key to this partnership is the requirement that NOAA share with the State reserve program the financial needs associated with site designation, land acquisition, research, education and operations.

As discussed previously, appropriate eligibility limits ensure that funding is available for competitive research education and monitoring awards. If, as some reviewers suggested, NOAA removed the annual monetary ceiling for operations and other awards, an inequitable and disproportionate distribution of the limited funds for the program could result. Annual operational eligibility limits in addition to ensuring the availability of funds for competitive projects provide a stability and even distribution among designated and developing reserves. Consequently NOAA is retaining the eligibility limit of $70,000 for operations and management per site per year.

NOAA concurs with the reviewers' assertion that the statute does not direct the Federal Government to abandon its support and financial commitment to reserve operations at the conclusion of a prescribed period of time or when an arbitrary cumulative funding ceiling for Federal support of operations has been met. By imposing a fixed duration for Federal support of Reserve operations NOAA may undermine its ability to participate effectively with the Reserve system to address coastal and estuarine management issues of national significance. The previously proposed three year support per position allocated through a $420,000 operations ceiling also established a complex and burdensome administrative process which is further complicated when allocated among Reserves which have already received operations support, and the newly designated sites which have yet to receive such support. To simplify, streamline and improve NOAA's effectiveness in support of

Reserve operations, the three year restriction and other references to cessation of Federal support for operations and management at the reserves have been removed throughout the regulations.

Section 921.33—Boundary Changes, Amendments to the Management Plan, and Addition of Multiple-site Components

Proposed § 921.33(a)—One reviewer recommended deletion or substantial modification of this subsection to recognize the State's right and ability to appropriately plan and legislate its legal charge—the research reserve. In summary, this reviewer objected to NOAA's approval authority/requirement for activities discussed in this subsection. The reviewer suggested that it should be sufficient if the State provides NOAA an opportunity for review and comment on proposed changes.

Response: NOAA disagrees. NOAA is responsible for Federal oversight of the System and each designated research reserve. As long as a State wishes for a reserve to remain a part of the System and to retain Federal designation, NOAA will continue to require Federal approval of changes in that research reserve's boundaries and management.

General

Proposed § 921.40, § 921.41, and § 921.42—Several reviewers recommended clarification of the criteria to be used during performance evaluations. Performance criteria should clearly state what constitutes adequate or inadequate performance. One commenter provided a list of items suggested for inclusion in an evaluation. Three reviewers made suggestions on the composition of the evaluation team recommending non-Federal and private individual participation while another commenter suggested the regulations indicate criteria for choosing the members of the evaluation team. Finally a recommendation was offered that the evaluation stress integration of the Reserve program with other state coastal/research programs and that the regulations provide for other dispute resolution mechanisms short of litigation.

Response: The periodic evaluation of a national estuarine research reserve is central to NOAA's ability to ensure that reserve operation and management is being conducted in a manner fully consistent with program goals and objectives as defined in section 315 of the Act, 16 U.S.C. 1461, and its implementing regulations. The criteria for an evaluation corresponds directly with the program goals as specified in § 921.1 of these regulations. The five goals described in this section are nearly identical to the criteria proposed by one commenter. The commenter added cost-effectiveness in using Federal funds as an additional criteria which, while not directly stated as a program goal in the regulations is implicit in any evaluation of efficient management of the total reserve program.

It is not feasible to establish a checklist for any evaluation to predetermine what constitutes adequate versus inadequate performance. Each reserve has very unique administrative structures, environmental resources, and corresponding management needs. NOAA views the evaluation process to be a highly collaborative effort with the State such that the evaluation can be used to focus on particular and specific problem areas. It is not appropriate to attempt to construct a litmus test for inadequate or adequate performance which could reasonably anticipate the substantial variety of issues that are addressed in the evaluation process. NOAA would be justifiably criticized for applying an artificial measure against unique and site-specific circumstances.

NOAA agrees with the comments made regarding participation of other officials in the evaluation process. Such officials provide recommendations to NOAA on specific issues in the evaluation. To ensure that Reserve personnel are directly involved in selection of the evaluation team, § 921.40(c) has been revised to indicate that NOAA will consult with and request recommendations from the Reserve on the appropriate non-NOAA participants prior to the evaluation.

The recommendation that the evaluation examine coordination between the Reserve program and other coastal research efforts is fully consistent with NOAA objectives for the evaluation process and is currently considered under Reserve program criteria to "promote Federal, State, public and private use of one or more reserves within the System when such entities conduct estuarine research." NOAA however, does not agree with the comment that other dispute resolution mechanisms should be devised short of litigation in the event of an unfavorable evaluation that may lead to withdrawal of designation. The provisions contained in both § 921.41 and § 921.42 provide a lengthy and elaborate process for addressing major differences between the NOAA and the Reserve relative to suspension of financial assistance or withdrawal of designation. This process is expressly designed to avoid litigation on these issues. Therefore, NOAA does not agree that additional mechanisms for dispute resolution are warranted.

Proposed § 921.40(e)—Two reviewers recommended a ninety-day requirement for State submittal of an annual report instead of sixty days.

Response: NOAA agrees. Section 921.40(e) has been revised accordingly. NOAA also notes that this section indicates that inadequate annual reports will trigger a full scale performance evaluation. This provision is no longer needed since § 921.32 has been changed to provide long term eligibility for operations support. Evaluations consequently will be conducted generally at least every 3 years. The statement has therefore been deleted.

Section 921.50—General

Proposed § 921.50(a)—Four reviewers commented on this subsection. Three reviewers recommended that research funded under this subpart be allowed in an area larger than the boundaries of the research reserve. One of these reviewers also recommended that the managing entity of the reserve approve all research prior to NOAA funding. One reviewer expressed concern that funding eligibility is tied to NOAA approval of a final management plan.

Response: NOAA agrees that greater flexibility should be provided for the area in which federally funded research under this subpart may be conducted. The regulations have been revised to allow research activity in the immediate watershed of the reserve while still requiring the majority of funded activities to be conducted within the boundaries. NOAA also agrees that the managing entity of the reserve should directly indicate approval or disapproval of proposed research project. Currently each reserve is requested to review and assign priority to research projects proposed for the reserve. If a reserve does not approve of a particular project that information should be expressed directly to NOAA.

NOAA agrees that its review and approval of state submitted final management plans should be as expeditious as possible. However, consistent with NOAA's responsibility to ensure that reserve management is conducted in accordance with the mission and goals of the System, the need for an approved final management plan to qualify for NOAA funded research remains.

Section 921.51—Estuarine Research Guidelines

Proposed § 921.51—Five reviewers recommended that NOAA provide, at

minimum, a more detailed and specific description of the Estuarine Research Guidelines in the regulations. One reviewer objected to NOAA's role in establishing the research priorities for funding under this subpart.

Response: NOAA disagrees. Section 315 of the Act requires NOAA to develop guidelines, not regulations, for the conduct of research within the System. A basic description of these guidelines is provided in both the Act and the regulations. Including the guidelines themselves, or a more detailed and specific description of these guidelines, in the regulations would severely limit flexibility in their implementation. NOAA publishes the guidelines annually in the **Federal Register** and intends to continue to improve these guidelines within the relatively comprehensive standards of the Act. NOAA develops general research priorities on an annual basis in consultation with the estuarine research and resource management community. The agency foresees no advantage to including more specificity or detail than necessary in the Program regulations. The financial support provided under this subpart for Research is administered by NOAA. As a result, NOAA, in consultation with prominent members of the estuarine research community, will continue to determine research priorities for this funding.

Subpart G—Interpretation and Education

Section 921.60—General

Proposed § 921.60(a)—Two reviewers objected to the requirement that interpretive and education projects be conducted within the research reserve.

Response: NOAA did not intend to limit funding under this Subpart to activities conducted entirely within the boundaries of a research reserve, and has revised the statement to clarify the intent.

Proposed § 921.60(b)—One reviewer suggested NOAA require that all applications for interpretation and education awards be approved by the state.

Response: NOAA agrees that applications under this subpart should have the support of the state managing entity. The regulations have been revised accordingly.

Section 921.71—Allowable Costs

Proposed § 921.71(e)(2)—Two reviewers objected to a one year time limit prior to pre-acquisition being imposed on the allowability for state match of state lands already in a fully-protected status. The commenters noted that properties included within NERR boundaries, particularly the core area, will be subject to restricted uses, and these uses will be subject to NOAA approval (*e.g.*, research, construction, education). Since these properties add real value to the NERR System, but have diminished use for other purposes, they should be allowable as state match. These reviewers therefore recommended elimination of a one-year time limit.

Response: This provision has been adopted in the past to ensure that lands included within the Reserve system are acquired consistent with the purposes and objectives of the Reserve system and, as required by section 315(e)(3)(A) of the Act, to assure that the state has matched the amount of financial assistance provided by the Federal Government for the acquisition of land for a reserve. However, NOAA agrees that the imposition of a one-year time limit may not be the most effective or appropriate method to achieve this purpose. We have therefore eliminated this provision from the regulations and instead allow inclusion of land and submerged lands already in the states' possession as state match irrespective of the date obtained by the state. However, calculation of the amount eligible as match for existing state owned lands will be made by an independent appraiser who will consider the value for match purposes of these lands by calculating the value of benefits foregone by the state, in the use of the land, as a result of new restrictions that may be imposed by Reserve designation.

Proposed § 921.71(e)(4)—One reviewer recommended elimination or simplification of the matching share criteria for research awards.

Response: The matching share requirement cannot be eliminated because it is required by statute. However, the matching share criteria has been simplified to be consistent with the provisions to § 921.50(a) of subpart F.

VI. Other Actions Associated With the Rulemaking

(A) *Classification Under Executive Order 12291.* NOAA has concluded that these regulations are not major because they will not result in:

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

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

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

These rules amend existing procedures for identifying, designating, and managing national estuarine research reserves in accordance with the Coastal Zone Management Reauthorization Act of 1985. They will not result in any direct economic or environmental effects nor will they lead to any major indirect economic or environmental impacts.

(B) *Regulatory Flexibility Act Analysis.* A Regulatory Flexibility Analysis is not required for this rulemaking. The regulations set forth procedures for identifying and designating national estuarine research reserves, and managing sites once designated. These rules do not directly affect "small government jurisdictions" as defined by Public Law 96–354, the Regulatory Flexibility Act, and the rules will have no effect on small businesses.

(C) *Paperwork Reduction Act of 1980.* This rule contains collection of information requirements subject to Public Law 96–511, the Paperwork Reduction Act (PRA), which have already been approved by the Office of Management and Budget (approval number 0648–0121). Public reporting burden for the collections of information contained in this rule is estimated to average 2,012 hours per response for management plans and related documentation, 1.25 hours for performance reports, and 15 hours for annual reports and work plans. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to Richard Roberts, Room 1235, Department of Commerce, Washington, DC 20230, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. ATTN: Desk Officer for NOAA.

(D) *Executive Order 12612.* These interim final rules do not contain policies which have sufficient Federalism implications to warrant preparation of a Federalism Assessment pursuant to Executive Order 12612. However, the provisions of the rules setting forth what a state must do or agree to do in order to qualify for the various types of Federal financial assistance available under the rules have been reviewed to ensure that the

rules grant the states the maximum administrative discretion possible in the administration of the National Estuarine Reserve Research System policies embodied in the qualification requirements. In formulating those policies, the NOAA worked with affected states to develop their own policies with respect to the use of National Estuarine Research Reserves. To the maximum extent possible consistent with the NOAA's responsibility to ensure that the objectives of the National Estuarine Reserve Research System provisions of the Coastal Zone Management Act are obtained, the rules refrain from establishing uniform national standards. Extensive consultations with state officials and organizations have been held regarding the financial assistance qualifications imposed. Details regarding awards of financial assistance have been discussed above under the heading "REVISION OF THE PROCEDURES FOR SELECTING, DESIGNATING AND OPERATING NATIONAL ESTUARINE RESEARCH RESERVES" and are not repeated here. Likewise comments from the states regarding qualifications and responses and changes to the regulations regarding same were set forth under the heading SUMMARY OF SIGNIFICANT COMMENTS ON THE PROPOSED REGULATIONS AND NOAA'S RESPONSES. It should be noted that some of the states commented in opposition to conditions or language required by law or by Office of Management and Budget Circular A-102. NOAA does not have the discretion to change such language or conditions.

(E) *National Environmental Policy Act.* NOAA has concluded that publication of these interim final rules does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

(F) *Administrative Procedure Act.* These interim final regulations are effective July 23, 1990. To the extent that these regulations relate to grants and cooperative agreements the requirements of the Administrative Procedure Act 5 U.S.C. 553 do not apply. To the extent that any substantive provision does not involve grants or cooperative agreements no useful purpose would be served by delaying the effective date for 30 days. No rights of the participants in this Federal program will be adversely effected by immediate implementation. To the contrary state recipients of financial assistance through this program have submitted program applications that anticipate immediate implementation of these regulations. Public comments on these interim final regulations are invited and will be considered if submitted on or before September 21, 1990.

List of Subjects in 15 CFR Part 921

Administrative practice and procedure, Coastal zone, Environmental impact statements, Grant programs—Natural resources, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.420, National Estuarine Reserve Research System)

Dated: July 10, 1990.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

For the reasons set forth in the preamble, 15 CFR part 921 is revised to read as follows:

PART 921—NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM REGULATIONS

Sec.

Authority: Sec. 315, Public Law 92-583, as amended; 86 Stat. 1280 (16 U.S.C. 1461).

Subpart A—General

§ 921.1 Mission, goals and general provisions.

(a) The mission of the National Estuarine Reserve Research System is the establishment and management, through Federal-State cooperation, of a national system of estuarine research reserves representative of the various regions and estuarine types in the United States. Estuarine research reserves are established to provide opportunities for long-term research, education, and interpretation.

(b) The goals of the program for carrying out this mission are to:

(1) Ensure a stable environment for research through long-term protection of estuarine reserve resources;

(2) Address coastal management issues identified as significant through coordinated estuarine research within the System;

(3) Enhance public awareness and understanding of the estuarine environment and provide suitable opportunities for public education and interpretation;

(4) Promote Federal, state, public and private use of one or more reserves within the System when such entities conduct estuarine research; and

(5) Conduct and coordinate estuarine research within the System, gathering and making available information necessary for improved understanding and management of estuarine areas.

(c) National estuarine research reserves shall be open to the public to

the extent permitted under State and Federal law. Multiple uses are allowed to the degree compatible with the research reserve's overall purpose as provided in the management plan (see § 921.13) and consistent with paragraphs (a) and (b) of this section. Use levels are set by the individual state and analyzed in the management plan. The research reserve management plan shall describe the uses and establish priorities among these uses. The plan shall identify uses requiring a state permit, as well as areas where uses are encouraged or prohibited. Consistent with resource protection and research objectives, public access may be restricted to certain areas within a research reserve.

(d) Habitat manipulation for research purposes is allowed consistent with the following limitations. Manipulative research activities must be specified in the management plan, be consistent with the mission and goals of the program (see paragraphs (a) and (b) of this section) and the goals and objectives of the affected research reserve, and be limited in nature and extent to the minimum manipulative activity necessary to accomplish the stated research objective. Manipulative research activities with a significant or long-term impact on reserve resources require the prior approval of the state and the National Oceanic and Atmospheric Administration (NOAA). Manipulative research activities which can reasonably be expected to have a significant adverse impact on the estuarine resources and habitat of a reserve, such that the activities themselves or their resulting short- and long-term consequences compromise the representative character and integrity of a reserve, are not allowed. Habitat manipulation for resource management purposes is not permitted within national estuarine research reserves, except as allowed for restoration activities consistent with paragraph (e) of this section. NOAA may allow an exception to this prohibition if manipulative activity is necessary for the protection of public health or the preservation of other sensitive resources which have been listed or are eligible for protection under relevant Federal or state authority (*e.g.*, threatened/endangered species or significant historical or cultural resources). If habitat manipulation is determined to be necessary for the protection of public health or the preservation of sensitive resources, then these activities shall be specified in the Reserve Management Plan and limited to the reasonable alternative which has the least adverse and shortest term impact on the representative and ecological integrity of the reserve.

(e) Under the Act an area may be designated as an estuarine reserve only if the area is a representative estuarine ecosystem that is suitable for long-term research. Many estuarine areas have undergone some ecological change as a result of human activities (*e.g.*, hydrological changes, intentional/unintentional species composition changes—introduced and exotic species). In those areas proposed or designated as national estuarine research reserves, such changes may have diminished the representative character and integrity of the site. Although restoration of degraded areas is not a primary purpose of the System, such activities may be permitted to improve the representative character and integrity of a reserve. Restoration activities must be carefully planned and approved by NOAA through the Reserve Management Plan. Historical research may be necessary to determine the "natural" representative state of an estuarine area (*i.e.*, an estuarine ecosystem minimally affected by human activity or influence). Frequently, restoration of a degraded estuarine area will provide an excellent opportunity for management oriented research.

(f) NOAA may provide financial assistance to coastal states, not to exceed 50 percent of all actual costs or $4 million whichever amount is less, to assist in the acquisition of land and waters, or interests therein. NOAA may provide financial assistance to coastal states not to exceed 50 percent of all actual costs for the management and operation of, and the conduct of educational or interpretive activities concerning, national estuarine research reserves (see subpart I of this part). NOAA may provide financial assistance to any coastal state or public or private person, not to exceed 50 percent of all actual costs, to support research and monitoring within a national estuarine research reserve. Five types of awards are available under the National Estuarine Reserve Research System Program. The predesignation awards are for site selection, draft management plan preparation and conduct of basic characterization studies. Acquisition and development awards are intended primarily for acquisition of interests in land and construction. The operation and management award provides funds to assist in implementing the research, educational, and administrative programs detailed in the research reserve management plan and is reflective of the joint State-Federal partnership in the preservation and protection of estuarine resources. The research and monitoring awards provide funds to conduct estuarine research and monitoring within the System. The educational and interpretive award provides funds to conduct estuarine educational and interpretive activities within the System.

(g) Lands already in protected status managed by other Federal agencies, state or local governments, or private organizations can be included within national estuarine research reserves only if the managing entity commits to long-term non-manipulative management consistent with paragraphs (d) and (e) of this section in the reserve management plan. Federal lands already in protected status cannot comprise the key land and water areas of a research reserve (see § 921.11(c)(3)).

(h) To assist the states in carrying out the Program's goals in an effective manner, the National Oceanic and Atmospheric Administration (NOAA) will coordinate a research and education information exchange throughout the national estuarine research reserve system. As part of this role, NOAA will ensure that information and ideas from one reserve are made available to others in the system. The network will enable reserves to exchange information and research data with each other, with universities engaged in estuarine research, and with Federal and state agencies. NOAA's objective is a system-wide program of research and monitoring capable of addressing the management issues that affect long-term productivity of our Nation's estuaries.

§ 921.2 Definitions.

(a) *Act* means the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.* Section 315 of the Act, 16 U.S.C. 1461, establishes the National Estuarine Reserve Research System.

(b) *Under Secretary* means the Under Secretary for Oceans and Atmosphere, U.S. Department of Commerce, or designee.

(c) *Coastal state* means a state of the United States, in or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of these regulations the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas Islands, the Trust Territories of the Pacific Islands, and American Samoa (see 16 U.S.C. 1453(4)).

(d) *Estuary* means that part of a river or stream or other body of water having

unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term also includes estuary-type areas with measurable freshwater influence and having unimpaired connections with the open sea, and estuary-type areas of the Great Lakes and their connecting waters. See 16 U.S.C. 1453(7)).

(e) *National Estuarine Research Reserve* means an area that is a representative estuarine ecosystem suitable for long-term research, which may include all or the key land and water portion of an estuary, and adjacent transitional areas and uplands constituting to the extent feasible a natural unit, and which is set aside as a natural field laboratory to provide long-term opportunities for research, education, and interpretation on the ecological relationships within the area (see 16 U.S.C. 1453(8)) and meets the requirements of 16 U.S.C. 1461(b). This includes those areas designated as national estuarine sanctuaries under section 315 of the Act prior to the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985 and each area subsequently designated as a national estuarine research reserve.

§ 921.3 National Estuarine Reserve Research System biogeographic classification scheme and estuarine typologies.

(a) National estuarine research reserves are chosen to reflect regional differences and to include a variety of ecosystem types. A biogeographic classification scheme based on regional variations in the nation's coastal zone has been developed. The biogeographic classification scheme is used to ensure that the National Estuarine Reserve Research System includes at least one site from each region. The estuarine typology system is utilized to ensure that sites in the System reflect the wide range of estuarine types within the United States.

(b) The biogeographic classification scheme, presented in Appendix I to this part, contains 27 regions. Figure 2 graphically depicts the biogeographic regions of the United States.

(c) The typology system is presented in Appendix II to this part.

§ 921.4 Relationship to other provisions of the Coastal Zone Management Act.

(a) The National Estuarine Reserve Research System is intended to provide information to state agencies and other entities involved in addressing coastal management issues. Any coastal state, including those that do not have approved coastal zone management programs under section 306 of the Act, is eligible for an award under the National Estuarine Reserve Research System (see § 921.2(c)).

(b) For purposes of consistency review by states with a federally approved coastal zone management program, the designation of a national estuarine research reserve is deemed to be a Federal activity, which, if directly affecting the state's coastal zone, must be undertaken in a manner consistent to the maximum extent practicable with the approved state coastal zone program as provided by section 1456(c)(1) of the Act, and implementing regulations at 15 CFR part 930, subpart C. In accordance with section 1456(c)(1) of the Act and the applicable regulations NOAA will be responsible for certifying that designation of the reserve is consistent with the State approved coastal zone management program. The State must concur with or object to the certification. It is recommended that the lead State agency for reserve designation consult at the earliest practicable time, with the appropriate State officials concerning the consistency of the proposed national estuarine research reserve.

(c) The National Estuarine Research Reserve Program will be administered in close coordination with the National Marine Sanctuary Program (Title III of the Marine Protection Research and Sanctuaries Act, as amended, 16 U.S.C. 1431–1445), also administered by NOAA. Title III authorizes the Secretary of Commerce to designate discrete areas of the marine environment as marine sanctuaries to protect or restore such areas for their conservation, recreational, ecological, historical, research, educational or esthetic values. National marine sanctuaries and estuarine research reserves may not overlap, though they may be adjacent.

Subpart B—Site Selection, Post Site Selection and Management Plan Development

§ 921.10 General.

(a) A state may apply for Federal financial assistance for the purpose of site selection, preparation of documents specified in § 921.13 (draft management plan and environmental impact statement (EIS)) and the conduct of research necessary to complete basic characterization studies. The total Federal share of this group of predesignation awards may not exceed $100,000, of which up to $25,000 may be used for site selection as described in § 921.11. Federal financial assistance for preacquisition activities under § 921.11 and § 921.12 is subject to the total $4 million for which each reserve is eligible for land acquisition. In the case of a biogeographic region (see Appendix I to this part) shared by two or more states, each state is eligible for Federal financial assistance to establish a national estuarine research reserve within their respective portion of the shared biogeographic region. Financial assistance application procedures are specified in subpart I of this part.

(b) In developing a research reserve program, a state may choose to develop a multiple-site research reserve reflecting a diversity of habitats in a single biogeographic region. A multiple-site research reserve also allows the state to develop complementary research and educational programs within the individual components of its multi-site research reserve. Multiple-site research reserves are treated as one reserve in terms of financial assistance and development of an overall management framework and plan. Each individual site of a proposed multiple-site research reserve shall be evaluated both separately under § 921.11(c) and collectively as part of the site selection process. A state may propose to establish a multiple-site research reserve at the time of the initial site selection, or at any point in the development or operation of the estuarine research reserve, even after Federal funding for the single site research reserve has expired. If the state decides to develop a multiple-site national estuarine research reserve after the initial acquisition and development award is made for a single site, the proposal is subject to the requirements set forth in § 921.33(b). However, a state may not propose to add one or more sites to an already designated research reserve if the operation and management of such research reserve has been found deficient and uncorrected or the research conducted is not consistent with the Estuarine Research Guidelines in accordance with the provisions of subparts E and F of this part. In addition, Federal funds acquisition of a multiple-site research reserve remains limited to $4,000,000 (see § 921.20). The funding for operation of a multiple-site research reserve is limited to $70,000 per year (see § 921.32(c)) and preacquisition funds are limited to $100,000 per reserve.

§ 921.11 Site selection.

(a) A state may use up to $25,000 in Federal funds to establish and implement a site selection process which is approved by NOAA.

(b) In addition to the requirements set forth in subpart I of this part, a request

for Federal funds for site selection must contain the following programmatic information:

(1) A description of the proposed site selection process and how it will be implemented in conformance with the biogeographic classification scheme and typology (§ 921.3);

(2) An identification of the site selection agency and the potential management agency; and

(3) A description of how public participation will be incorporated into the process (see § 921.11(d)).

(c) As part of the site selection process, the state and NOAA shall evaluate and select the final site(s). NOAA has final authority in approving such sites. Site selection shall be guided by the following principles:

(1) The site's contribution to the biogeographical and typological balance of the National Estuarine Reserve Research System. NOAA will give priority consideration to proposals to establish reserves in biogeographic regions or subregions that are not represented in the system (see the biogeographic classification scheme and typology set forth in § 921.3 and appendices I and II to this part);

(2) The site's ecological characteristics, including its biological productivity, diversity of flora and fauna, and capacity to attract a broad range of research and educational interests. The proposed site must be a representative estuarine ecosystem and should, to the maximum extent possible, be an estuarine ecosystem minimally affected by human activity or influence (see § 921.1(e));

(3) Assurance that the site's boundaries encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation. Boundary size will vary greatly depending on the nature of the ecosystem. Research reserve boundaries must encompass the area within which adequate control has or will be established by the managing entity over human activities occurring within the reserve. Generally, reserve boundaries will encompass two areas: key land and water areas (or "core area") and a buffer zone. Key land and water areas and a buffer zone will likely require significantly different levels of control (see § 921.13(a)(7)). The term "key land and water areas" refers to that core area within the reserve that is so vital to the functioning of the estuarine ecosystem that it must be under a level of control sufficient to ensure the long-term viability of the reserve for research on natural processes. Key land and water areas, which comprise the core area, are those ecological units of a natural estuarine system which preserve, for research purposes, a full range of significant physical, chemical and biological factors contributing to the diversity of fauna, flora and natural processes occurring within the estuary. The determination of which land and water areas are "key" to a particular reserve must be based on specific scientific knowledge of the area. A basic principle to follow when deciding upon key land and water areas is that they should encompass resources representative of the total ecosystem, and which if compromised could endanger the research objectives of the reserve. The term "buffer zone" refers to an area adjacent to or surrounding key land and water areas and essential to their integrity. Buffer zones protect the core area and provide additional protection for estuarine-dependent species, including those that are rare or endangered. When determined appropriate by the state and approved by NOAA, the buffer zone may also include an area necessary for facilities required for research and interpretation. Additionally, buffer zones should be established sufficient to accommodate a shift of the core area as a result of biological, ecological or geomorphological change which reasonably could be expected to occur. National estuarine research reserves may include existing Federal or state lands already in a protected status where mutual benefit can be enhanced. However, NOAA will not approve a site for potential national estuarine research reserve status that is dependent primarily upon the inclusion of currently protected Federal lands in order to meet the requirements for research reserve status (such as key land and water areas). Such lands generally will be included within a research reserve to serve as a buffer or for other ancillary purposes;

(4) The site's suitability for long-term estuarine research, including ecological factors and proximity to existing research facilities and educational institutions;

(5) The site's compatibility with existing and potential land and water uses in contiguous areas as well as approved coastal and estuarine management plans; and

(6) The site's importance to education and interpretive efforts, consistent with the need for continued protection of the natural system.

(d) Early in the site selection process the state must seek the views of affected landowners, local governments, other state and Federal agencies and other parties who are interested in the area(s) being considered for selection as a potential national estuarine research reserve. After the local government(s) and affected landowner(s) have been contacted, at least one public meeting shall be held in the area of the proposed site. Notice of such a meeting, including the time, place, and relevant subject matter, shall be announced by the state through the area's principal news media at least 15 days prior to the date of the meeting and by NOAA in the Federal Register.

(e) A state request for NOAA approval of a proposed site (or sites in the case of a multi-site reserve) must contain a description of the proposed site in relationship to each of the site selection principles (§ 921.11(c)) and the following information:

(1) An analysis of the proposed site based on the biogeographical scheme/typology discussed in § 921.3 and set forth in appendices I and II to this part;

(2) A description of the proposed site and its major resources, including location, proposed boundaries, and adjacent land uses. Maps, including aerial photographs, are required;

(3) A description of the public participation process used by the state to solicit the views of interested parties, a summary of comments, and, if interstate issues are involved, documentation that the Governor(s) of the other affected state(s) has been contacted. Copies of all correspondence, including contact letters to all affected landowners must be appended;

(4) A list of all sites considered and a brief statement of the basis for not selecting the non-preferred sites; and

(5) A nomination of the proposed site(s) for designation as a National Estuarine Research Reserve by the Governor of the coastal state in which the area is located.

§ 921.12 Post site selection.

(a) At the time of the state's request for NOAA approval of a proposed site, the state may submit a request for up to $40,000 of the total $100,000 allowed for predesignation funds to develop the draft management plan and for the collection of the information necessary for preparation of the environmental impact statement. At this time, the state may also submit a request for the remainder of the predesignation funds for research necessary to complete a basic characterization of the physical, chemical and biological characteristics of the site approved by NOAA. The state's request for these post site selection funds must be accompanied by the information specified in subpart I of this part and, for draft management plan

development and environmental impact statement information collection, the following programmatic information:

(1) A draft management plan outline (see § 921.13(a) below); and

(2) An outline of a draft memorandum of understanding (MOU) between the state and NOAA detailing the Federal-state role in research reserve management during the initial period of Federal funding and expressing the state's long-term commitment to operate and manage the national estuarine research reserve.

(b) The state is eligible to use the funds referenced in § 921.12(a) after the proposed site is approved by NOAA under the terms of § 921.11.

§ 921.13 Management plan and environmental impact statement development.

(a) After NOAA approves the state's proposed site, the state may request to use additional predesignation funds for draft management plan development and the collection of information necessary for the preparation by NOAA of the environmental impact statement. The state shall develop a draft management plan, including an MOU. The plan will set out in detail:

(1) Research reserve goals and objectives, management issues, and strategies or actions for meeting the goals and objectives;

(2) An administrative section including staff roles in administration, research, education/interpretation, and surveillance and enforcement;

(3) A research plan, including a monitoring design;

(4) An education/interpretive plan;

(5) A plan for public access to the research reserve;

(6) A construction plan, including a proposed construction schedule, general descriptions of proposed developments and preliminary drawings, if appropriate. Information should be provided for proposed minor construction projects in sufficient detail to allow these projects to begin in the initial phase of acquisition and development. If a visitor center, research center or any other facilities are proposed for construction or renovation at the site, or restorative activities which require significant construction are planned, a detailed construction plan including preliminary cost estimates and architectural drawings must be prepared as a part of the final management plan; and

(7) An acquisition plan identifying the ecologically key land and water areas of the research reserve, ranking these areas according to their relative importance, and including a strategy for establishing adequate long-term state control over these areas sufficient to provide protection for reserve resources to ensure a stable environment for research. This plan must include an identification of ownership within the proposed research reserve boundaries, including land already in the public domain; the method(s) of acquisition which the state proposes to use—acquisition (including less-than-fee simple options) to establish adequate long-term state control; an estimate of the fair market value of any property interest—which is proposed for acquisition; a schedule estimating the time required to complete the process of establishing adequate state control of the proposed research reserve; and a discussion of any anticipated problems. In selecting a preferred method(s) for establishing adequate state control over areas within the proposed boundaries of the reserve, the state shall perform the following steps for each parcel determined to be part of the key land and water areas (control over which is necessary to protect the integrity of the reserve for research purposes), and for those parcels required for research and interpretive support facilities or buffer purposes:

(i) Determine, with appropriate justification, the minimum level of control(s) required (*e.g.*, management agreement, regulation, less-than-fee simple property interest (*e.g.*, conservation easement), fee simple property acquisition, or a combination of these approaches;

(ii) Identify the level of existing state control(s);

(iii) Identify the level of additional state control(s), if any, necessary to meet the minimum requirements identified in (a)(7)(i); of this section;

(iv) Examine all reasonable alternatives for attaining the level of control identified in (a)(7)(iii) of this section, and perform a cost analysis of each; and

(v) Rank, in order of cost, the methods (including acquisition) identified in paragraph (a)(7)(iv) of this section.

An assessment of the relative cost-effectiveness of control alternatives shall include a reasonable estimate of both short-term costs (*e.g.*, acquisition of property interests, regulatory program development including associated enforcement costs, negotiation, adjudication, etc.) and long-term costs (*e.g.*, monitoring, enforcement, adjudication, management and coordination). In selecting a preferred method(s) for establishing adequate state control over each parcel examined under the process described above, the state shall give priority consideration to the least costly method(s) of attaining the minimum level of long-term control required. Generally, with the possible exception of buffer areas required for support facilities, the level of control(s) required for buffer areas will be considerably less than that required for key land and water areas. This acquisition plan, after receiving the approval of NOAA, shall serve as a guide for negotiations with landowners. A final boundary for the reserve shall be delineated as a part of the final management plan;

(8) A resource protection plan detailing applicable authorities, including allowable uses, uses requiring a permit and permit requirements, any restrictions on use of the research reserve, and a strategy for research reserve surveillance and enforcement of such use restrictions, including appropriate government enforcement agencies;

(9) If applicable, a restoration plan describing those portions of the site that may require habitat modification to restore natural conditions;

(10) A proposed memorandum of understanding (MOU) between the state and NOAA regarding the Federal-state relationship during the establishment and development of the national estuarine research reserve, and expressing a long-term commitment by the state to maintain and manage the research reserve in accordance with section 315 of the Act 16 U.S.C. 1461, and applicable regulations. In conjunction with the MOU and where possible under state law, the state will consider taking appropriate administrative or legislative action to ensure the long-term protection and operation of the national estuarine research reserve. The MOU shall be signed prior to research reserve designation. If other MOUs are necessary (such as with a Federal agency or another state agency), drafts of such MOUs also must be included in the plan; and

(11) If the state has a federally approved coastal zone management program, documentation that the proposed national estuarine research reserve is consistent to the maximum extent practicable with that program. See § 921.4(b) and § 921.30(b).

(b) Regarding the preparation of an environmental impact statement (EIS) under the National Environmental Policy Act on a national estuarine research reserve proposal, the state shall provide all necessary information to NOAA concerning the socioeconomic and environmental impacts associated with

implementing the draft management plan and feasible alternatives to the plan. Based on this information, NOAA will prepare the draft EIS.

(c) Early in the development of the draft management plan and the draft EIS, the state shall hold a meeting in the area or areas most affected to solicit public and government comments on the significant issues related to the proposed action. NOAA will publish a notice of the meeting in the **Federal Register** 15 days prior to the meeting. The state shall be responsible for publishing a similar notice in the local media.

(d) NOAA will publish a **Federal Register** notice of intent to prepare a draft EIS. After the draft EIS is prepared and filed with the Environmental Protection Agency (EPA), a Notice of Availability of the DEIS will appear in the **Federal Register**. Not less than 30 days after publication of the notice, NOAA will hold at least one public hearing in the area or areas most affected by the proposed national estuarine research reserve. The hearing will be held no sooner than 15 days after appropriate notice of the meeting has been given in the principal news media and in the **Federal Register** by NOAA and the state, respectively. After a 45-day comment period, a final EIS will be prepared by NOAA.

Subpart C—Acquisition, Development, and Preparation of the Final Management Plan

§ 921.20 General.

The acquisition and development period is separated into two major phases. After NOAA approval of the site, draft management plan and draft MOU, and completion of the final EIS, a state is eligible for an initial acquisition and development award(s). In this initial phase, the state should work to meet the criteria required for formal research reserve designation; *e.g.*, establishing adequate state control over the key land and water areas as specified in the draft management plan and preparing the final management plan. These requirements are specified in § 921.30. Minor construction in accordance with the draft management plan may also be conducted during this initial phase. The initial acquisition and development phase is expected to last no longer than three years. If necessary, a longer time period may be negotiated between the state and NOAA. After research reserve designation, a state is eligible for a supplemental acquisition and development award(s) in accordance with § 921.31. In this post-designation acquisition and development phase, funds may be used in accordance with the final management plan to construct research and educational facilities, complete any remaining land acquisition, and for restorative activities identified in the final management plan. In any case, the amount of Federal financial assistance provided to a coastal state with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine research reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less. The amount of Federal assistance for development and construction activities is $1,500,000.

§ 921.21 Initial acquisition and development awards.

(a) Assistance is provided to aid the recipient in:

(1) Acquiring a fee simple or less-than-fee simple real property interest in land and water areas to be included in the research reserve boundaries (see § 921.13(a)(7); § 921.30(d));

(2) Minor construction, as provided in paragraphs (b) and (c) of this section;

(3) Preparing the final management plan; and

(4) Up to the point of research reserve designation, initial management costs, *e.g.*, for implementing the NOAA approved draft management plan, preparing the final management plan, hiring a reserve manager and other staff as necessary and for other management-related activities. Application procedures are specified in subpart I of this part.

(b) The expenditure of Federal and state funds on major construction activities is not allowed during the initial acquisition and development phase. The preparation of architectural and engineering plans, including specifications, for any proposed construction, or for proposed restorative activities, is permitted. In addition, minor construction activities, consistent with paragraph (c) of this section also are allowed. The NOAA-approved draft management plan must, however, include a construction plan and a public access plan before any award funds can be spent on construction activities.

(c) Only minor construction activities that aid in implementing portions of the management plan (such as boat ramps and nature trails) are permitted during the initial acquisition and development phase. No more than five (5) percent of the initial acquisition and development award may be expended on such facilities. NOAA must make a specific determination, based on the final EIS, that the construction activity will not be detrimental to the environment.

(d) Except as specifically provided in paragraphs (a) through (c) of this section, construction projects, to be funded in whole or in part under an acquisition and development award(s), may not be initiated until the research reserve receives formal designation (see § 921.30). This requirement has been adopted to ensure that substantial progress in establishing adequate state control over key land and waters areas has been made and that a final management plan is completed before major sums are spent on construction. Once substantial progress in establishing adequate state control/acquisition has been made, as defined by the state in the management plan, other activities guided by the final management plan may begin with NOAA's approval.

(e) For any real property acquired in whole or part with Federal funds for the research reserve the state shall execute suitable title documents to include substantially the following provisions, or otherwise append the following provisions in a manner acceptable under applicable state law to the official land record(s):

(1) Title to the property conveyed by this deed shall vest in the [recipient of the award granted pursuant to section 315 of the Act, 16 U.S.C. 1461 or other NOAA approved state agency] subject to the condition that the designation of the [name of National Estuarine Reserve] is not withdrawn and the property remains part of the federally designated [name of National Estuarine Research Reserve].

(2) In the event that the property is no longer included as part of the research reserve, or if the designation of the research reserve of which it is part is withdrawn, then NOAA or its successor agency, after full and reasonable consultation with the State, may exercise the following rights regarding the disposition of the property:

(i) The recipient may retain title after paying the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the current fair market value of the property;

(ii) If the recipient does not elect to retain title, the Federal Government may either direct the recipient to sell the property and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from the sale (after deducting actual and reasonable

selling and repair or renovation expenses, if any, from the sale proceeds), or direct the recipient to transfer title to the Federal Government. If directed to transfer title to the Federal Government, the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the original project to the current fair market value of the property;

(iii) Fair market value of the property must be determined by an independent appraiser and certified by a responsible official of the state, as provided by Department of Commerce Regulations in 15 CFR part 24, and Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally assisted programs in 15 CFR part 11.

(f) Upon instruction by NOAA, provisions analogous to those of § 921.21(e) shall be included in the documentation underlying less-than-fee-simple interests acquired in whole or part with Federal funds.

(g) Federal funds or non-Federal matching share funds shall not be spent to acquire a real property interest in which the State will own the land concurrently with another entity unless the property interest has been identified as a part of an acquisition strategy pursuant to § 921.13(7) which has been approved by NOAA prior to the effective date of these regulations.

(h) Prior to submitting the final management plan to NOAA for review and approval, the state shall hold a public meeting to receive comment on the plan in the area affected by the estuarine research reserve. NOAA will publish a notice of the meeting in the **Federal Register**. The state shall be responsible for having a similar notice published in the local media.

Subpart D—Reserve Designation and Subsequent Operation

§ 921.30 Designation of National Estuarine Research Reserves.

(a) The Under Secretary may designate an area as a national estuarine research reserve pursuant to section 315 of the Act, if based on written findings the state has met the following requirements:

(1) The Governor of the coastal state in which the area is located has nominated the area for designation as a national estuarine research reserve;

(2) The area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(3) Key land and water areas of the proposed research reserve, as identified in the management plan, are under adequate state control sufficient to provide long-term protection for reserve resources and to ensure a stable environment for research;

(4) Designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation;

(5) A final management plan has been approved by NOAA and contains the signed copy of the designation findings;

(6) An MOU has been signed between the state and NOAA ensuring a long-term commitment by the state to the effective operation and implementation of the national estuarine research reserve; and

(7) The coastal state in which the area is located has complied with the requirements of these regulations.

(b) NOAA will determine whether the designation of a national estuarine research reserve in a state with a federally approved coastal zone management program directly affects the coastal zone. If the designation is found to directly affect the coastal zone, NOAA will make a consistency determination pursuant to section 307(c)(1) of the Act, 16 U.S.C. 1456, and 15 CFR part 930, subpart C. See § 921.4(b). The results of this consistency determination will be published in the **Federal Register** when a notice of designation is published. See § 921.30(c).

(c) NOAA will cause a notice of designation of a national estuarine research reserve to be placed in the **Federal Register**. The state shall be responsible for having a similar notice published in the local media.

(d) The term "state control" in § 921.30(a)(3) does not necessarily require that key land and water areas be owned by the state in fee simple. Acquisition of less-than-fee-simple interests (*e.g.*, conservation easements) and utilization of existing State regulatory measures are encouraged where the state can demonstrate that these interests and measures assure adequate long-term State control consistent with the purposes of the research reserve (see also § 921.13(a)(7); § 921.21(g)). Should the state later elect to purchase an interest in such lands using NOAA funds, adequate justification as to the need for such acquisition must be provided to NOAA.

§ 921.31 Supplemental acquisition and development awards.

After national estuarine research reserve designation, and as specified in the approved management plan, the state may request a supplemental acquisition and/or development award(s) for acquiring additional property interests identified in the management plan as necessary to enhance long-term protection of the area for research and education, for facility construction, for restorative activities identified in the approved management plan, and for administrative purposes. The amount of Federal financial assistance provided for supplemental development costs directly associated with facility construction other than land acquisition (*i.e.*, major construction activities) for any one national estuarine research reserve may not exceed $1,500,000 and must be matched by the state on a 50/50 basis. Supplemental acquisition awards for the acquisition of lands or waters, or interests therein, for any one National Estuarine Reserve may not exceed an amount equal to 50 per centum of the cost of the lands, waters, and interests therein or $4,000,000 whichever amount is less. In the case of a biogeographic region (see Appendix I to this part) shared by two or more states, each state is eligible for Federal financial assistance to establish a national estuarine research reserve within their respective portion of the shared biogeographic region. Application procedures are specified in subpart I of this part. Land acquisition must follow the procedures specified in § 921.13(a)(7), § 921.21 (e) and (f) and § 921.81.

§ 921.32 Operation and management: Implementation of the management plan.

(a) After the national estuarine research reserve is formally designated, the state is eligible to receive Federal funds to assist the state in the operation and management of the research reserve. The purpose of this Federally funded operation and management phase is to implement the approved final management plan and to take the necessary steps to ensure the continued effective operation of the research reserve.

(b) State operation and management of national estuarine research reserves shall be consistent with the mission, and shall further the goals, of the National Estuarine Research Reserve System (see § 921.1).

(c) Federal funds of up to $70,000 per year, to be matched by the state on a 50/50 basis, are available for the operation and management of the national estuarine research reserve, including the establishment and operation of a basic environmental monitoring program. In the case of a biogeographic region (see appendix I to

this part) shared by two or more states, each state is eligible for Federal financial assistance to establish a national estuarine research reserve within their respective portion of the shared biogeographic region (see § 921.10).

(d) Operation and management funds are subject to the following limitations:

(1) No more than $70,000 in Federal funds may be expended in a twelve month award period (*i.e.*, Federal funds for operation and management may not be expended at a rate greater than $70,000 per year);

(2) No more than ten percent of the total amount (state and Federal shares) of each operation and management award may be used for construction-type activities (*i.e.*, $14,000 maximum per year).

§ 921.33 Boundary changes, amendments to the management plan, and addition of multiple-site components.

(a) Changes in research reserve boundaries and major changes to the final management plan, including state laws or regulations promulgated specifically for the research reserve, may be made only after written approval by NOAA. If determined to be necessary, NOAA may require public notice, including notice in the **Federal Register** and an opportunity for public comment. Changes in the boundaries of the research reserve involving the acquisition of properties not listed in the management plan or final EIS require public notice and the opportunity for comment; in certain cases, an environmental assessment and possibly, an environmental impact statement, may be required. Where public notice is required, NOAA will place a notice in the **Federal Register** of any proposed changes in research reserve boundaries or proposed major changes to the final management plan. The state shall be responsible for publishing an equivalent notice in the local media. See also requirements of § 921.4(b) and § 921.13(a)(11).

(b) As discussed in § 921.10(b), a state may choose to develop a multiple-site national estuarine research reserve after the initial acquisition and development award for a single site has been made. Public notice of the proposed addition will be placed by NOAA in the **Federal Register**. The state shall be responsible for publishing an equivalent notice in the local media. An opportunity for comment, in addition to the preparation of either an environmental assessment or environmental impact statement on the proposal, will also be required. An environmental impact statement, if required, shall be prepared in accordance with section § 921.13 and shall include an administrative framework for the multiple-site research reserve and a description of the complementary research and educational programs within the research reserve. If NOAA determines, based on the scope of the project and the issues associated with the additional site, that an environmental assessment is sufficient to establish a multiple-site research reserve, then the state shall develop a revised management plan which, concerning the additional component, incorporates each of the elements described in § 921.13(a). The revised management plan shall address goals and objectives for all components of the multi-site research reserve and the additional component's relationship to the original site(s).

Subpart E—Performance Evaluation and Withdrawal of Designation

§ 921.40 Evaluation of system performance.

(a) Following designation of a national estuarine research reserve pursuant to § 921.30, periodic performance evaluations shall be conducted concerning the operation and management of each national estuarine research reserve, including the research and monitoring being conducted within the reserve and education and interpretive activities. Evaluations may assess performance in all aspects of research reserve operation and management or may be limited in scope, focusing on selected issues of importance. Performance evaluations in assessing research reserve operation and management may also examine whether a research reserve is in compliance with the requirements of these regulations, particularly whether:

(1) The operation and management of the research reserve is consistent with and furthers the mission and goals of the National Estuarine Reserve Research System (see § 921.1); and

(2) A basis continues to exist to support any one or more of the findings made under § 921.30(a).

(b) Generally, performance will be evaluated at least every three years. More frequent evaluations may be scheduled as determined to be necessary by NOAA.

(c) Performance evaluations will be conducted by Federal officials. When determined to be necessary, Federal and non-Federal experts in natural resource management, estuarine research, interpretation or other aspects of national estuarine research reserve operation and management may be requested by NOAA to participate in performance evaluations. If other experts are to be included in the evaluation, NOAA will first ask the state to recommend appropriate individuals to serve in that capacity.

(d) Performance evaluations will be conducted in accordance with the procedural and public participation provisions of the CZMA regulations on review of performance at 15 CFR part 928 (*i.e.*, § 928.3(b) and § 928.4).

(e) To ensure effective Federal oversight of each research reserve within the National Estuarine Reserve Research System the state is required to submit an annual report on operation and management of the research reserve during the immediately preceding state fiscal year. This annual report must be submitted within a ninety day period following the end of the state fiscal year. The report shall detail program successes and accomplishments, referencing the research reserve management plan and, as appropriate, the work plan for the previous year. A work plan, detailing the projects and activities to be undertaken over the coming year to meet the goals and objectives of the research reserve as described in the management plan and the state's role in ongoing research reserve programs, shall also be included.

§ 921.41 Suspension of eligibility for financial assistance.

(a) If a performance evaluation under § 921.40 reveals that the operation and management of the research reserve is deficient, or that the research being conducted within the reserve is not consistent with the Estuarine Research Guidelines referenced in subpart F of this part, the eligibility of the research reserve for Federal financial assistance as described in these regulations may be suspended until the deficiency or inconsistency is remedied.

(b) NOAA will provide the state with a written notice of the deficiency or inconsistency. This notice will explain the finding, assess the Federal role in contributing to the problem, propose a solution or solutions, provide a schedule by which the state should remedy the deficiency or inconsistency, and state whether the state's eligibility for Federal financial assistance has been suspended in whole or part. In this notice the state shall also be advised that it may comment on this finding and meet with NOAA officials to discuss the results of the performance evaluation and seek to remedy the deficiency or inconsistency.

(c) Eligibility of a research reserve for financial assistance under these regulations shall be restored upon written notice by NOAA to the state

that the deficiency or inconsistency has been remedied.

(d) If, after a reasonable time, a state does not remedy a deficiency in the operation and management of a national estuarine research reserve which has been identified pursuant to a performance evaluation under § 921.40(a), such outstanding deficiency shall be considered a basis for withdrawal of designation (see § 921.42).

§ 921.42 Withdrawal of designation.

(a) Designation of an estuarine area as a national estuarine research reserve may be withdrawn if a performance evaluation conducted pursuant to § 921.40 reveals that:

(1) The basis for any one or more of the findings made under § 921.30(a) in designating the research reserve no longer exists;

(2) A substantial portion of the research conducted within the research reserve, over a period of years, has not been consistent with the Estuarine Research Guidelines referenced in subpart F of this part; or

(3) A state, after a reasonable time, has not remedied a deficiency in the operation and management of a research reserve identified pursuant to an earlier performance evaluation conducted under § 921.40.

(b) If a basis is found under § 921.42(a) for withdrawal of designation, NOAA will provide the state with a written notice of this finding. This notice will explain the basis for the finding, propose a solution or solutions and provide a schedule by which the state should correct the deficiency. In this notice, the state shall also be advised that it may comment on the finding and meet with NOAA officials to discuss the finding and seek to correct the deficiency.

(c) If, within a reasonable period of time, the deficiency is not corrected in a manner acceptable to NOAA, a notice of intent to withdraw designation, with an opportunity for comment, will be placed in the **Federal Register**.

(d) The state shall be provided the opportunity for an informal hearing before the Under Secretary to consider NOAA's finding of deficiency and intent to withdraw designation, as well as the state's comments on and response to NOAA's written notice pursuant to § 921.42(b) and **Federal Register** notice pursuant to § 921.42(c).

(e) Within 30 days after the informal hearing, the Under Secretary shall issue a written decision regarding the designation status of the national estuarine research reserve. If a decision is made to withdraw research reserve designation, the procedures specified in § 921.21(e) regarding the disposition of real property acquired in whole or part with Federal funds shall be followed.

(f) NOAA may not withdraw designation of a national estuarine research reserve if the performance evaluation reveals that the deficiencies in management of the site are a result of inadequate Federal financial support.

Subpart F—Research

§ 921.50 General.

(a) To stimulate high quality research within designated national estuarine research reserves, NOAA may provide financial support for research which is consistent with the Estuarine Research Guidelines referenced in § 921.51. Research awards may be awarded under this subpart to only those designated research reserves with approved final management plans with the following exception: NOAA may award research awards under this subpart to reserves without final management plans that have been designated prior to the effective date of these regulations; in the absence of an approved final management plan, however these reserves will be eligible for research awards during only the first two years after the effective date of these regulations. Although this research may be conducted within the immediate watershed of the research reserve, the majority of research activities of any single research project funded under this subpart must be conducted within reserve boundaries. Research funds are primarily used to support management-related research that will enhance scientific understanding of the research reserve ecosystem, provide information needed by reserve managers and coastal management decision-makers, and improve public awareness and understanding of estuarine ecosystems and estuarine management issues. Research projects may be oriented to specific research reserves; however, research projects that would benefit more than one research reserve in the National Estuarine Reserve Research System are encouraged.

(b) Federal research funds under this subpart are not intended as a source of continuous funding for a particular project over time. Research funds may be used to support start-up costs for long-term projects if an applicant can identify an alternative source of long-term research support.

(c) Research funds are available on a competitive basis to any coastal state or qualified public or private person. A notice of available funds will be published in the **Federal Register**. Research funds are provided in addition to any other funds available to a coastal state under the Act. Federal research funds provided under this subpart must be matched equally by the recipient, consistent with § 921.81(e)(4) ("allowable costs").

§ 921.51 Estuarine research guidelines.

(a) Research within the National Estuarine Reserve Research System shall be conducted in a manner consistent with Estuarine Research Guidelines developed by NOAA.

(b) A summary of the Estuarine Research Guidelines is published in the **Federal Register** as a part of the notice of available funds discussed in § 921.50(c).

(c) The Estuarine Research Guidelines are reviewed annually by NOAA. This review will include an opportunity for comment by the estuarine research community.

§ 921.52 Promotion and coordination of estuarine research.

(a) NOAA will promote and coordinate the use of the National Estuarine Reserve Research System for research purposes.

(b) NOAA will, in conducting or supporting estuarine research other than that authorized under section 315 of the Act, give priority consideration to research that uses the National Estuarine Reserve Research System.

(c) NOAA will consult with other Federal and state agencies to promote use of one or more research reserves within the National Estuarine Reserve Research System when such agencies conduct estuarine research.

Subpart G—Monitoring

§ 921.60 General.

(a) To provide a systematic basis for developing a high quality estuarine resource and ecosystem information base for national estuarine research reserves and, as a result, for the System, NOAA may provide financial support for monitoring programs. Monitoring funds are used to support three major phases of a monitoring program: studies necessary for comprehensive site description/characterization, development of a site profile, and implementation of a monitoring program.

(b) Monitoring funds are available on a competitive basis to the state agency responsible for reserve management or qualified public or private person or entity designated by the Reserve. However, if the applicant is other than the managing entity of a reserve research (coastal state), that applicant must submit as a part of the application

a letter from the reserve manager indicating formal support of the application by the managing entity of the reserve. Monitoring awards will be made on the basis of a five-year performance period; and with initial funding for a twelve (12) month period; and with annual supplemental funding contingent on performance and appropriations under the Act. Monitoring funds are provided in addition to any other funds available to a coastal state under the Act. Federal monitoring funds must be matched equally by the recipient, consistent with § 921.81(e)(4) ("allowable costs").

(c) Monitoring projects funded under this Subpart must focus on the resources within the boundaries of the research reserve and must be consistent with the applicable sections of the Estuarine Research Guidelines referenced in § 921.51. Portions of the project may occur within the immediate watershed of the Reserve beyond the site boundaries. However, the monitoring proposal must demonstrate why this is necessary for the success of the project.

Subpart H—Interpretation and Education

§ 921.70 General.

(a) To stimulate the development of innovative or creative interpretive and educational projects and materials to enhance public awareness and understanding of estuarine areas, NOAA may fund interpretive and educational activities. Interpretive and educational awards may be awarded under this subpart to only those designated research reserves with approved final management plans with the following exception: NOAA may award research awards under this subpart to reserves without final management plans that have been designated prior to the effective date of these regulations; in the absence of an approved final management plan, however these reserves will be eligible for research awards during only the first two years after the effective date of these regulations.

(b) Educational and interpretive funds are available on a competitive basis to any coastal state entity. However, if the applicant is other than the managing entity of a research reserve, that applicant must submit as a part of the application a letter from the reserve manager indicating formal support of the application by the managing entity of the reserve. These funds are provided in addition to any other funds available to a coastal state under the Act. Federal interpretation and educational funds must be matched equally by the recipient, consistent with § 921.81(e)(4) ("allowable costs").

§ 921.71 Categories of potential interpretive and educational projects; evaluation criteria.

(a) Proposals for interpretive or educational projects will be considered under the following categories:

(1) Design, development and distribution/placement of interpretive or educational media (*i.e.*, the development of tangible items, such as exhibits/displays, publications, posters, signs, audio/visuals, computer software and maps which have an educational or interpretive purpose; and techniques for making available or locating information concerning research reserve resources, activities, or issues);

(2) Development and presentation of curricula, workshops, lectures, seminars, and other structured programs or presentations for facility or field use;

(3) Extension/outreach programs; or

(4) Creative and innovative methods and technologies for implementing interpretive or educational projects.

(b) Interpretive and educational projects may be oriented to one or more research reserves or to the entire system. Those projects which would directly benefit more than one research reserve, and, if practicable, the entire National Estuarine Reserve Research System, shall receive priority consideration for funding.

(c) Proposals for interpretive and educational projects in national estuarine research reserves will be evaluated in accordance with criteria listed below:

(1) Educational or interpretive merits;

(2) Relevance or importance to reserve management or coastal decisionmaking;

(3) Educational quality (*e.g.*, soundness of approach, experience related to methodologies);

(4) Importance to the National Estuarine Reserve Research System;

(5) Budget and Institutional Capabilities (*e.g.*, reasonableness of budget, sufficiency of logistical support); and

(6) In addition, in the case of long-term projects, the ability of the state or the grant recipient to support the project beyond this initial funding.

Subpart I—General Financial Assistance Provisions

§ 921.80 Application information.

(a) Only a coastal state may apply for Federal financial assistance awards for preacquisition, acquisition and development, operation and management, and education and interpretation. Any coastal state or public or private person may apply for Federal financial assistance awards for estuarine research or monitoring. The announcement of opportunities to conduct research in the reserve system appears on an annual basis in the **Federal Register**. If a state is participating in the national Coastal Zone Management Program, the applicant for an award under section 315 of the Act shall notify the state coastal management agency regarding the application.

(b) An original and two copies of the formal application must be submitted at least 120 working days prior to the proposed beginning of the project to the following address: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Universal Building South, 1825 Connecticut Avenue, NW., Suite 714, Washington, DC 20235. The Application for Federal Assistance Standard Form 424 (Non-construction Program) constitutes the formal application for site selection, post-site selection, operation and management, research, and education and interpretive awards. The Application for Federal Financial Assistance Standard Form 424 (Construction Program) constitutes the formal application for land acquisition and development awards. The application must be accompanied by the information required in subpart B (predesignation) of this part, subpart C of this part and § 921.31 (acquisition and development), and § 921.32 (operation and management) as applicable. Applications for development awards for construction projects, or restorative activities involving construction, must include a preliminary engineering report. All applications must contain back up data for budget estimates (Federal and non-Federal shares), and evidence that the application complies with the Executive Order 12372, "Intergovernmental Review of Federal Programs." In addition, applications for acquisition and development awards must contain:

(1) State Historic Preservation Office comments;

(2) Written approval from NOAA of the draft management plan for initial acquisition and development award(s); and

(3) A preliminary engineering report for construction projects, or restorative activities involving construction.

§ 921.81 Allowable costs.

(a) Allowable costs will be determined in accordance with applicable OMB Circulars and guidance

for Federal financial assistance, the financial assistance agreement, these regulations, and other Department of Commerce and NOAA directives. The term "costs" applies to both the Federal and non-Federal shares.

(b) Costs claimed as charges to the award must be reasonable, beneficial and necessary for the proper and efficient administration of the financial assistance award and must be incurred during the award period.

(c) Costs must not be allocable to or included as a cost of any other Federally-financed program in either the current or a prior award period.

(d) General guidelines for the non-Federal share are contained in Department of Commerce Regulations at 15 CFR part 24 and OMB Circular A–110. Copies of Circular A–110 can be obtained from the Marine and Estuarine Management Division; 1825 Connecticut Avenue, NW., Suite 714; Washington, DC 20235. The following may be used in satisfying the matching requirement:

(1) Site Selection and Post Site Selection Awards. Cash and in-kind contributions (value of goods and services directly benefiting and specifically identifiable to this part of the project) are allowable. Land may not be used as match.

(2) Acquisition and Development Awards. Cash and in-kind contributions are allowable. In general, the fair market value of lands to be included within the research reserve boundaries and acquired pursuant to the Act, with other than Federal funds, may be used as match. However, the fair market value of real property allowable as match is limited to the fair market value of a real property interest equivalent to, or required to attain, the level of control over such land(s) identified by the state and approved by the Federal Government as that necessary for the protection and management of the national estuarine research reserve. Appraisals must be performed according to Federal appraisal standards as detailed in Department of Commerce regulations at 15 CFR part 24 and the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs in 15 CFR part 11. The fair market value of privately donated land, at the time of donation, as established by an independent appraiser and certified by a responsible official of the state (pursuant to 15 CFR part 24), may also be used as match. Land, including submerged lands already in the state's possession, may be used as match to establish a national estuarine research reserve. The value of match for these state lands will be calculated by determining the value of the benefits foregone by the state, in the use of the land, as a result of new restrictions that may be imposed by Reserve designation. The appraisal of the benefits foregone must be made by an independent appraiser in accordance with Federal appraisal standards pursuant to 15 CFR part 24 and 15 CFR part 11. A state may initially use as match land valued at greater than the Federal share of the acquisition and development award. The value in excess of the amount required as match for the initial award may be used to match subsequent supplemental acquisition and development awards for the national estuarine research reserve (see also § 921.20). Costs related to land acquisition, such as appraisals, legal fees and surveys, may also be used as match.

(3) Operation and Management Awards. Generally, cash and in kind contributions (directly benefiting and specifically identifiable to operations and management), except land, are allowable.

(4) Research, Monitoring, Education and Interpretive Awards. Cash and in-kind contributions (directly benefiting and specifically identifiable to the scope of work), except land, are allowable.

§ 921.82 Amendments to financial assistance awards.

Actions requiring an amendment to the financial assistance award, such as a request for additional Federal funds, revisions of the approved project budget or original scope of work, or extension of the performance period must be submitted to NOAA on Standard Form 424 and approved in writing.

Appendix I to Part 921—Biogeographic Classification Scheme

Acadian

1. Northern Gulf of Maine (Eastport to the Sheepscot River).
2. Southern Gulf of Maine (Sheepscot River to Cape Cod).

Virginian

3. Southern New England (Cape Cod to Sandy Hook).
4. Middle Atlantic (Sandy Hook to Cape Hatteras).
5. Chesapeake Bay.

Carolinian

6. Northern Carolinas (Cape Hatteras to Santee River).
7. South Atlantic (Santee River to St. John's River).
8. East Florida (St. John's River to Cape Canaveral).

West Indian

9. Caribbean (Cape Canaveral to Ft. Jefferson and south).
10. West Florida (Ft. Jefferson to Cedar Key).

Louisianian

11. Panhandle Coast (Cedar Key to Mobile Bay).
12. Mississippi Delta (Mobile Bay to Galveston).
13. Western Gulf (Galveston to Mexican border).

Californian

14. Southern California (Mexican Border to Point Concepcion).
15. Central California (Point Concepcion to Cape Mendocino).
16. San Francisco Bay.

Columbian

17. Middle Pacific (Cape Mendocino to the Columbia River).
18. Washington Coast (Columbia River to Vancouver Island).
19. Puget Sound.

Great Lakes

20. Western Lakes (Superior, Michigan, Huron).
21. Eastern Lakes (Ontario, Erie).

Fjord

22. Southern Alaska (Prince of Wales Island to Cook Inlet).
23. Aleutian Islands (Cook Inlet to Bristol Bay).

Sub-Arctic

24. Northern Alaska (Bristol Bay to Demarcation Point).

Insular

25. Hawaiian Islands.
26. Western Pacific Island.
27. Eastern Pacific Island.

Appendix II to Part 921—Typology of National Estuarine Research Reserves

This typology system reflects significant differences in estuarine characteristics that are not necessarily related to regional location. The purpose of this type of classification is to maximize ecosystem variety in the selection of national estuarine research reserves. Priority will be given to important ecosystem types as yet unrepresented in the reserve system. It should be noted that any one site may represent several ecosystem types or physical characteristics.

Class I—Ecosystem Types

Group I—Shorelands

A. *Maritime Forest-Woodland:* This type of ecosystem consists of single-stemmed species that have developed under the influence of salt spray. It can be found on coastal uplands or recent features, such as barrier islands and beaches, and may be divided into the following biomes:

1. *Northern Coniferous Forest Biome:* This is an area of predominantly evergreens such as the sitka spruce (Picea), grand fir (Abies), and white cedar (Thuja), with poor development of the shrub and herb layers, but high annual productivity and pronounced seasonal periodicity.

2. *Moist Temperate (Mesothermal) Coniferous Forest Biome:* Found along the west coast of North America from California to Alaska, this area is dominated by conifers, has a relatively small seasonal range, high humidity with rainfall ranging from 30 to 150 inches, and a well-developed understory of vegetation with an abundance of mosses and other moisture-tolerant plants.

3. *Temperate Deciduous Forest Biome:* This biome is characterized by abundant, evenly distributed rainfall, moderate temperatures which exhibit a distinct seasonal pattern, well-developed soil biota and herb and shrub layers, and numerous plants which produce pulpy fruits and nuts. A distant subdivision of this biome is the pine edaphic forest of the southeastern coastal plain, in which only a small portion of the area is occupied by climax vegetation, although it has large areas covered by edaphic climax pines.

4. *Broad-leaved Evergreen Subtropical Forest Biomes:* The main characteristic of this biome is high moisture with less pronounced differences between winter and summer. Examples are the hammocks of Florida and the live oak forests of the Gulf and South Atlantic coasts. Floral dominants include pines, magnolias, bays, hollies, wild tamarind, strangler fig, gumbo limbo, and palms.

B. *Coast Shrublands:* This is a transitional area between the coastal grasslands and woodlands and is characterized by woody species with multiple stems a few centimeters to several meters above the ground developing under the influence of salt spray and occasional sand burial. This includes thickets, scrub, scrub savanna, heathlands, and coastal chaparral. There is a great variety of shrubland vegetation exhibiting regional specificity:

1. *Northern Areas:* Characterized by Hudsonia, various erinaceous species, and thickets of Myrica, Prunus, and Rosa.
2. *Southeast Areas:* Floral dominants include Myrica, Baccharis, and Ilex.
3. *Western Areas:* Adenostoma, Arcotyphylos, and Eucalyptus are the dominant floral species.

C. *Coastal Grasslands:* This area, which possesses sand dunes and coastal flats, has low rainfall (10 to 30 inches per year) and large amounts of humus in the soil. Ecological succession is slow, resulting in the presence of a number of serial stages of community development. Dominant vegetation includes mid-grasses (2 to 4 feet tall), such as Ammophila, Agropyron, and Calamovilfa, tall grasses (5 to 8 feet tall), such as Spartina, and trees such as the willow (Salix sp.), cherry (Prunus sp.), and cottonwood (Populus deltoides). This area is divided into four regions with the following typical strand vegetation:

1. Arctic/Boreal: Elymus;
2. Northeast/West: Ammophila;
3. Southeast/Gulf: Uniola; and
4. Mid-Atlantic/Gulf: Spartina patens.

D. *Coastal Tundra:* This ecosystem, which is found along the Arctic and Boreal coasts of North America, is characterized by low temperatures, a short growing season, and some permafrost, producing a low, treeless mat community made up of mosses, lichens, heath, shrubs, grasses, sedges, rushes, and herbaceous and dwarf woody plants. Common species include arctic/alpine plants such as Empetrum nigrum and Betula nana, the lichens Cetraria and Cladonia, and herbaceous plants such as Potentilla tridentata and Rubus chamaemorus. Common species on the coastal beach ridges of the high arctic desert include Dryas intergrifolia and Saxifrage oppositifolia. This area can be divided into two main subdivisions:

1. *Low Tundra:* characterized by a thick, spongy mat of living and undecayed vegetation, often with water and dotted with ponds when not frozen; and

2. *High Tundra:* a bare area except for a scanty growth of lichens and grasses, with underlying ice wedges forming raised polygonal areas.

E. *Coastal Cliffs:* This ecosystem is an important nesting site for many sea and shore birds. It consists of communities of herbaceaous, graminoid, or low woody plants (shrubs, heath, etc.) on the top or along rocky faces exposed to salt spray. There is a diversity of plant species including mosses, lichens, liverworts, and "higher" plant representatives.

Group II—Transition Areas

A. *Coastal Marshes:* These are wetland areas dominated by grasses Poacea), sedges (Cyperaceae), rushes (Juncaceae), cattails (Typhaceae), and other graminoid species and is subject to periodic flooding by either salt or freshwater. This ecosystem may be subdivided into: (a) Tidal, which is periodically flooded by either salt or brackish water; (b) non-tidal (freshwater); or (c) tidal freshwater. These are essential habitats for many important estuarine species of fish and invertebrates as well as shorebirds and waterfowl and serves important roles in shore stabilization, flood control, water purification, and nutrient transport and storage.

B. *Coastal Swamps:* These are wet lowland areas that support mosses and shrubs together with large trees such as cypress or gum.

C. *Coastal Mangroves:* This ecosystem experiences regular flooding on either a daily, monthly, or seasonal basis, has low wave action, and is dominated by a variety of salt-tolerant trees, such as the red mangrove (Rhizophora mangle), black mangrove (Avicennia nitida), and the white mangrove (Laguncularia racemosa). It is also an important habitat for large populations of fish, invertebrates, and birds. This type of ecosystem can be found from central Florida to extreme south Texas to the islands of the Western Pacific.

D. *Intertidal Beaches:* This ecosystem has a distinct biota of microscopic animals, bacteria, and unicellular algae along with microscopic crustaceans, mollusks, and worms with a detritus-based nutrient cycle. This area also includes the driftline communities found at high tide levels on the beach. The dominant organisms in this ecosystem include crustaceans such as the mole crab (Emerita), amphipods (Gammaridae), ghost crabs (Ocypode), and bivalve molluscs such as the coquina (Donax) and surf clams (Spisula and Mactra).

E. *Intertidal Mud and Sand Flats:* These areas are composed of unconsolidated, high organic content sediments that function as a short-term storage area for nutrients and organic carbons. Macrophytes are nearly absent in this ecosystem, although it may be heavily colonized by benthic diatoms, dinoflagellates, filamentous blue-green and green algae, and chemosynthetic purple sulfur bacteria. This system may support a considerable population of gastropods, bivalves, and polychaetes, and may serve as a feeding area for a variety of fish and wading birds. In sand, the dominant fauna include the wedge shell Donax, the scallop Pecten, tellin shells Tellina, the heart urchin Echinocardium, the lug worm Arenicola, sand dollar Dendraster, and the sea pansy Renilla. In mud, faunal dominants adapted to low oxygen levels include the terebellid Amphitrite, the boring clam Playdon, the deep sea scallop Placopecten, the quahog Mercenaria, the echiurid worm Urechis, the mud snail Nassarius, and the sea cucumber Thyone.

F. *Intertidal Algal Beds:* These are hard substrates along the marine edge that are dominated by macroscopic algae, usually thalloid, but also filamentous or unicellular in growth form. This also includes the rocky coast tidepools that fall within the intertidal zone. Dominant fauna of these areas are barnacles, mussels, periwinkles, anemones, and chitons. Three regions are apparent:

1. *Northern Latitude Rocky Shores:* It is in this region that the community structure is best developed. The dominant algal species include Chondrus at the low tide level, Fucus and Ascophyllum at the mid-tidal level, and Laminaria and other kelplike algae just beyond the intertidal, although they can be exposed at extremely low tides or found in very deep tidepools.

2. *Southern Latitudes:* The communities in this region are reduced in comparison to those of the northern latitudes and possesses algae consisting mostly of single-celled or filamentous green, blue-green, and red algae, and small thalloid brown algae.

3. *Tropical and Subtropical Latitudes:* The intertidal in this region is very reduced and contains numerous calcareous algae such as Porolithon and Lithothamnion, as well as green algae with calcareous particles such as Halimeda, and numerous other green, red, and brown algae.

Group III—Submerged Bottoms

A. *Subtidal Hardbottoms:* This system is characterized by a consolidated layer of solid rock or large pieces of rock (neither of biotic origin) and is found in association with geomorphological features such as submarine canyons and fjords and is usually covered with assemblages of sponges, sea fans, bivalves, hard corals, tunicates, and other attached organisms. A significant feature of estuaries in many parts of the world is the oyster reef, a type of subtidal hardbottom. Composed of assemblages of organisms (usually bivalves), it is usually found near an estuary's mouth in a zone of moderate wave action, salt content, and turbidity. If light levels are sufficient, a covering of microscopic and attached macroscopic algae, such as kelp, may also be found.

B. *Subtidal Softbottoms:* Major characteristics of this ecosystem are an unconsolidated layer of fine particles of silt, sand, clay, and gravel, high hydrogen sulfide levels, and anaerobic conditions often existing below the surface. Macrophytes are either sparse or absent, although a layer of benthic microalgae may be present if light levels are sufficient. The faunal community is dominated by a diverse population of deposit feeders including polychaetes, bivalves, and burrowing crustaceans.

C. *Subtidal Plants:* This system is found in relatively shallow water (less than 6 to 10 meters) below mean low tide. It is an area of extremely high primary production that provides food and refuge for a diversity of faunal groups, especially juvenile and adult fish, and in some regions, manatees and sea turtles. Along the North Atlantic and Pacific coasts, the seagrass Zostera marina predominates. In the South Atlantic and Gulf coast areas, Thalassia and Diplanthera predominate. The grasses in both areas support a number of epiphytic organisms.

Class II—Physical Characteristics

Group I—Geologic

A. *Basin Type:* Coastal water basins occur in a variety of shapes, sizes, depths, and appearances. The eight basic types discussed below will cover most of the cases:

1. *Exposed Coast:* Solid rock formations or heavy sand deposits characterize exposed ocean shore fronts, which are subject to the full force of ocean storms. The sand beaches are very resilient, although the dunes lying just behind the beaches are fragile and easily damaged. The dunes serve as a sand storage area, making them chief stabilizers of the ocean shorefront.

2. *Sheltered Coast:* Sand or coral barriers, built up by natural forces, provide sheltered areas inside a bar or reef where the ecosystem takes on many characteristics of confined waters—abundant marine grasses, shellfish, and juvenile fish. Water movement is reduced, with the consequent effects of pollution being more severe in this area than in exposed coastal areas.

3. *Bay:* Bays are larger confined bodies of water that are open to the sea and receive strong tidal flow. When stratification is pronounced, the flushing action is augmented by river discharge. Bays vary in size and in type of shorefront.

4. *Embayment:* A confined coastal water body with narrow, restricted inlets and with a significant freshwater inflow can be classified as an embayment. These areas have more restricted inlets than bays, are usually smaller and shallower, have low tidal action, and are subject to sedimentation.

5. *Tidal River:* The lower reach of a coastal river is referred to as a tidal river. The coastal water segment extends from the sea or estuary into which the river discharges to a point as far upstream as there is significant salt content in the water, forming a salt front. A combination of tidal action and freshwater outflow makes tidal rivers well-flushed. The tidal river basin may be a simple channel or a complex of tributaries, small associated embayments marshfronts, tidal flats, and a variety of others.

6. *Lagoon:* Lagoons are confined coastal bodies of water with restricted inlets to the sea and without significant freshwater inflow. Water circulation is limited, resulting in a poorly flushed, relatively stagnant body of water. Sedimentation is rapid with a great potential for basin shoaling. Shores are often gently sloping and marshy.

7. *Perched Coastal Wetlands:* Unique to Pacific islands, this wetland type, found above sea level in volcanic crater remnants, forms as a result of poor drainage characteristics of the crater rather than from sedimentation. Floral assemblages exhibit distinct zonation while the faunal constituents may include freshwater, brackish, and/or marine species. Example: Aunu'u Island, American Samoa.

8. *Anchialine Systems:* These small coastal exposures of brackish water form in lava depressions or elevated fossil reefs, have only a subsurface connection to the ocean, but show tidal fluctuations. Differing from true estuaries in having no surface continuity with streams or ocean, this system is characterized by a distinct biotic community dominated by benthic algae such as Rhizoclonium, the mineral encrusting Schizothrix, and the vascular plant Ruppia maritima. Characteristic fauna, which exhibit a high degree of endemicity, include the mollusks Theodoxus neglectus and T. cariosus, the small red shrimp Metabetaeus lohena and Halocaridina rubra, and the fish Eleotris sandwicensis and Kuhlia sandvicensus. Although found throughout the world, the high islands of the Pacific are the only areas within the U.S. where this system can be found.

B. *Basin Structure:* Estuary Basins may result from the drowning of a river valley (coastal plains estuary), The drowning of a glacial valley (fjord), the occurrence of an offshore barrier (bar-bounded estuary), some tectonic process (tectonic estuary), or volcanic activity (volcanic estuary).

1. *Coastal plains estuary:* Where a drowned valley consists mainly of a single channel, the form of the basin is fairly regular, forming a simple coastal plains estuary. When a channel is flooded with numerous tributaries, an irregular estuary results. Many estuaries of the eastern United States are of this type.

2. *Fjord:* Estuaries that form in elongated, steep headlands that alternate with deep U-shaped valleys resulting from glacial scouring are called fjords. They generally possess rocky floors or very thin veneers of sediment, with deposition generally being restricted to the head where the main river enters. Compared to total fjord volume, river discharge is small. But many fjords have restricted tidal ranges at their mouths, due to sills, or upreaching sections of the bottom which limit free movement of water, often making river flow large with respect to the tidal prism. The deepest portions are in the upstream reaches, where maximum depths can range from 800 m to 1200 m, while sill depths usually range from 40 m to 150 m.

3. *Bar-bounded Estuary:* These result from the development of an offshore barrier, such as a beach strand, a line of barrier islands, reef formations, a line of moraine debris, or the subsiding remnants of a deltaic lobe. The basin is often partially exposed at low tide and is enclosed by a chain of offshore bars or barrier islands, broken at intervals by inlets. These bars may be either deposited offshore or may be coastal dunes that have become isolated by recent sea level rises.

4. *Tectonic Estuary:* These are coastal indentures that have formed through tectonic processes such as slippage along a fault line (San Francisco Bay), folding, or movement of the earth's bedrock, often with a large inflow of freshwater.

5. *Volcanic Estuary:* These coastal bodies of open water, a result of volcanic processes, are depressions or craters that have direct and/or subsurface connections with the ocean and may or may not have surface continuity with streams. These formations are unique to island areas of volcanic origin.

C. *Inlet Type:* Inlets in various forms are an integral part of the estuarine environment, as they regulate, to a certain extent, the velocity and magnitude of tidal exchange, the degree of mixing, and volume of discharge to the sea. There are four major types of inlets:

1. *Unrestricted:* An estuary with a wide unrestricted inlet typically has slow currents, no significant turbulence, and receive the full effect of ocean waves and local disturbances which serve to modify the shoreline. These estuaries are partially mixed, as the open mouth permits the incursion of marine waters to considerable distances upstream, depending on the tidal amplitude and stream gradient.

2. *Restricted:* Restrictions of estuaries can exist in many forms: bars, barrier islands, spits, sills, and more. Restricted inlets result in decreased circulation, more pronounced longitudinal and vertical salinity gradients, and more rapid sedimentation. However, if the estuary mouth is restricted by depositional features or land closures, the incoming tide may be held back until it suddenly breaks forth into the basin as a tidal wave, or bore. Such currents exert profound effects on the nature of the substrate, turbidity, and biota of the estuary.

3. *Permanent:* Permanent inlets are usually opposite the mouths of major rivers and permit river water to flow into the sea. Sedimentation and deposition are minimal.

4. *Temporary (Intermittent):* Temporary inlets are formed by storms and frequently shift position, depending on tidal flow, the depth of the sea and sound waters, the frequency of storms, and the amount of littoral transport.

D. *Bottom Composition:* The bottom composition of estuaries attests to the vigorous, rapid, and complex sedimentation processes characteristic of most coastal regions with low relief. Sediments are derived through the hydrologic processes of erosion, transport, and deposition carried on by the sea and the stream.

1. *Sand:* Near estuary mouths, where the predominating forces of the sea build spits or other depositional features, the shores and substrates of the estuary are sandy. The bottom sediments in this area are usually coarse, with a graduation toward finer particles in the head of the estuary. In the head region and other zones of reduced flow, fine silty sands are deposited. Sand deposition occurs only in wider or deeper regions where velocity is reduced.

2. *Mud:* At the base level of a stream near its mouth, the bottom is typically composed of loose muds, silt, and organic detritus as a result of erosion and transport from the upper stream reaches and organic decomposition. Just inside the estuary entrance, the bottom contains considerable quantities of sand and mud, which support a rich fauna. Mud flats, commonly built up in estuarine basins, are composed of loose, coarse, and fine mud and sand, often dividing the original channel.

3. *Rock:* Rocks usually occur in areas where the stream runs rapidly over a steep gradient with its coarse materials being derived from the higher elevations where the stream slope is greater. The larger fragments are usually found in shallow areas near the stream mouth.

4. *Oyster shell:* Throughout a major portion of the world, the oyster reef is one of the most significant features of estuaries, usually being found near the mouth of the estuary in a zone of moderate wave action, salt content, and turbidity. It is often a major factor in modifying estuarine current systems and sedimentation, and may occur as an elongated island or peninsula oriented across the main current, or may develop parallel to the direction of the current.

Group II—Hydrographic

A. *Circulation:* Circulation patterns are the result of the combined influences of freshwater flow, tidal action, wind and oceanic forces, and serve many functions: nutrient transport, plankton dispersal, ecosystem flushing, salinity control, water mixing, and more.

1. *Stratified:* This is typical of estuaries with a strong freshwater influx and is commonly found in bays formed from "drowned" river valleys, fjords, and other deep basins. There is a net movement of freshwater outward at the top layer and saltwater at the bottom layer, resulting in a net outward transport of surface organisms and net inward transport of bottom organisms.

2. *Non-stratified:* Estuaries of this type are found where water movement is sluggish and flushing rate is low, although there may be sufficient circulation to provide the basis for a high carrying capacity. This is common to shallow embayments and bays lacking a good supply of freshwater from land drainage.

3. *Lagoonal:* An estuary of this type is characterized by low rates of water movement resulting from a lack of significant freshwater influx and a lack of strong tidal exchange because of the typically narrow inlet connecting the lagoon to the sea. Circulation, whose major driving force is wind, is the major limiting factor in biological productivity within lagoons.

B. *Tides:* This is the most important ecological factor in an estuary, as it affects water exchange and its vertical range determines the extent of tidal flats which may be exposed and submerged with each tidal cycle. Tidal action against the volume of river water discharged into an estuary results in a complex system whose properties vary according to estuary structure as well as the magnitude of river flow and tidal range. Tides are usually described in terms of their cycle and their relative heights. In the United States, tide height is reckoned on the basis of average low tide, which is referred to as datum. The tides, although complex, falls into three main categories:

1. *Diurnal:* This refers to a daily change in water level that can be observed along the shoreline. There is one high tide and one low tide per day.

2. *Semidiurnal:* This refers to a twice daily rise and fall in water that can be observed along the shoreline.

3. *Wind/Storm Tides:* This refers to fluctuations in water elevation to wind and storm events, where influence of lunar tides is less.

C. *Freshwater:* According to nearly all the definitions advanced, it is inherent that all estuaries need freshwater, which is drained from the land and measurably dilutes seawater to create a brackish condition. Freshwater enters an estuary as runoff from the land either from a surface and/or subsurface source.

1. *Surface water:* This is water flowing over the ground in the form of streams. Local variation in runoff is dependent upon the nature of the soil (porosity and solubility), degree of surface slope, vegetational type and development, local climatic conditions, and volume and intensity of precipitation.

2. *Subsurface water:* This refers to the precipitation that has been absorbed by the soil and stored below the surface. The distribution of subsurface water depends on local climate, topography, and the porosity and permeability of the underlying soils and rocks. There are two main subtypes of surface water:

a. *Vadose water:* This is water in the soil above the water table. Its volume with respect to the soil, is subject to considerable fluctuation.

b. *Groundwater:* This is water contained in the rocks below the water table, is usually of more uniform volume than vadose water, and generally follows the topographic relief of the land, being high below hills and sloping into valleys.

Group III—Chemical

A. *Salinity:* This reflects a complex mixture of salts, the most abundant being sodium chloride, and is a very critical factor in the distribution and maintenance of many estuarine organisms. Based on salinity, there are two basic estuarine types and eight different salinity zones (expressed in parts per thousand—ppt).

1. *Positive estuary:* This is an estuary in which the freshwater influx is sufficient to maintain mixing, resulting in a pattern of increasing salinity toward the estuary mouth. It is characterized by low oxygen concentration in the deeper waters and considerable organic content in bottom sediments.

2. *Negative estuary:* This is found in particularly arid regions, where estuary evaporation may exceed freshwater inflow, resulting in increased salinity in the upper part of the basin, especially if the estuary mouth is restricted so that tidal flow is inhibited. These are typically very salty (hyperhaline), moderately oxygenated at depth, and possess bottom sediments that are poor in organic content.

3. *Salinity zones (expressed in ppt):*

a. Hyperhaline—greater than 40 ppt.

b. Euhaline—40 ppt to 30 ppt.

c. Mixohaline: 30 ppt to 0.5 ppt.

(1) Mixoeuhaline—greater than 30 ppt but less than the adjacent euhaline sea.

(2) Polyhaline—30 ppt to 18 ppt.

(3) Mesohaline—18 ppt to 5 ppt.

(4) Oligohaline—5 ppt to 0.5 ppt.

d. Limnetic: Less than 0.5 ppt.

B. pH Regime: This is indicative of the mineral richness of estuarine waters and fall into three main categories:

1. Acid: Waters with a pH of less than 5.5.

2. Circumneutral: A condition where the pH ranges from 5.5 to 7.4.

3. Alkaline: Waters with a pH greater than 7.4.

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Monday
July 23, 1990

Part III

Nuclear Regulatory Commission

10 CFR Part 51

Renewal of Operating Licenses Nuclear Power Plant; Proposed Rule and Notice

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150-AD63

License Renewal for Nuclear Power Plants; Scope of Environmental Effects

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment to its regulations that would add provisions concerning the scope of environmental effects which would be addressed by the Commission in conjunction with applications for license renewal for nuclear power plants. This advance notice of proposed rulemaking is being issued to inform interested parties of the NRC's intent to address environmental issues associated with license renewal of individual nuclear power plants and to solicit timely comments on the scope of the environmental issues to be covered.

DATES: Written comments on matters covered by this notice received by October 22, 1990 will be considered in developing the generic environmental impact statement, a proposed rule change, and a draft regulatory guide on the preparation of environmental reports for nuclear power stations. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send written comments on this notice to: The Secretary of the Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, MD, between 7:45 am and 4:15 pm on Federal workdays. Copies of comments received by the Commission may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald P. Cleary, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3936.

SUPPLEMENTARY INFORMATION:

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering developing regulations under 10 CFR part 51 which will address the scope of environmental effects which need to be addressed by the Commission in conjunction with applications for license renewal for nuclear power plants under the proposed part 54 to title 10 of the Code of Federal Regulations (55 FR 29043, July 17, 1990). Changes to 10 CFR part 51 will be based on the findings of a generic environmental impact statement (GEIS). The NRC is publishing this notice in order to inform the public, industry and other government agencies of the NRC's intent to address environmental issues associated with license renewals of individual nuclear power plants and to prepare a GEIS to support such a rulemaking; to solicit timely comments on the scope of environmental issues to be covered in the rulemaking and GEIS; and to address the ways of incorporating results of the GEIS into the rulemaking on part 51. A notice of intent (NOI) to develop a generic environmental impact statement supporting this rulemaking is being published simultaneously in the notice section of this **Federal Register** issue. This advance notice of proposed rulemaking and the notice of intent begin the formal scoping process required for environmental impact statements under 10 CFR 51.28 and 51.29.

As noted above, the proposed rule (10 CFR part 54) on the health and safety requirements for renewal of operating licenses for nuclear power plants was published for public comment in the **Federal Register**. The part 54 proposed rule is being supported by a separate environmental analysis (EA) (NUREG-1398), which is available by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution Section, Room P-130A, Washington, DC 20555.

A significant number of the licenses for the existing operating nuclear power plants are due to expire in the early part of the twenty-first century. The NRC understands that the first two applications for license renewal will be submitted in 1991 and anticipates that a significant percentage of existing plants will submit applications for renewal of their operating license 10 to 20 years prior to their expiration. The NRC has issued a proposed rule, 10 CFR part 54, Requirements for Renewal of Operating Licenses for Nuclear Power Plants, that would establish the requirements that an applicant for renewal of a nuclear power plant operating license must meet, the information that must be submitted to the NRC for review so that the agency can determine whether these requirements have in fact been met, and the application procedures.

Apart from this part 54 procedural and technical rulemaking, the NRC believes as a matter of sound policy that a rulemaking on 10 CFR part 51 might be pursued to generically address potential environmental impacts from relicensing and extended operation and, thereby, define the potential environmental impacts which need to be reviewed as part of the relicensing of individual nuclear power plants. The NRC is, therefore, undertaking a study to assess which environmental impacts may occur, under what circumstances, and their possible level of significance. The study and resulting changes to part 51 will also provide the basis for developing a license renewal supplement to Regulatory Guide 4.2, "Preparation of Environmental Reports for Nuclear Power Stations." The NRC believes that there has been sufficient experience with nuclear power plant operation, maintenance, refurbishment and associated environmental impacts to predict with some confidence the types and magnitude of environmental effects which may arise from renewal of operating licenses and resulting extended plant operation.

Form of Changes to 10 CFR Part 51

Changes to Part 51 which will generically address various potential environmental impacts may take a variety of forms. For some set of potential environmental impacts it may be possible to demonstrate that the impacts will be nonexistent or insignificant. Other types of impacts may be nonexistent or insignificant where certain conditions are met. Some types of impacts may be described and enveloped generically. The NRC is seeking the views of the public on the alternative approaches available for codifying these generic findings. Part 51 already has several alternative methods for consideration of specific types of environmental impacts. Under one alternative, the Commission can make a finding in the rule itself that an environmental subject need not be addressed by the applicant in an ER or by the NRC in an EA or EIS. An example of this alternative is § 51.23, Temporary storage of spent fuel after cessation of reactor operation-generic determination of no significant environmental impact. Alternatively, the Commission could require that certain information, set forth in the rule itself, be incorporated into an applicant's ER. The drawback is that this approach does not explicitly address the NRC's responsibilities in the individual license proceeding, and does not explicitly remove the subject from potential

litigation. Another alternative is to set forth information which must be included in an ER (or EA or EIS), together with the criteria under which an individual, plant-specific analysis must be done in lieu of incorporation of the information contained in the rule. Paragraph 51.52, Environmental effects of transportation of fuel and waste-Table S–4, is an example of a generic determination of the environmental impacts of certain activities, which can be adopted if specific conditions set out in the paragraph are met. A final approach is to categorically eliminate the need for both the applicant and the NRC to address an issue. Under this approach, the subject being categorically excluded would not be subject to litigation in individual license proceedings. The basis for the conclusion is actually set out in the statement of considerations accompanying the rule change (as opposed to the first option discussed above, in which the "finding" is actually part of the rule itself). Sections 51.53, Supplement to environmental report, and 51.95, Supplement to final environmental impact statement, which eliminate the need to consider need for power, alternative energy sources, and negate the need to consider, at the operating licensing state, any aspect of the storage of spent fuel after cessation of reactor operation, are examples of this approach.

Generic Environmental Impact Statement

By means of the generic environmental impact statement, the NRC intends to identify the types of environmental impacts which may occur due to renewal of an individual nuclear power plant operating license, to assess if and under what conditions each type of impact would be significant, and to summarize these findings in a manner which can be codified in the agency's environmental protection regulations. Thus, at least part of the considerations involved in the decision whether to renew the license of an individual nuclear power plant would be reviewed generically. The analysis will encompass all operating light water power reactors, and for each type of environmental impact it will attempt to establish generic findings covering as many plants as possible. While plant and site specific information will be used in developing the generic findings, the NRC does not intend for the GEIS to be a compilation of individual plant environmental impact statements. Generic findings for each type of impact are expected to provide the basis for how that impact will be handled in the rule. When postulated impacts are determined to have no possibility of occurring or of being significant, they may be categorically excluded from consideration in the renewal of any operating license. Some impacts may be found to be insignificant whenever a specified set of plant and site parameters fall within certain values. Other impacts may be generically determined to be significant but, because they are anticipated and well understood, it is reasonable to adopt the generic findings in individual environmental impact statements without further analysis. Other approaches to codification will be explored as the generic environmental impact statement develops.

The NRC believes that all reasonable alternatives to the proposed action would be bounded by the action of denying the renewal application. Denial would lead to decommissioning of the nuclear systems of a plant and replacement of the generating capacity with either alternative generating capacity, alternative forms of energy or conservation. Decision on these matters will be made by utilities on the basis of their understanding of future requirements for generating capacity and the economics of technically viable alternatives. Alternative generating capacity, which will be considered in the generic environmental impact statement, includes conversion of a plant to an alternative fuel; replacement with nuclear plants of standardized or advanced design; replacement with coal, oil or gas fired capacity; and replacement with capacity using other forms of energy. Alternatives to replacing generating capacity, such as energy conservation, and load management, will be considered in assessing the need for generating capacity.

As environmental consequences are assessed, consideration will be given to the extent to which mitigating actions have been taken in the past and the extent to which there may be additional mitigating actions which might be taken in conjunction with license renewal.

The following proposed outline for the generic environmental impact statement reflects the current NRC staff view on the scope and major topics to be dealt with in this rulemaking.

Proposed Outline: Generic Environmental Impact Statement

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9.3 Replace with Other Energy Forms
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10.9 Severe Accidents
10.10 Decommissioning
10.11 Need for Generating Capacity
10.12 Alternative Energy Sources

Plans and Schedule

The NRC has contracted with Oak Ridge National Laboratory (ORNL) to prepare the generic environmental impact statement and a supplement to Regulatory Guide 4.2, "Preparation of Environmental Reports for Nuclear Power Stations", addressing license renewal applications. The NRC has initiated consultations with the Council on Environmental Quality and other appropriate federal agencies. Discussions with several federal agencies involving their assuming cooperating agency status are underway. The Nuclear Utility Management and Resources Council (NUMARC) has volunteered to coordinate the gathering of information from individual utilities. This effort is now is progress and will supplement the extensive data gathering effort by ORNL. The proposed rule, draft generic environmental impact statement and draft supplement to RG 4.2 are scheduled for publication in May 1991. The comment period will be 90 days. The NRC is planning to conduct a workshop during the comment period. The final rule, final generic environmental impact statement and supplement to RG 4.2 are scheduled for publication in April 1992.

Specific Considerations

Advice and recommendations on the proposed rulemaking are invited from all interested persons. Comments and supporting legal and technical reasons for the comments are particularly requested on the following questions:

1. Is a generic environmental impact statement, or an environmental assessment required by NEPA to support this proposed rulemaking, or can the rulemaking be supported by a technical study?

2. What alternative forms of codifying the findings of the generic environmental impact statement should be considered?

3. What activities associated with license renewal will lead to environmental impacts? By what mechanism will they lead to impacts?

4. What topical areas should be covered in the generic environmental impact statement? Should the proposed outline be supplemented or restructured?

5. For each topical area what are the specific environmental issues that should be addressed?

6. For each topical area and each specific issue what information and data required to perform generic analyses? Where do the information and data exist?

7. For each topical area and each specific issue what criteria should be used to judge the significance of the environmental impact?

8. For each topical area and each specific issue what is the potential for successful generic analysis?

9. What length of extend operating time can reasonably be addressed in the proposed rulemaking? To what extent is it possible to reach generic conclusions about the environmental impacts which would be applicable to plants having renewed operating licenses expiring in the year 2030, or 2040, or 2050?

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plant and reactors, Reporting and recordkeeping requirements.

The authority citation for this document is: Section 161, Pub. L. 83–703, 68 Statute 948, as amended (42 U.S.C. 2201); Section 201, Pub. L. 93–438, 88 Statute. 1242, as amended (42 U.S.C. 5841, 5842).

Dated at Rockville, Maryland, this 13th day of July 1990.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 90–17044 Filed 7–20–90; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Renewal of Nuclear Power Plant Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to prepare a generic environmental impact statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) will prepare a generic environmental impact statement on the effects of renewing the operating licenses of individual nuclear power plants. The intent of the NRC is to treat generically as many types of impacts as practical. The findings in the impact statement would then be codified in NRC environmental protection regulations thereby limiting the scope of issues which need to be addressed in individual license renewal applications.

DATES: Written comments on matters covered by this notice received by October 22, 1990 will be considered in developing the generic environmental impact statement, a proposed rule change, and a draft regulatory guide. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send written comments on this notice to: The Secretary of the Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Delivery comments to: 11555 Rockville Pike, Rockville, MD, between 7:45 am and 4:15 pm Federal workdays. Copies of comments received by the Commission may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald P. Cleary, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3936.

SUPPLEMENTARY INFORMATION: Supplementary information on the generic environmental impact statement may be found in the Advance Notice of Proposed Rulemaking on 10 CFR part 51 in the proposed rulemaking section of this **Federal Register** issue. That notice contains specific considerations on which NRC desires advice and recommendations.

Dated at Rockville, Maryland, this 16th day of July, 1990.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Office of Nuclear Regulatory Research.

[FR Doc. 90–17045 Filed 7–20–90; 8:45 am]

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federal register

Monday
July 23, 1990

Part IV

Department of Health and Human Services

Office of Human Development Services

45 CFR Part 1305

Head Start Program; Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1305

RIN 0980-AA27

Head Start Program

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children, Youth and Families proposes to amend 45 CFR part 1305 which governs eligibility requirements for enrollment of children in Head Start.

Currently, most Head Start grantees have many more children living in their service areas than they are able to serve. Each grantee must make decisions regarding recruitment, selection and enrollment of children.

The purpose of this rule is to propose procedures that will assure that these decisions are based on carefully planned and locally made decisions; give all interested families an opportunity to be considered for enrollment; and help maintain full enrollment, allowing as many eligible children as possible to be served.

DATES: In order to be considered, comments on this proposed rule must be received on or before October 22, 1990.

ADDRESSES: Please address comments to: Clennie H. Murphy, Jr., Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013. Attention: Rita Schwarz. It would be helpful if agencies and organizations would submit their comments in duplicate. Beginning November 5, 1990, comments will be available for public inspection in room 2215, 330 C Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Rita Schwarz, 202-245-0539.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start, as authorized under the Head Start Act (the Act), section 635 of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, (42 U.S.C. 9831 *et seq.*) is a national program providing comprehensive child development services. These services are provided primarily to low-income children, age three to five, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled children. Parents receive training and education that fosters their understanding of and involvement in the development of their children. They also become involved in the development, conduct, and direction of local programs.

In fiscal year 1989, Head Start served 450,970 children through a network of approximately 1,280 grantees and 600 delegate agencies. Delegate agencies have approved written agreements with grantees to operate Head Start programs.

While Head Start is intended to serve primarily low-income children and their families, Head Start's regulations permit up to 10 percent of the children in local programs to be from families who are not low-income. The Act requires that a minimum of 10 percent of enrollment opportunities in each State be made available to children with disabilities. Such children are expected to participate in the full range of Head Start activities with their non-disabled peers, and to receive needed special education and related services.

II. Purpose of the NPRM

The Head Start program has received additional funds during fiscal year 1990 to expand services to additional children. We are now in the process of distributing these funds. The President's goal is to provide all eligible children with the opportunity to have a Head Start experience before they enter school. In a major step to implement this goal, an increase of $500 million has been requested for fiscal year 1991 and additional increases are possible in future years.

As Head Start programs increase in size, it is important that the quality of the services that are provided to children and families is maintained. As part of this effort to assure the quality of services, we plan to issue a series of regulations which we believe will improve the operation of the program. This proposed rule is one of these regulations.

The purpose of this rule is to propose a process for the recruitment, enrollment and selection of Head Start children that is more organized, focused, and uniform among grantees and which provides opportunities for the greatest number of children to be considered for Head Start services.

Currently, Head Start grantees are funded to serve a geographic area that may be a city, county, multicity, multicounty, or other area that possesses a commonality of interest needed to operate a Head Start program. In the past, we have assumed that a grantee is responsible for providing Head Start services to its entire service area, even though its operations may have long been concentrated in certain parts of the area because resources are limited. We are concerned that, as funding increases, grantees may tend to expand services in the areas where they are already operating, rather than move into unserved parts of their service area. We are, therefore, proposing: (1) That grantees must clearly identify a specific service area which is agreed to by the responsible HHS official, and (2) that grantees must consider the needs of and recruit children from the entire geographic area they have agreed to serve, to the extent their financial resources allow. This, combined with funding for new grantees for currently unserved communities or service areas, will enable the maximum number of children to have an opportunity to enroll in Head Start.

The Head Start Act allows grantees to provide more than one year of service to children from age three to the age of compulsory school attendance. In order to enroll more children in Head Start, we believe that Head Start should serve children when they are three or four years old and that five year old children should be enrolled in kindergarten where it is available. However, some grantees retain five year old children for a second year in Head Start because parents prefer that their child remain in Head Start or because the local school system discourages these children from attending kindergarten due to their low performance on readiness tests. We are, therefore, proposing that Head Start programs must give first priority in enrollment to children for whom kindergarten is not available. This means that all interested three and four year olds in the service area must be enrolled before five year olds who have the option of going to kindergarten could be enrolled.

In order to help children carry the gains they have made in Head Start into school, we are also proposing that once a child is enrolled in Head Start as either a three year old or a four year old, he or she should remain in the program until kindergarten or first grade is available. This would prevent a child from being enrolled as a three year old but not served at age four, as is possible under current regulations. This proposed

rule would also draw attention to the importance of grantees carefully weighing the need for more than one year of Head Start services when making decisions to enroll younger children, since serving a child for more than one year may mean that another child will not have the opportunity for a Head Start experience.

Under current regulations, when there are more income-eligible children than can be served, programs must select those families with the lowest income. When programs adhere to this single criterion, it limits their ability to respond to a variety of special circumstances in their communities, such as the needs of families involved in substance abuse or of single parents who are working.

In addition, the current regulation may cause programs to enroll younger children and serve them for two years, not because they believe they need an additional year of service, but simply because their family income is slightly lower than another child's.

We are proposing to expand the criteria for selecting among income-eligible children by allowing each program to define other criteria, in addition to lowest income. Such criteria might include the age of children or the specific needs that a family may have. We believe this will result in programs establishing criteria for selection that are more closely based on the needs in their community and the capacity of their program. However, as programs determine their own selection criteria based on local needs and circumstances, we want to urge programs to consider serving the maximum number of children during the year before they enter public school. Programs are expected to serve the children with the greatest need for and who can benefit the most from Head Start. When a program's resources are limited, such choices should involve considering whether the needs of three year olds justify providing them with two years of service, at the expense of eligible four year olds who would thereby not be served at all.

In addition to these major elements, the NPRM also proposes that Head Start grantees:

- Make decisions about the design of their program based on a periodic community needs assessment that includes the collection and analysis of data about demographics, available resources and the needs of families and children.
- Implement a recruitment process that is designed to inform all income-eligible families within their recruitment area of the availability of services so families may have a fair opportunity to apply and be considered for enrollment when the number of children who can be served is limited.
- Obtain a number of applications at the beginning of the enrollment year that is at least twenty percent greater than the program's enrollment opportunities and maintain a waiting list so the program will be able to fill vacancies quickly.
- Maintain funded enrollment so resources can be used efficiently.
- Implement appropriate family support procedures for those children with patterns of unexcused absences so these children have a greater opportunity to obtain the benefits of regular attendance.

We encourage individuals, Head Start grantees, Head Start Associations, Members of Congress, educational and child advocacy groups, and others to comment on any aspects of this proposed rule. Among the questions we suggest for public comment are:

- Will these proposals assist Head Start programs in recruiting, selecting and enrolling children? If not, describe alternative methods and techniques to assure that children and families with the greatest need for and who can benefit the most from Head Start are recruited and served and that there are enough children to make selections, fill vacancies, and maintain waiting lists throughout the year.
- Are income, age and the individual needs of children and families the only appropriate criteria for selecting children to be served? What flexibility should be left to the grantee to determine who are the most in need of a Head Start experience?
- We know from discussion with grantees that some children are not admitted to kindergarten following Head Start because they do not pass some school systems' kindergarten-readiness testing or because transportation is not provided. How often does this occur and what happens to the child? What impact would this proposed rule have on these situations?
- Are the data that are proposed for the community needs assessment readily available to grantees? Is the community needs assessment a reasonable basis on which to base grantee priorities for service and selection criteria for children? Are there other data that would assist programs in making these decisions? If so, what are they?
- What appropriate actions could ACYF take with grantees that remain chronically underenrolled?
- What is an appropriate number of applications to obtain during the major recruitment effort in order to select those children and families that have the greatest need for and who can benefit the most from Head Start and to maintain a ranked waiting list of eligible children? What is an appropriate number for programs serving children of migrant workers?

III. Circumstances Leading to the Development of This NPRM

We have proposed amendments in the NPRM based on changing conditions within communities that have affected the Head Start program over the past several years. The most significant factors are the following:

- Some grantees are not maintaining funded enrollment levels throughout the program year. In some cases, grantees achieve full enrollment in the beginning of the year but are not able to fill vacancies that occur during the year. In other cases, grantees are not able to achieve full enrollment at any time during the program year.
- Some grantees are serving children for more than one year simply because they need to fill vacancies. In some instances, this occurs because the program's recruitment area is too small and there are only enough eligible children to fill a center.
- Many grantees are experiencing high turnover rates among program enrollees. The national average for children who drop out of the program after they have been enrolled is 20 percent of an agency's funded enrollment. There is a need to make sure that all grantees have a system in place for filling vacancies as they occur.
- Many grantees are finding that the number and location of eligible children in their service area have changed considerably over time. In some cases, there are many more children eligible to be served than in the past. Other grantees have experienced significant population shifts from one part of their service area to another. There is a need to make sure that enrollment opportunities are available where the need for Head Start services is greatest.
- The number of State and locally funded preschool programs for four year olds continues to increase. In some cases, this means a significant decrease in the number of children who are available to be served by Head Start. Grantees must take into account other preschool services to low-income children in their community when determining the need for Head Start services in specific areas.

This proposed rule reorganizes the content of part 1305 and sets forth additional actions to be taken by Head Start grantees and delegate agencies to

recruit, select and enroll those children and families who are most in need of or who will benefit the most from Head Start services. The sequence of the actions proposed in the NPRM are organized to reflect the sequence of the activities as they occur in Head Start agencies.

IV. Section by Section Discussion of the NPRM

Following is a section-by-section discussion of the proposed amendments to 45 CFR part 1305, including those sections that are new as well as those sections of the existing regulation that are being recodified:

Part 1305

We propose to change the title of this part to "Eligibility, Recruitment, Selection, Enrollment and Attendance in Head Start" to more accurately describe the content of this part.

Section 1305.1 Purpose and Scope

This section is proposed to be amended to include the additional areas included in part 1305, i.e., determining community needs, recruitment, selection, enrollment and attendance of children in a Head Start program.

Section 1305.2 Definitions

We propose to amend this section by incorporating definitions for the terms "enrollment," "funded enrollment," "Head Start eligible," "Head Start program," "recruitment," and "responsible HHS official" that were previously included in the Enrollment and Attendance Policies in Head Start, S-30-317-1-30, published on November 2, 1979, in the **Federal Register** (44 FR 63478).

Also, we propose to add new definitions for the terms "enrollment opportunities," "migrant family," "recruitment area," "selection," "service area," and "vacancy." These additions will provide clarity in carrying out the regulation.

Since the effect of the current definition of income is that all children in foster care are eligible for Head Start services, we are clarifying this by moving the reference to the eligibility of children in foster care from the definition of the term "income" to "low-income family."

Section 1305.3 Determining Community Needs

We propose to add a new section which requires that specific categories of information be analyzed as part of the community needs assessment. The requirement that grantees complete a community needs assessment is not new. It is contained in the "Instructions for Completion of the Program Narrative Statement for a Head Start Grant Application." In the past, the instructions have not included specific data requirements or explicit requirements for analyzing the data to determine key program decisions.

The purpose of the community needs assessment is to assist grantees in making decisions regarding the children and families to be served by the program and the kinds of services that will best meet the specific needs of the community served. We believe that the added specificity will assist grantees in making these decisions.

In paragraph (a), we propose to require that each grantee identify its service area in its Head Start grant application, defining it by county or sub-county area, such as a municipality, town or census tract. The service area must be approved by the responsible HHS official in order to assure that it is of a reasonable size to recruit, select and enroll children and families with the greatest need for and who could benefit from Head Start. It will also assure that one service area does not overlap with the service area of another Head Start grantee.

Paragraph (b) proposes to require that each grantee must conduct a community needs assessment within its service area once every three years to determine the area or areas in greatest need of Head Start services.

The community needs assessment must identify the demographic make-up of Head Start eligible children, including the total number and geographic location of these children, their distribution by age-groups, as well as their racial and ethnic composition, and the total number of children with disabilities in the service area and the relevant services and resources provided by other community agencies.

It also must identify the education, health, nutrition and social service needs of Head Start eligible children and their families; the education, health, nutrition and social service needs of children and their families as defined by families of Head Start eligible children and institutions in the community which serve young children; other child development or child care resources within the service area that are serving Head Start eligible children, including the number of Head Start eligible children served by these resources; and community resources that could be used to enhance the operation of the Head Start program.

We believe that these data are available to Head Start grantees in some form in every community, but solicit responses to verify this. Demographic data regarding the number of eligible children and families are available through sources such as census data, Aid to Families with Dependent Children (AFDC) data and data from the School Lunch Program. For example, census data are available from State Data Centers, local planning departments, local councils of government, and generally from local libraries. AFDC data are available from State and local welfare departments. School Lunch Program data are available from State or county education departments and from local school districts. These data are generally available from United Way or Community Chest agencies. To the extent that the majority of Head Start grantees are community action agencies and boards of education which collect this data for other purposes, we believe this requirement will not be difficult for grantees to implement.

Paragraph (c) proposes that the community needs assessment information be analyzed and used to help determine the grantee's philosophy and its long-range and short-range objectives; to determine the types of component services that are most needed and the Head Start program option or options that will be implemented; to determine the recruitment area to be served by the grantee, if it does not have the resources to serve the grantee's entire service area; to decide what areas delegate agencies will serve; to determine appropriate center- and home-based program locations; and, of primary importance, to set criteria that define the type of children and families who will be given priority for recruitment and selection.

Paragraph (d) proposes an annual update of the community needs assessment to assure that changes in the community are reflected in the Head Start program decisionmaking process. We do not expect this update to be a major effort.

In paragraph (e) we are proposing that grantees have an obligation to serve their entire service area, as agreed upon with HHS. The only reason a grantee would not serve all areas in its community would be because of limited resources. For example, there are currently situations where a grantee with a service area that includes an entire county operates its Head Start program in only one town within the county. The proposed rule would establish the principle that, as Head Start enrollment expands, services should, to the extent possible, be

initiated in unserved parts of the county. We believe this is preferable to concentrating more services in the town. We recognize that limitations in the number of children the program is funded to serve, in funds for transportation, or in the availability of suitable facilities could prevent a grantee from serving its entire service area. Also, geographic isolation may make it prohibitively expensive to reach every family in some communities and in some areas the availability of Head Start-like or other pre-school programs may preclude or limit the need for Head Start.

Paragraph (f) explains that when a grantee is unable to serve its entire service area, it must determine which recruitment area(s) has the greatest need for Head Start services. The grantee also must include as many Head Start eligible children as possible within the recruitment area so that the greatest number of Head Start eligible children can be recruited and have an opportunity to be considered for enrollment in the Head Start program.

Section 1305.4 Age of Children and Family Income Eligibility

We propose to incorporate current §§ 1305.3 (Age eligibility of children), 1305.4 (Family income eligibility), and 1305.7 (Income verification) into § 1305.4, "Age of children and family income eligibility," thus combining all of the eligibility and eligibility verification requirements into one section.

Paragraph (a) of the proposed § 1305.4 includes a change in the age eligibility requirement by proposing that, in order for a child to be eligible for Head Start services, the child must be at least three years of age by the date used in the community to determine eligibility for public school. Exceptions are permitted in special cases where the Head Start program's approved grant provides specific authority to serve younger children such as in migrant programs and in Parent and Child Centers. Since age eligibility for entrance into public school varies from area to area, we believe this is a more appropriate way for Head Start programs to determine age eligibility within each community. In addition, it allows programs to determine the potential length of time a child will be enrolled in the program.

Paragraph (b) reiterates the current requirement contained in § 1305.4 that at least 90 percent of the children who are enrolled in the program must be from low-income families. In addition, we are proposing that children from families that exceed the low-income guidelines, who can comprise up to ten percent of a program's funded enrollment, must be children that meet the selection criteria that the program has established for such children and must be able to potentially benefit from Head Start services.

Paragraph (c) reiterates the current requirement contained in § 1305.7(a) which states that a Head Start program must verify family income before determining that a child is eligible to participate in the program.

Paragraph (d) reiterates the current requirement contained in § 1305.7(b) that lists the documents that can be used to verify family income.

Paragraph (e) reiterates the current § 1305.7(c) which specifies that a signed statement by an employee of a Head Start program, identifying the document that was examined to verify income and stating that the child is eligible to participate in the program, must be maintained to indicate that verification has been made.

Section 1305.5 Recruitment of Children

This section proposes actions to be taken by Head Start grantees and delegate agencies when recruiting Head Start children.

Paragraph (a) incorporates the existing policy contained in the Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.1.a., 1.b. and 1.c. This policy requires that each Head Start program have a recruitment process to assure full enrollment in the Head Start program.

Paragraph (a) adds a new requirement that grantees and delegate agencies must have a recruitment process that is designed to actively inform all families with Head Start eligible children within the recruitment area of the availability of services and encourage them to apply for admission to the program. This is intended to provide information on the availability of Head Start services to as many eligible families as possible in order to reach those most in need of or who could benefit from Head Start services and to provide them with an opportunity to apply for admission to the program.

Paragraph (b) adds a new requirement that, during the recruitment process that occurs prior to the beginning of the enrollment year, a Head Start program must solicit applications from as many Head Start eligible families within the recruitment area as possible. If necessary, the program must assist families in filling out the application form in order to assure that all application requirements for the program are completed before the selection process begins. This will help assure that all families interested and eligible for Head Start services will be considered during the selection process.

Paragraph (c) proposes that for each program, except migrant programs, the number of applications obtained during the recruitment process that occurs prior to the beginning of the enrollment year must be at least twenty percent greater than the enrollment opportunities that are anticipated to be available over the course of the next enrollment year. The number of applications obtained is to be a combination of the number of vacancies available at the beginning of the enrollment year plus the number of drop-outs anticipated during the enrollment year.

The twenty percent figure is derived from data from the Program Information Report (PIR) that shows an average annual drop-out rate of twenty percent across all Head Start programs. This new requirement is intended to assure that each program will have a sufficient number of applicants from which to make choices in selecting those children and families that are most in need of and who could benefit most from Head Start services and that there are sufficient applicants to fill vacancies as they occur during the course of the enrollment year.

We believe that programs with a recruitment area or areas of adequate size will easily be able to meet this requirement. We solicit comments and suggestions on this matter.

Migrant programs are not required to consider prior year drop-out rates, since they are designed for children who spend varying amounts of time in the Head Start program depending on the length of each growing season. In a migrant program, it is typical that all children drop out of the program when the family moves to another growing area. However, a new requirement to address the drop-out pattern of migrant programs is proposed in paragraph (d). We are proposing that, prior to beginning Head Start services in a new community, migrant programs must obtain a number of applications that is at least twenty percent greater than the enrollment opportunities that are available while they are providing services in that community. We want to assure that migrant grantees also have enough children and families to assure full enrollment while they are serving each community. We solicit responses from migrant grantees, in particular, regarding the feasibility of this proposal.

Paragraph (e) proposes an exception to the requirements contained in paragraphs (c) and (d). When a program does not obtain sufficient applications from Head Start eligible families to meet

paragraph (c) or (d), the responsible HHS official will allow an exception if he or she determines on the basis of supporting evidence that the program made a reasonable effort to comply.

Section 1305.6 Selection Process

This section proposes requirements for establishing and implementing a process for selecting children and families to be enrolled in the program. Using selection criteria that are based on the information obtained from the community needs assessment, each program must go through a process that selects those children and families that are most in need of and who could benefit most from Head Start services. This is intended to assure that each program makes choices from among all of the children and families applying for admission to the program in order to identify the children and families that are most in need of Head Start services, as defined by each program for the community they are serving.

Paragraph (a) incorporates the requirement found in the Enrollment and Attendance Policies, S–30–317–1–40, A.1.e. regarding the selection of children and families. It requires that each grantee and delegate agency must establish a written process for selecting children and families that is based on the program's specific selection criteria.

Paragraph (b) would require that in selecting children and families to be served, the Head Start program shall consider income, age, and individual child and family needs. Child and family needs are those determined through the community needs assessment and could include those related to single parent families, children with teen-age parents, families with substance abuse problems, families with a history of child abuse or neglect problems, families with significant social or health problems, families participating in the JOBS program, or children with disabilities. This would change the current requirement in § 1305.4 that children from the lowest income families shall be given preference.

Paragraph (c) would add a new requirement that each grantee and delegate agency must make available at least 10 percent of the enrollment opportunities in its program to Head Start eligible children with disabilities who meet the definition of children with disabilities in § 1305.2(a). The Head Start Act requires that 10 percent of enrollment opportunities at the State level be made available to children with disabilities. Paragraph (c) proposes to require each Head Start program to meet the 10 percent figure in order to assure that all programs are serving children with disabilities in all areas in the state. An exception to this requirement will be allowed only if the responsible HHS official determines, based on such supporting evidence as he or she may require, that the program made a reasonable effort to comply with this requirement but was unable to do so because there was an insufficient number of income eligible children with disabilities in the recruitment area who wished to attend the program and for whom the program had the capacity to provide Head Start services, directly or in conjunction with other providers.

Paragraph (d) would add a new requirement that a program must not enroll any child who is eligible for kindergarten or first grade and for whom kindergarten or first grade is available in the child's community unless the program has first enrolled all interested and Head Start eligible children living in the program's service area for whom kindergarten or first grade is not available. This requirement is intended to assure that the Head Start program does not duplicate services offered by the local school system.

We solicit responses from Head Start programs regarding the impact of this section on services to children in their community. For example, some programs have indicated that some children who have been in Head Start do not go on to kindergarten for various reasons that include failure to pass kindergarten testing and lack of transportation for kindergarten services. We are interested in obtaining responses from grantees and others regarding Head Start's role in these instances.

Paragraph (e) incorporates an existing policy contained in the Enrollment and Attendance Policies in Head Start, S–30–317–1–40, A.2.c.1., regarding the maintenance of waiting lists of Head Start eligible children and families. It requires that, at the beginning of each enrollment year and throughout each year, a Head Start program must develop and maintain a waiting list that ranks children and families according to the program's selection criteria to help assure that eligible children and families are immediately available for enrollment in the program when vacancies occur. This requirement is intended to assure that vacancies can be filled as soon as they occur and that full enrollment will be maintained at all times during the enrollment year.

Section 1305.7 Enrollment and Re-enrollment

This section proposes requirements for the on-going enrollment of children in a Head Start program.

Proposed paragraph (a) is intended to assure continuity for the Head Start child between Head Start and kindergarten or first grade. It requires that all children who are enrolled in a Head Start program, except children enrolled in a migrant program or a Parent and Child Center, must be allowed to remain in the program until kindergarten or first grade is available in the child's community.

Paragraph (b) would require that each Head Start grantee must maintain an enrollment level that is not less than the enrollment level indicated on its grant award. Paragraph (b) also includes two exceptions to this requirement: (1) When a program determines that a vacancy exists, up to 30 calendar days may elapse before the vacancy is filled; and (2) a center-based program may elect not to fill a vacancy when it would result in a child being enrolled less than 60 calendar days from the end of the program's enrollment year.

The first exception is currently contained in the Enrollment and Attendance Policies in Head Start, S–30–317–40, A.2.b. The second exception would be a new provision intended to minimize the disruption that can occur when a younger child is introduced into an established classroom of children who are preparing to leave Head Start for kindergarten or first grade.

Paragraph (c) reiterates the existing requirement contained in § 1305.6(b) which states that a child participating in the Head Start program remains income eligible through the initial enrollment year and the immediately succeeding enrollment year.

Section 1305.8 Attendance

This section incorporates requirements for attendance in a Head Start program that are currently found in the Enrollment and Attendance Policies in Head Start, S–30–317–1–40, A.3.

Paragraph (a) includes the current requirement that a Head Start program must analyze the causes of absenteeism when the monthly average daily attendance rate in a center-based program falls below 85 percent.

Paragraph (b) would change the current requirement that a program must take specific action with a family when a child has been absent without a documented excuse for three consecutive days. We are proposing that programs must take action when a child has been absent without a documented excuse for four consecutive days. This makes the number of days of unexcused absences that can occur before follow-up action is required consistent with the

Head Start Performance Standards, 45 CFR 1304.4–2(a)(8).

The reference to irregular participation found in § 1304.4–2(a)(8) has not been incorporated in paragraph (b) since we believe that monitoring absenteeism will automatically encompass the problem of irregular participation.

Paragraph (c) includes the current requirement in the Enrollment and Attendance Policies, S–30–317–1–40, A.3., that, in circumstances where chronic absenteeism persists, and it is not feasible to include the child in another program option, the child's slot should be considered an enrollment vacancy.

Section 1305.9 Policy on Fees

This section contains the current language of section 1305.8 except that it proposes to add a requirement that payments obtained voluntarily from the family of a child participating in the program are to be recorded as program income.

Section 1305.10 Compliance

This section expands the existing policy found in the Enrollment and Attendance Policies in Head Start, S–30–317–1–20, 2., regarding adverse action for a grantee's continued failure to maintain funded enrollment. It proposes that a grantee's failure to comply with any requirement of this part may result in a denial of refunding or termination in accordance with 45 CFR part 1303, "Procedures for Appeals for Head Start Delegate Agencies, and for Opportunities to Show Cause and Hearings for Head Start Grantees". Adverse action against a grantee for any requirement of this part would not occur before the grantee was made aware of non-compliance issues and provided an opportunity and appropriate technical assistance to remedy the problem area or areas.

A redesignation table showing the proposed incorporation of the current sections in part 1305 and the new requirements is as follows:

REDESIGNATION TABLE

Section of the proposed rule	Superseded rule or policy or identification of new requirement
1305.1	1305.1.
1305.2	1305.2 and Enrollment and Attendance Policies in Head Start, S-30-317-1-30. New requirement.
1305.3	New requirement.
1305.4(a)	1305.3. New requirement.
1305.4(b)	1305.4.
1305.4(c)	1305.7(a).
1305.4(d)	1305.7(b).
1305.4(e)	1305.7(c).
1305.5(a)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.1.a., 1.b., and 1.c. New requirement.
1305.5(b)	New requirement.
1305.5(c)	New requirement.
1305.5(d)	New requirement.
1305.5(e)	New requirement.
1305.6(a)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.1.e.
1305.6(b)	1305.4 [Amended].
1305.6(c)	1305.5 [Amended].
1305.6(d)	New requirement.
1305.6(e)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.2.c.1.
1305.7(a)	New requirement.
1305.7(b)	Enrollment and Attendance Policies in Head Start, S 30-317-40, A.2.b. New Requirement.
1305.7(c)	1305.6(b).
1305.8(a)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.3.
1305.8(b)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.3. [Amended].
1305.8(c)	Enrollment and Attendance Policies in Head Start, S-30-317-1-40, A.3.
1305.9	1305.8 [Amended].
1305.10	Enrollment and Attendance Policies in Head Start, S-30-317-1-20, 1. and 2. New Requirement.

IV. Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. Nothing in this proposed rule is likely to create substantial costs. The Secretary concludes that this regulation is not a major rule within the meaning of the Executive Order because it does not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6), we try to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" we prepare an analysis describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations, and small governmental entities. While this regulation would affect small entities, it is not substantial. In many instances small entities already meet most of the requirements, since many are restatements of current policy and since they are considered best practice. For these reasons, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980 (the Act), Public Law 96–511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements in a proposed or final rule. In accordance with section 3504(h) of the Act, the Department has submitted sections 1305.3 through 1305.9 of this NPRM to OMB for its review and approval.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose, whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 3028, Washington, DC 20053, Attn: *Desk Officer for HDS.*

List of Subjects in 45 CFR Part 1305

Head Start enrollment, Education of disadvantaged, Grant programs/Social programs, Disabilities, Preschool education.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: June 1, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Approved: June 1, 1990.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the preamble, title 45, chapter XIII, subchapter B, part 1305 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1305 is revised to read as follows:

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

Sec.

Sec.

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

§ 1305.1 Purpose and scope.

This part prescribes requirements for determining community needs and recruitment areas. It contains requirements and procedures for the eligibility, recruitment, selection, enrollment and attendance of children in Head Start programs and explains the policy concerning the charging of fees by Head Start programs.

§ 1305.2 Definitions.

(a) *Children with disabilities* means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who, by reason thereof, require special education and related services.

(b) *Enrollment* means the official acceptance of a family by a Head Start program and the completion of all procedures necessary for a child and family to begin receiving services.

(c) *Enrollment opportunities* mean vacancies that exist at the beginning of the enrollment year, or during the year because of children who leave the program, that must be filled for a program to achieve and maintain its funded enrollment.

(d) *Enrollment year* means the period of time, not to exceed twelve months, during which a Head Start program provides center- or home-based services to a group of children and their families.

(e) *Family* means all persons living in the same household who are: (1) Supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in the program, and (2) related to the parent(s) or guardian(s) by blood, marriage, or adoption.

(f) *Funded enrollment* means the number of children which the Head Start grantee is to serve, as indicated on the grant award.

(g) *Head Start eligible* means a child that meets the requirements for age and family income as established in this regulation or, if applicable, as established by grantees that meet the requirements of section 645(a)(2) of the Head Start Act.

(h) *Head Start program* means a Head Start grantee or its delegate agency(ies).

(i) *Income* means gross cash income and includes earned income, military income (including pay and allowances), veterans benefits, social security benefits, unemployment compensation, and public assistance benefits.

(j) *Income guidelines* means the official poverty line specified in section 652 of the Head Start Act.

(k) *Low-income family* means a family whose total annual income before taxes is equal to, or less than, the income guidelines. A child from a family that is receiving public assistance or a child in foster care is eligible even if the family income exceeds the income guidelines.

(l) *Migrant family* means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who change their residence by moving from one geographic location to another, either intrastate or interstate, for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity.

(m) *Recruitment* means the systematic ways in which a Head Start program identifies families whose children are eligible for Head Start services, informs them of the services available, and encourages them to apply for enrollment in the program.

(n) *Recruitment area* means that geographic area within which a Head Start program recruits Head Start children and families. The recruitment area can be the same as the service area or it can be a smaller area or areas within the service area.

(o) *Responsible HHS official* means the official of the U.S. Department of Health and Human Services having authority to make Head Start grant awards, or his or her designee.

(p) *Selection* means the systematic process used to review all applications for Head Start services and to identify those children and families that are to be enrolled in the program.

(q) *Service area* means the geographic area identified in an approved grant application within which a grantee may provide Head Start services.

(r) *Vacancy* means an unfilled enrollment opportunity for a child and family in the Head Start program.

§ 1305.3 Determining community needs.

(a) Each grantee must identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation. A grantee's service area must be approved by the responsible HHS official in order to assure that the service area is of reasonable size and does not overlap with that of other Head Start grantees.

(b) Each Head Start grantee must conduct a community needs assessment within its service area once every three years. The community needs assessment must include the collection and analysis of the following information about the grantee's Head Start service area:

(1) The demographic make-up of the Head Start eligible children and families, including the number, geographic location and racial and ethnic composition;

(2) The number of children with disabilities, including types of disabilities and the relevant services and resources provided to these children by other community agencies;

(3) Data regarding the education, health, nutrition and social service needs of Head Start eligible children and their families;

(4) The education, health, nutrition and social service needs of children and their families as defined by families of Head Start eligible children and by institutions in the community which serve young children;

(5) Other child development and child care resources that are serving Head Start eligible children, including publicly funded State and local preschool programs, and the approximate number of Head Start eligible children served by each; and

(6) Resources in the service area that could be used to enhance the operation of the Head Start program.

(c) The Head Start grantee must use information from the community needs assessment to:

(1) Help determine the grantee's philosophy, and its long-range and short-range program objectives;

(2) Determine the type of component services that are most needed and the program option or options that will be implemented;

(3) Determine the recruitment area that will be served by the grantee, if limitations in the amount of resources make it impossible to serve the entire service area.

(4) If there are delegate agencies, determine the recruitment area that will be served by the grantee and the recruitment area that will be served by each delegate agency.

(5) Determine appropriate locations for centers and home-based areas; and

(6) Set criteria that define the type of children and families who will be given priority for recruitment and selection.

(d) In each of the two years following completion of the community needs

assessment, the grantee must conduct a review to determine whether there have been significant changes in the information described in paragraph (b) of this section. If so, the community needs assessment must be updated and the decisions described in paragraph (c) of this section must be reconsidered.

(e) The recruitment area must include the entire service area, unless the resources available to the Head Start grantee are inadequate to serve the entire service area.

(f) In determining the recruitment area when it does not include the entire service area, the grantee must:

(1) Select an area or areas that are among those having the greatest need for Head Start services as determined by the community needs assessment; and

(2) Include as many Head Start eligible children as possible within the recruitment area, so that: (i) The greatest number of Head Start eligible children can be recruited and have an opportunity to be considered for selection and enrollment in the Head Start program, and (ii), the Head Start program can enroll the children and families with the greatest need for its services.

§ 1305.4 Age of Children and Family Income Eligibility.

(a) To be eligible for Head Start services, a child must be at least three years old by the date used to determine eligibility for public school in the community in which the Head Start program is located, except in cases where the Head Start program's approved grant provides specific authority to serve younger children.

(b) At least 90 percent of the children who are enrolled in each Head Start program must be from low-income families. Up to ten percent of the children who are enrolled may be children from families that exceed the low-income guidelines but who meet criteria the program has established for selecting such children and would benefit from Head Start services.

(c) The family income must be verified by a Head Start program before determining that a child is eligible to participate in the program.

(d) Verification must include examination of any of the following: Individual Income Tax Form 1040, W–2 forms, pay stubs, pay envelopes, written statements from employers, or documentation showing current status as recipients of public assistance.

(e) A signed statement by an employee of the Head Start program, identifying which of these documents was examined and stating that the child is eligible to participate in the program, must be maintained to indicate that income verification has been made.

§ 1305.5 Recruitment of children.

(a) In order to reach those most in need of Head Start services, each Head Start grantee and delegate agency must develop and implement a recruitment process that is designed to actively inform all families with Head Start eligible children within the recruitment area of the availability of services and encourage them to apply for admission to the program. This process must include, at a minimum, canvassing the local community, use of news releases and advertising, and use of family referrals and referrals from other public and private agencies.

(b) During the recruitment process that occurs prior to the beginning of the enrollment year, a Head Start program must solicit applications from as many Head Start eligible families within the recruitment area as possible. If necessary, the program must assist families in filling out the application form in order to assure that all information needed for selection is completed.

(c) Each program, except migrant programs, must obtain a number of applications during the recruitment process that occurs prior to the beginning of the enrollment year that is at least twenty percent greater than the enrollment opportunities that are anticipated to be available over the course of the next enrollment year.

(d) Prior to beginning an enrollment year in a new community, Head Start programs that serve only children from migrant families must obtain a number of applications that is at least twenty percent greater than the enrollment opportunities that are available while they are providing services in the community.

(e) A Head Start program that does not obtain sufficient applications from Head Start eligible families to meet the requirements contained in paragraph (c) or (d) will be allowed an exception to these requirements if the responsible HHS official determines, on the basis of any supporting evidence he or she may require, that the program made a reasonable effort to comply with the requirements in paragraph (c) or (d).

§ 1305.6 Selection process.

(a) Each Head Start program must have a formal process for establishing selection criteria and for selecting children and families that considers all eligible applicants for Head Start services. The selection criteria must be based on those contained in paragraphs (b) and (c) of this section.

(b) In selecting the children and families to be served, the Head Start program must consider the income of eligible families, the age of the child, and the extent to which a child or family meets the criteria that each program is required to establish in § 1305.3(c)(5).

(c) At least 10 percent of the total number of enrollment opportunities in each grantee and delegate agency during an enrollment year must be made available to children with disabilities who meet the definition for children with disabilities in § 1305.2(a). An exception to this requirement will be granted if the responsible HHS official determines, based on such supporting evidence as he or she may require, that the grantee made a reasonable effort to comply with this requirement but was unable to do so because there was an insufficient number of income eligible children with disabilities in the recruitment area who wished to attend the program and for whom the program had the capacity to provide Head Start services, directly or in conjunction with other providers.

(d) A Head Start program may not enroll a child who is eligible for kindergarten or first grade and for whom kindergarten or first grade is available in the child's community, unless the Head Start program has first enrolled all Head Start eligible children living in the program's recruitment area whose families wish to enroll them in Head Start and for whom kindergarten or first grade is not available.

(e) Each Head Start program must develop at the beginning of each enrollment year and maintain during the year a waiting list that ranks children according to the program's selection criteria to assure that eligible children enter the program as vacancies occur.

§ 1305.7 Enrollment and re-enrollment.

(a) Each child enrolled in a Head Start program, except those enrolled in a migrant program or a Parent and Child Center, must be allowed to remain in the program until kindergarten or first grade is available in the child's community.

(b) A Head Start grantee must maintain its funded enrollment level, except: (1) When a program determines that a vacancy exists, no more than 30 calendar days may elapse before the vacancy is filled; and (2) a program may elect not to fill a vacancy when 60 calendar days or less remain in the program's enrollment year.

(c) If a child has been found income eligible and is participating in a Head Start program, he or she remains income

eligible through that enrollment year and the immediately succeeding enrollment year.

§ 1305.8 Attendance.

(a) When the monthly average daily attendance rate in a center-based program falls below 85 percent, a Head Start program must analyze the causes of absenteeism. The analysis must include a study of the pattern of absences for each child, including the reasons for absences as well as the number of absences that occur on consecutive days.

(b) If the absences are a result of illness or if they are well documented absences for other reasons, no special action is required. If, however, the absences result from other factors, including temporary family problems that affect a child's regular attendance, the program must initiate appropriate family support procedures for all children with four or more consecutive unexcused absences. These procedures must include home visits or other direct contact with the child's parents. Contacts with the family must emphasize the benefits of regular attendance, while at the same time remaining sensitive to any special family circumstances influencing attendance patterns. All contacts with the child's family as well as special family support service activities provided by program staff must be documented.

(c) In circumstances where chronic absenteeism persists and it does not seem feasible to include the child in either the same or a different program option, the child's slot must be considered an enrollment vacancy.

§ 1305.9 Policy on fees.

A Head Start program must not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in the program. If the family of a child determined to be eligible for participation by a Head Start program volunteers to pay part or all of the costs of the child's participation, the Head Start program may accept the voluntary payments and record the payments as program income. Under no circumstances shall a Head Start program solicit, encourage, or in any other way condition a child's enrollment or participation in the program upon the payment of a fee.

§ 1305.10 Compliance.

A grantee's failure to comply with the requirements of this part may result in a denial of refunding or termination in accordance with 45 CFR part 1303.

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federal register

Monday
July 23, 1990

Part V

Department of Agriculture

Cooperative State Research Service

Competitive Grants Program for Infusing Aquaculture Education into the Vocational Agriculture Curriculum for Fiscal Year 1990; Solicitation of Proposals; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Grants Program for Infusing Aquaculture Education Into the Vocational Agriculture Curriculum for Fiscal Year 1990; Solicitation of Proposals

Notice is hereby given that pursuant to the authority contained in section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3318), the Cooperative State Research Service (CSRS), United States Department of Agriculture (USDA) anticipates awarding a project grant for Infusing Aquaculture Education into the Vocational Agriculture Curriculum. This program will be administered by the Higher Education Programs (HEP) office of CSRS. The total amount expected to be available for this award during fiscal year 1990 is approximately $239,590.

Applicable Regulations

The following regulations apply to this program: (A) 7 CFR Part 1.1—USDA implementation of Freedom of Information Act; (B) 7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended; (C) 7 CFR Part 3015—USDA Uniform Federal Assistance Regulations; and (D) 7 CFR Part 3017—Governmentwide Debarment and Suspension (Nonprocurement); Governmentwide Requirements for Drug-Free Workplace (Grants). The above list of applicable regulations is not exclusive.

Part I. Program Description

A project grant will be awarded to an eligible recipient to support activities related to infusing aquaculture education into the vocational agricultural curriculum to include secondary and postsecondary programs. The total amount accepted to be available for this program during fiscal year 1990 is approximately $239,590. Multi-year project applications up to three years will be accepted; however, only one grant will be awarded under this program in this fiscal year.

Proposals will be considered for activities relating to the: identification of existing aquaculture education materials; design and development of new materials; infusion of aquaculture education materials into the vocational agriculture curriculum.

If necessary, further information concerning this program may be obtained from K. Jane Coulter at (202) 447–7854.

Part II. Proposal Submission Guidelines

A. Eligibility

1. Except where otherwise prohibited by law, a grant award under this program may be made to State agricultural experiment stations, State cooperative extension services, all colleges and universities, other research or education institutions and organizations, Federal and private agencies and organizations, individuals, and any other contractor or recipient, either foreign or domestic, provided the applicant qualifies as a responsible grantee under the criteria set forth in paragraph 2 of this section.

2. To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

a. Have adequate financial resources for performance; the necessary experience; organizational and technical qualifications; and facilities, or a firm commitment, arrangement, or ability to obtain such (including proposed subagreements);

b. Be able to comply with the proposed or required completion schedule for the project;

c. Have a satisfactory record of integrity, judgment, and performance, including in particular any prior performance under grants and contracts from the Federal Government;

d. Have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and assets; and

e. Be otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

3. Any applicant who is determined by the Department to be not responsible will be notified in writing of such findings and the basis therefor. Such applicant will have an opportunity before a final decision is made to present in writing evidence of responsibility.

B. How To Obtain Application Materials

Potential applicants may request a copy of this solicitation, the Grant Application Kit, and, if necessary, the USDA Uniform Federal Assistance Regulations, from: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; Room 303, Aerospace Building; 14th and Independence Avenue SW., Washington, DC 20250–2200; Telephone: (202) 475–5049.

C. What to Submit

An original and six copies of each proposal submitted under this program are requested. This number of copies is necessary to facilitate the review of proposals by a multi-member peer review panel before funding decisions are made. All copies of each proposal must be mailed in one package because applications submitted in several packages are difficult to identify. Please see that each copy of each proposal is stapled securely in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

D. When and Where To Submit Grant Applications

To be considered for funding, all proposals must be received by the close of business (4:30 p.m. Eastern Daylight Savings Time) on August 10, 1990. Proposals should be mailed to: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303, Aerospace Building; 14th & Independence Avenue, SW., Washington, DC 20250–2200.

Please Note: Hand-delivered proposals should be brought to room 303, Aerospace Building, 901 D Street, SW., Washington, DC 20024.

E. Content of Proposal

1. Grant Application Form.

(a) Form CSRS–661, "Grant Application," must be completed in its entirety. This form is included in the Grant Application Kit.

(b) One copy of Form CSRS–661 must contain the pen-and-ink signatures of the Project Director(s) and Authorized Organizational Representative.

(c) The title of the project shown on the Grant Application form must be brief (80-character maximum) yet represent the major thrust of the project. This information will be used by the Department to provide information to the Congress and other interested parties.

(d) In block 7 of Form CSRS–661, enter "Infusing Aquaculture Curriculum."

2. Project Summary. The summary of proposed work should be a concise description of the proposed activity suitable for publication by the Department to inform the general public about awards under the program. The summary should be a self-contained description of the activity which would result if the proposal is funded by USDA. It should include:

a. Overall project goal(s) with supporting objectives;

b. Relevance or significance of the proposed project to program objectives as set forth in Part I of this solicitation; and

c. Procedures to be used in accomplishing project goal(s).

3. Project Description. The project description (20-page maximum) must contain the following components:

a. Introduction. Long-term goal(s) and supporting objectives of the proposed project should be stated and described in detail.

b. Procedures. The procedures to be applied to the proposed project should be explicitly stated. This section should include but not necessarily be limited to:

(1) A description of the proposed activities in the sequence in which it is planned to carry them out;

(2) Techniques to be employed;

(3) Kinds of results expected;

(4) Limitations to proposed procedures, including a brief discussion of pitfalls which might be encountered;

(5) Tentative schedule for carrying out all major phases of the project activities.

c. Facilities and Equipment. All facilities which are available for use or assignment to the project during the requested period of support should be described. All items of major instrumentation currently available for use or assignment to the proposed project during the requested period of support should be listed. In addition, items of equipment needed to conduct and bring the proposed project to a successful conclusion should be listed.

d. Collaborative Arrangements. If the proposed project involves collaboration with other organizations, agencies, or entities, such collaboration must be fully explained and justified. Evidence should be provided to assure peer reviewers that the collaborators involved agree with the proposed arrangements. It should be specifically indicated whether or not such collaborative arrangements have the potential for any conflict(s) of interest. Proposals which indicate collaborative involvement must state which proposer is to receive any resulting grant award, since only one submitting entity can be the recipient of a project grant under one proposal.

4. Curriculum Vitae of Key Project Personnel. Summary vitae (not to exceed three pages for each vita) of the proposing project director(s) and other key personnel associated with the project should be provided to assist peer reviewers in evaluating the competence and experience of the project staff. This section of the proposal should include vitae for all key persons who expect to work on the proposed project, whether or not Federal funds are sought for their support. A chronological list of the most representative publications during the past five years should be provided for each professional project member for whom a curriculum vita appears under this section. Authors should be listed in the same order as their names appear on each paper cited, along with the title and complete reference as these usually appear in journals.

5. Proposal Budget (Form CSRS–55). Each proposal must contain a detailed budget for each year of requested support as well as a summary budget detailing requested support for the overall period of the proposed project (if the application is being submitted for longer than one year). This form (along with instructions for its completion) is included in the Grant Application Kit and may be reproduced as needed by proposers. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested is allowable under applicable Federal cost principles and can be identified as necessary for successful conduct of the proposed project. All grants awarded under this program shall be issued without regard to matching funds or cost sharing by recipients of such grants.

6. Current and Pending Support (Form CSRS–663). This form is included in the Grant Application Kit and may be reproduced as needed by applicants. All proposals must contain a copy of Form CSRS–663 listing any other current public or private support, in addition to the proposed project, to which key personnel listed in the proposal under consideration have committed portions of their time, whether or not salary support for the person(s) involved is included in the budgets of the various projects. This section also must contain analogous information for all pending related proposals which are currently being considered by, or which will be submitted in the near future to, other possible sponsors, including other Departmental programs or agencies. Concurrent submission of identical or similar projects to other possible sponsors will not prejudice the review or evaluation by USDA staff or by peer panel members.

7. Appendix. Each project description is expected by USDA staff and by members of the peer review panel to be complete in itself and to meet the 20-page limitation. However, in those instances in which the inclusion of supplemental information is essential for comprehensive peer evaluation, such information may be included in an Appendix. Examples of supplemental material include photographs which do not reproduce well, journal reprints, brochures, and other pertinent materials which are deemed to be unsuitable for inclusion in the project description. One set of such material must be attached to each copy of the grant application submitted. The Appendix must be identified with the name(s) of the proposing project director(s) and the title of the project as it appears on the Grant Application (Form CSRS–661) and must be referenced in the project description. Inclusion of material in an Appendix should not be used to evade the 20-page limitation of the project description.

8. Debarment/Suspension and Drug-Free Workplace Certifications. One copy of Forms AD–1047 (Debarment/Suspension Certification) and AD–1049 (Drug-Free Workplace Certification) must be attached to the copy of the proposal containing the pen-and-ink signatures of the submitting officials on Form CSRS–661 "Grant Application." These forms are included in the Grant Application Kit.

Paart III. Review, Peer Evaluation, and Disposition of Proposals

A. Review of Proposals for Responsiveness

All grant applications will be acknowledged in writing. Prior to technical examination, a preliminary review of all proposals will be made for responsiveness to this solicitation (e.g., whether or not they lie within the scope of the program). Proposals which are determined to be nonresponsive will be eliminated from competition and will be returned to the proposing individual, organization, or institution without peer evaluation.

B. Evaluation of Proposals

All responsive proposals received from eligible applicants will be evaluated by experts who are determined to be uniquely qualified to render advice in the disciplinary area represented by the applications received. These evaluations will be performed using the criteria listed in section D of this part. The overriding purpose of such evaluations is to provide expert recommendations upon which informed decisions can be made in selecting proposals for ultimate support. Therefore, incomplete, unclear, or poorly organized applications may work to the detriment of proposers during the peer review process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

C. Peer Review Panel

1. *Composition of Peer Review Panel.* Peer review group members will be selected based upon their training and experience in relevant fields and will be chosen from among Federal organizations, outside organizations, or a combination thereof, taking into account the following factors:

A. The level of formal scientific or technical education by the individual;

b. The extent to which the individual has engaged in relevant education teaching activities;

c. The extent to which the individual has engaged in relevant research, the capacities in which the individual has done so (e.g., principal investigator, assistant), and the quality of such research;

d. Professional recognition as reflected by awards and other honors received from scientific and professional organizations outside of the Department;

e. The need of the group to include within its membership experts from various areas of specialization within relevant scientific or technical fields;

f. The need of the group to include within its membership, where feasible, experts from a variety of organizational types, e.g., universities, industry, private consultant(s), and geographical locations; and

g. The need of the group to maintain a balanced membership, e.g., minority and female representation and an equitable age distribution.

2. *Conflicts of Interest.* Members of the peer review group will be subject to relevant provisions contained in Title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (7 CFR Part 0), and Executive Order 11222, as amended.

3. *Availability of information.* Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and implementing Departmental regulations (7 CFR Part 1).

D. Evaluation Criteria and Funding Recommendations

1. All responsive proposals will be evaluated using the following weighted criteria:

a. Intrinsic merit. The likelihood that the project will have a substantial impact on and advance the quality of aquaculture education in the vocational agriculture curriculum by meeting a clearly delineated need. For example, are the expected products and outcomes of the project clearly defined and of high quality? (Weight of 25)

b. Overall approach. Do the objectives and plan of operation appear to be sound and appropriate relative to the targeted need area and the impact anticipated? Is the overall plan integrated with or does it expand upon other major efforts to improve the quality of vocational agriculture education? Does the timetable appear to be readily achievable? Are the project evaluation plans adequate and reasonable? Are there plans for continuation of the project beyond USDA support? Does the proposed project include realistic mechanisms which will lead to widespread dissemination of project results? Will the project encourage and facilitate better working relationships between the vocational agriculture education community, the higher education community, and the private sector. (Weight of 25)

c. Originality. Does the project involve a creative or novel approach toward infusing aquaculture education into the vocational agriculture education system? Does the project reflect innovative thinking? Will project results and/or products be of an unusual nature? (Weight of 15)

d. Personnel. Are designated project personnel qualified to carry out a successful project? Are the personnel associated with the project sufficient to achieve the stated objectives and the anticipated outcomes? (Weight of 15)

e. Commitment. The degree to which the applicant can demonstrate a longstanding commitment to improving the quality of the vocational agriculuture curriculum. (Weight of 10)

f. Resources. Will the project have reasonable access to needed resources such as instructional instrumentation, facilities, computer services, library and other instruction support resources? (Weight of 10)

2. Applications will be ranked and support levels recommended by the peer review group within the limitation of total available funding. Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding upon USDA program officers or on the awarding official.

E. Disposition of Unfunded Proposals

One copy of each application which is not selected for funding will be retained in CSRS for a period of one year. All other copies will be destroyed.

Part IV. Grant Awards

A. General

1. Under this solicitation, one standard project grant will be awarded to an eligible applicant whose proposal has been judged most meritorious under the evaluation criteria and procedures set forth above.

2. All funds awarded under this program must be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the USDA Uniform Federal Assistance Regulations (7 CFR part 3015), and any special terms and conditions set forth in the award document.

B. Organizational Management Information

Prior to the award of grant funds under this solicitation, CSRS may require the submission of certain certifications and/or organizational information to assist USDA staff members in determining the financial and managerial capabilities of an applicant. If so, necessary forms and other materials will be sent to the individual, organization, or institution involved, along with instructions for completing and submitting the requested information.

C. Grant Award Document

A grant award document will include at a minimum the following:

1. Legal name and address of individual, organization, or institution to whom the grant is being awarded;

2. Title of project;

3. Name(s) and address(es) of principal investigator(s) chosen to direct and control approved project activities;

4. Identifying proposal and grant numbers assigned by the Department;

5. Project period, i.e., the length of time the Department intends to support the project;

6. Total amount of funds that have been approved to support the project;

7. Legal authority under which the grant is being awarded;

8. Approved budget plan which categorizes allocable project funds to accomplish project goals; and

9. Other information, terms and/or conditions deemed necessary to carry out project activities.

Part V. Post Award Administration of Grants

A. Delegation or Transfer of Responsibility

A grantee may not delegate or transfer to another person, organization, or institution the responsibility for use

or expenditure of grant funds without prior Departmental approval.

B. Changes in Approved Project Plans

1. Permissible changes by the grantee, project director(s), or other key project personnel under the approved grant are limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the project director(s) are uncertain as to whether a proposed change complies with this provision, the question should be referred to the Department for a final determination.

2. Changes in approved goals or objectives must be requested by the grantee and approved in writing by the Department prior to effecting such changes.

3. Changes in approved project leadership or the replacement or reassignment of other key project personnel must be requested by the grantee and approved in writing by the Department prior to effecting such changes.

4. Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for the payment of funds, whether or not Federal funds are involved, must be requested by the grantee and approved in writing prior to effecting such transfers.

C. Changes in Project Period

The period of the project may be extended by the Department without additional financial support for such additional period(s) as the Department determines may be necessary to complete an approved project. Such extension(s), when combined with the previously approved project period, may not exceed five (5) years. The granting of any no-cost extension is conditioned upon prior request from the grantee and written approval by the Department.

D. Changes in Approved Budget

1. Under no circumstances will a change in an approved budget be made which could result in a need or claim for the award of additional funds.

2. Except for D.1. above, necessary changes in an approved budget should be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

a. Involve transfers of amounts budgeted for indirect costs to absorb an increase in direct costs;

b. Involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a grant was awarded; or

c. Involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award itself.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0524–0022.

The award of any grants under this program is subject to the availability of funds.

Done at Washington, DC, this 17th day of July 1990.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 90–17142 Filed 7–20–90; 8:45 am]

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federal register

Monday
July 23, 1990

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Removal of Transponder With Automatic Altitude Reporting Capability (Mode C Transponder) Requirement for Operations in Vicinity of Hector International Airport, Fargo, ND; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 25531, Amdt. No. 91-217]

Removal of the Transponder With Automatic Altitude Reporting Capability (Mode C Transponder) Requirement for Operations in the Vicinity of Hector International Airport, Fargo, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment removes the Mode C transponder requirement for operations in the vicinity of Hector International Airport, Fargo, ND, which would have become effective on December 30, 1990. This action results in the retention of the rules that are currently in effect for operations in the vicinity of Fargo, ND, and continues the present high level of safety being achieved for aircraft operations at this site.

EFFECTIVE DATE: The amendment to Appendix D of part 91 currently in effect is effective July 23, 1990. The amendment to Appendix D to become effective August 18, 1990 is effective August 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Steenson, Air Traffic Rules Branch, ATO-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-9246.

SUPPLEMENTARY INFORMATION:

Availability of Rule

Any person may obtain a copy of this rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the amendment number of this final rule. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Background

On July 21, 1988, the FAA published a Final Rule, Transponder with Automatic Altitude Reporting Capability Requirement (Amendment No. 91-203; 53 FR 23356), which revised § 91.24 of the Federal Aviation Regulations (14 CFR 91.24). In pertinent part, that rule adopted § 91.24(b)(5)(ii) which requires the use of a Mode C transponder at certain airports for which a terminal control area (TCA) or airport radar service area (ARSA) had not been designated but where terminal radar service is provided, as listed in Appendix D of part 91. Section 91.24(b)(5)(ii) becomes effective on December 30, 1990. Hector International Airport, Fargo, ND (Hector International) was designated as one of these airports.

Part 91 will be completely revised as of August 18, 1990, (see 54 FR 34284; August 18, 1989) to renumber all of its sections. Section 91.24(b)(5)(ii) will be renumbered as § 91.215(b)(5)(ii). Hereinafter in this preamble, references to the renumbered part 91 will be shown in brackets.

An annual enplaned passenger count of at least 200,000 was established as the criterion for an airport to be considered as a candidate for the § 91.24(b)(5)(ii) [14 CFR 91.215(b)(5)(ii)] requirement. The FAA still believes that this number of enplanements per year is a reasonable threshold for the level of air carrier activity that would support the more stringent Mode C transponder requirement.

Hector International was one of the airports exceeding the required enplanements at the time the rule was issued. In Calendar Year (CY) 1986, there were 231,197 enplanements at Hector International. Since that time, the number of enplanements has significantly decreased to the point where the criterion is not met, and likely will not be met in the foreseeable future. There were 188,524 enplanements reported for CY-88, and projections are that the level of enplanements at Hector International will remain less than the established criterion.

Effect on Safety

The removal of Hector International from Appendix D of this part will not affect or compromise the high level of safety currently being achieved. At the present time, terminal radar service is provided, and aircraft operators are subject to the existing requirements that pilots of aircraft with a Mode C transponder must operate that equipment while in controlled airspace. All currently effective safety requirements will be retained, and the air traffic control services offered at Hector International will not be altered as a result of this action.

Regulatory Evaluation Summary

Executive Order (E.O.) 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for the regulatory change outweigh the potential costs to society. The order also requires the preparation of a Regulatory Impact Analysis of all major rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition or is highly controversial.

This final rule is not major as defined in E.O. 12291, so a full Regulatory Evaluation of alternative approaches has not been prepared. A more concise Regulatory Evaluation has been prepared, however, and includes an analysis of the safety and economic consequences of this rule. This analysis is included in the docket, and it quantifies, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits and impacts.

A summary of the Regulatory Evaluation is contained in this section. For a more detailed analysis, the reader is referred to the full evaluation contained in the docket.

Cost-Benefit Analysis

This regulatory evaluation examines the costs and benefits associated with the final rule to amend 14 CFR part 91 of the Federal Aviation Regulations. This rule removes Hector International from the list of airports in Appendix D of the Transponder With Automatic Altitude Reporting Capability (Mode C) Rule (Amendment No. 91-203; FR 23356). The list of airports in Appendix D will be subject to the Mode C transponder requirements of § 91.24(b)(5)(ii) [§ 91.215(b)(5)(ii)] as of December 30, 1990.

Costs

The FAA finds that there will be no costs associated with implementation of this rule to either society or aircraft operators for the reasons discussed below.

Impact on Society

In terms of society, this rule will not impose any additional costs in the form of a reduction in aviation safety. The current high level of safety will be continued.

According to the Mode C Transponder Rule (Amendment No. 91-203; 53 FR 23356), which was published on July 21, 1988, the Mode C transponder requirement applies to all affected aircraft that operate in TCA's, ARSA's,

and at certain airports for which a TCA or ARSA has not been designated but where terminal radar is provided. Since this rule only applies to the Mode C transponder requirement for certain operations at designated airports, only this topic will be the point of discussion in this evaluation.

An annual enplaned passenger count of at least 200,000 was established as the criterion for an airport to be considered as a candidate for the Mode C requirement. At the time the Mode C Rule was adopted, Hector International met this criterion. Since publication of the Mode C Rule, an examination of passenger enplanement data indicates that this airport no longer meets the subject criterion. In CY–1986, there were 231,197 passenger enplanements reported. However, for CY–1987 and CY–1988 there were 217,064 and 188,524 passenger enplanements, respectively. The FAA believes that the level of passenger enplanements at Hector International will in all likelihood remain less than the established criterion.

In the absence of this rule, a Mode C transponder would have been required on all affected aircraft operating in the vicinity of the subject airport by December 30, 1990. Since the annual enplaned passenger count at Hector International no longer meets the criterion (200,000 enplanements) as a designated airport, the FAA has determined that there is no need to include Hector International as a designated airport under Appendix D of part 91. With the lower number of enplaned passengers, the current high level of safety can be maintained. Thus, the incremental impact on aviation safety as the result of this rule is considered to be zero.

Impact on Aircraft Operators

In terms of aircraft operators, this rule will not impose any additional costs in the form of either Mode C transponders or circumnavigation, because the requirement for Mode C transponders for Hector International has been dropped as the result of this rule.

Benefits

The benefit of this rule is the elimination of a cost burden, while ensuring that an adequate level of aviation safety is maintained.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have a significant economic impact on a substantial number of small entities.

The small entities which could be potentially affected by the implementation of this rule are unscheduled operators of aircraft for hire owning nine or fewer aircraft.

Only those unscheduled aircraft operators without the Mode C capability to operate in Hector International would have been impacted by the original rule. This rule, however, will not impact those operators. Since this rule will not impose any costs on aircraft operators, the FAA finds that it will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

This rule will not have an effect on the sale of foreign aviation products or services in the United States or on the sale of U.S. products or services in foreign countries. The rule will not impose costs on aircraft operators or aircraft manufacturers (U.S. or foreign) that will result in a competitive disadvantage to either.

Federalism Implications

The amendment set forth 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 regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Effective Date and Reasons for Final Rule Without Notice

Approximately 65,000 comments were received in response to the notice of proposed rulemaking (notice) (53 FR 4306; February 12, 1988) that preceded Amendment No. 91–203. The subject of access to airports by aircraft not equipped with a Mode C transponder was addressed by many commenters. The FAA believes that it would serve little or no purpose to precede this final rule with a notice because of the extensive exposure of the subject of access to airports. Further, in the preamble to Amendment No. 91–203, the FAA established a criterion of an annual enplaned passenger count of at least 200,000 as the threshold indicator for an airport to be considered as a candidate for the requirement. Hector International no longer meets that threshold.

Since this action is adopted as a final rule in response to issues raised and comments received, further notice and comment would result in needless delay in the relief granted and would be contrary to the public interest. Because there is no question that passenger levels at Hector International do not meet the established minimum criteria for the Mode C requirement, notice would not result in meaningful comment. Accordingly, I find that further notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Because this action relieves a restriction that would have been effective in the future, the amendment is effective upon publication.

Conclusion

In view of the estimated zero cost of compliance, coupled with the elimination of an undue cost burden without jeopardizing aviation safety, the FAA finds that this final rule is cost-beneficial.

The Rule

This amendment to part 91 of the Federal Aviation Regulations amends the Mode C transponder requirement for operation in the vicinity of Hector International and continues the rules that are currently in effect for that area.

The FAA has determined that this amendment is not a major rule under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Additionally, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Aircraft, Airports, Airspace, Air traffic control, Air transportation, Aviation Safety, Pilots, Safety.

Adoption of the Amendment

For the reasons set forth in the preamble, part 91 of the Federal Aviation Regulations (14 CFR part 91) is amended as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. App. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 31(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11524; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Appendix D to Part 91—[Amended]

2. Appendix D of part 91 currently in effect and Appendix D of Part 91 to become effective August 18, 1990 are amended by removing the words "Hector International Airport, Fargo, ND."

Issued in Washington, DC on July 16, 1990.

James B. Busey,

Administrator.

[FR Doc. 90-17110 Filed 7-20-90; 8:45 am]

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federal register

Monday
July 23, 1990

Part VII

Department of Justice

Bureau of Prisons

28 CFR Part 503

Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers; Final Rule

28 CFR Part 543

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Legal Activities; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 503

Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising the listing of its Central Office, Regional Offices, Institutions, and Staff Training Centers in order to reflect the creation of the new Mid-Atlantic Regional Office, realignment of the other Regional Offices, designation of institutions, and the addition of new facilities.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 760, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its listing of Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers in order to reflect the creation of the new Mid-Atlantic Regional Office, realignment of the other Regional Offices, designation of institutions, and the addition of new facilities. This revision incorporates all modifications to the list of Bureau of Prisons institutions as published in the Notices section of the **Federal Register**. In addition to the changes announced in the most recent modification, which was published June 13, 1990 (55 FR 24064), this revision announces the designation of Federal Prison Camp Lompoc as a Federal Correctional Institution, and correctly designates the institution at Boron as a Federal Prison Camp.

Because this rule deals with agency organization and imposes no restrictions upon inmates, the Bureau finds good cause for exemption from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 503

Agency organization and functions.

Dated: July 11, 1990.

Richard P. Seiter,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter A of 28 CFR chapter V is amended as set forth below.

Subchapter A—General Management and Administration

1. 28 CFR part 503 is revised to read as follows:

PART 503—BUREAU OF PRISONS CENTRAL OFFICE, REGIONAL OFFICES, INSTITUTIONS, AND STAFF TRAINING CENTERS

Sec.

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4003, 4042, 4081, 4082 (Repealed as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

§ 503.1 Bureau of Prisons Central Office.

The Bureau of Prisons Central Office is located at 320 First Street NW., Washington, DC 20534.

§ 503.2 Bureau of Prisons Northeast Regional Office

The Bureau of Prisons Northeast Regional Office is located at U.S. Customs House, 7th Floor, 2nd and Chestnut Street, Philadelphia, Pennsylvania 19106. The following institutions are located within this region.

(a) United States Penitentiary (USP) Lewisburg, Pennsylvania 17837.

(b) Federal Correctional Institutions (FCI): (1) FCI Danbury, Connecticut 06811–3099; (2) FCI Fairton, New Jersey 08320; (3) FCI Loretto, Pennsylvania 15940; (4) FCI McKean, Bradford, Pennsylvania 16701; (5) FCI Otisville, New York 10963; (6) FCI Ray Brook, New York 12977.

(c) Federal Prison Camp (FPC), Allenwood, Montgomery, Pennsylvania 17752.

(d) Metropolitan Correctional Center (MCC) 150 Park Row, New York, New York 10007.

§ 503.3 Bureau of Prisons Mid-Atlantic Regional Office.

The Bureau of Prisons Mid-Atlantic Regional Office is located at Junction Business Park, 10010 Junction Drive, Suite 100N, Annapolis Junction, Maryland 20701. The following institutions are located within this region.

(a) United States Penitentiary (USP) Terre Haute, Indiana 47808.

(b) Federal Correctional Institutions (FCI): (1) FCI Ashland, Kentucky 41101; (2) FCI Butner, North Carolina 27509; (3) FCI Lexington, Kentucky 40511; (4) FCI Milan, Michigan 48160; (5) FCI Morgantown, West Virginia 26505; (6) FCI Petersburg, Virginia 23804–1000.

(c) Federal Prison Camps (FPC): (1) FPC Alderson, West Virginia 24910; (2) FPC Seymour-Johnson, Seymour-Johnson Air Force Base, North Carolina 27531–5000.

§ 503.4 Bureau of Prisons Southeast Regional Office

The Bureau of Prisons Southeast Regional Office is located at 523 McDonough Boulevard, SE, Atlanta, Georgia 30315. The following institutions are located within this region.

(a) United States Penitentiary (USP) Atlanta, Georgia 30315–0182;

(b) Federal Correctional Institutions (FCI): (1) FCI Jessup, Georgia 31545; (2) FCI Marianna, Florida 32446; (3) FCI Talladega, Alabama 35160; (4) FCI Tallahassee, Florida 32301.

(c) Federal Prison Camps (FPC): (1) FPC Eglin, Eglin Air Force Base, Florida 32542; (2) FPC Homestead, Florida 33039–5000; (3) FPC Maxwell, Montgomery, Alabama 33112; (4) FPC Pensacola, Florida 32509–0001; (5) FPC Tyndall, Tyndall Air Force Base, Florida 32403–0150.

(d) Metropolitan Correctional Center (MCC), 15801 SW 137th Avenue, Miami, Florida 33177.

(e) Federal Detention Center, Fort Gordon, Georgia 30905.

§ 503.5 Bureau of Prisons North Central Regional Office

The Bureau of Prisons North Central Regional Office is located at Airworld Center, 10920 Ambassador Drive, Suite 200, Kansas City, Missouri 64153. The

following institutions are located within this region.

(a) United States Penitentiaries (USP): (1) USP Leavenworth, Kansas 66048; (2) USP Marion, Illinois 62959.

(b) Federal Correctional Institutions (FCI): (1) FCI Englewood, Littleton, Colorado 80123; (2) FCI Oxford, Wisconsin 53952–0500; (3) FCI Sandstone, Minnesota 55072.

(c) Federal Prison Camps (FPC): (1) FPC Duluth, Minnesota 55814; (2) FPC Yankton, South Dakota 57078.

(d) U.S. Medical Center for Federal Prisoners (USMCFP), Springfield, Missouri 65808.

(e) Federal Medical Center (FMC), P.O. Box 4600, Rochester, Minnesota 55903–4600.

(f) Metropolitan Correctional Center (MCC) 71 W. Van Buren Street, Chicago, Illinois 60605.

§ 503.6 Bureau of Prisons South Central Regional Office

The Bureau of Prisons South Central Regional Office is located at 4211 Cedar Springs Road, Suite 300, Dallas, Texas 75219. The following institutions are located within this region.

(a) Federal Correctional Institutions (FCI): (1) FCI Bastrop, Texas 78602; (2) FCI Big Spring, Texas 79720–7799; (3) FCI El Reno, Oklahoma 73036–1000; (4) FCI Fort Worth, Texas 76119–5996; (5) FCI La Tuna, Anthony, New Mexico-Texas 88021; (6) FCI Memphis, Tennessee 38134–7690; (7) FCI Seagoville, Texas 75159; (8) FCI Texarkana, Texas 75501; (9) FCI Three Rivers, Texas (to open in late 1990).

(b) Federal Prison Camps (FPC): (1) FPC Bryan, Texas 77803; (2) FPC El Paso, Texas 79906–0300; (3) FPC Millington, Tennessee 38053.

(c) Federal Detention Center, Oakdale, I, Louisiana 71463.

(d) Federal Deportation Center, Oakdale II, Louisiana 71463.

§ 503.7 Bureau of Prisons Western Regional Office

The Bureau of Prisons Western Regional Office is located at Belmont Shores, 1301 Shoreway Road, 4th Floor, Belmont, California 94002. The following institutions are located within this region.

(a) United States Penitentiary (USP) Lompoc, California, 93436.

(b) Federal Correctional Institutions (FCI): (1) FCI Lompoc, California 93436; (2) FCI Phoenix, Arizona 85027; (3) FCI Pleasanton, California 94568; (4) FCI Safford, Arizona 85546; (5) FCI Sheridan, Oregon 97378–9601; (6) FCI Terminal Island, California 90731; (7) FCI Tucson, Arizona 85706.

(c) Federal Prison Camps (FPC): (1) FPC Boron, California 93516; (2) Nellis, Nellis Air Force Base, Area II, Las Vegas, Nevada 89191–5000.

(d) Metropolitan Correctional Center (MCC), San Diego, California 92101–6078.

(e) Metropolitan Detention Center (MDC), 535 North Alameda, Los Angeles, California 90053–1500.

§ 503.8 Bureau of Prisons Staff Training Centers

The Bureau of Prisons Staff Training Centers are located at:

(a) Federal Law Enforcement Training Center, Building 21, Glynco, Georgia 31524;

(b) Management and Specialty Training Center, 601 Chambers Road, Suite 300, Aurora, Colorado 80011;

(c) National Paralegal Training Center, 4211 Cedar Springs Road, Suite 250, Dallas, Texas 75219;

(d) Food Service and Trust Fund Training Center, c/o FCI, Fort Worth, Texas 76119.

[FR Doc. 90–17143 Filed 7–23–90; 8:45 am]
BILLING CODE 4410–05–M

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28 CFR Part 543

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Legal Activities

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending § 543.11(d) of its final rule on Inmate Legal Activities to be consistent with the Bureau's existing rule on Incoming Publications. The amendment substitutes the phrase "newspaper clippings" for "newspapers" in the example of softcover materials an inmate may receive from any source.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 760, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its final rule on Inmate Legal Activities. A final rule on this subject was published in the **Federal Register** of June 29, 1979 (44 FR 38263 et seq.). The present amendment is intended to be consistent with the Bureau's rule on Incoming Publications, published in the **Federal Register** of January 3, 1985 (50 FR 411 et seq.). That rule allows an inmate to receive softcover materials (for example, paperback books, newspaper clippings, or magazines) from any source.

Since the present amendment is intended to update the Bureau's policy by encompassing the existing requirement of the Incoming Publications rule, the Bureau finds good cause under 5 U.S.C. 553(d) to make this amendment effective immediately, without notice of proposed rulemaking, opportunity for public comment, or delay in the effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Summary of Changes

In § 543.11(d), the phrase "newspaper clippings" is substituted for "newspapers" in the example of softcover materials an inmate may receive from any source.

List of Subjects in 28 CFR Part 543

Legal services, Prisoners.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), subchapter C of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTION MANAGEMENT

PART 543—LEGAL MATTERS

1. The authority citation for 28 CFR part 543 is revised to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510, 1346(b), 2671–80; 28 CFR 0.95–0.99, 0.172, 14.1–11.

2. In subpart B of 28 CFR part 543, § 543.11(d) is revised to read as follows:

Subpart B—Inmate Legal Activities

§ 543.11 Legal research and preparation of legal documents.

* * * * *

(d) An inmate may receive or purchase law materials from outside the institution, but the Warden may reject material if there is a compelling reason in the interest of institution security, good order, or discipline. The Warden may limit for housekeeping reasons the amount of legal materials and inmate may accumulate. An inmate may receive hardcover law books from publishers or bookstores. An inmate may receive softcover material (for example, paperback books, newspaper clippings, or magazines) from any source. An inmate may receive court or legal documents from court clerks or judges or from his attorney through the mail or incident to visiting. Staff may inspect these documents for contraband but may not read them if properly presented.

* * * * *

[FR Doc. 90-17144 Filed 7-23-90; 8:45 am]

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federal register

Monday
July 23, 1990

Part VIII

The President

Proclamation 6161—Lyme Disease Awareness Week, 1990

Federal Register
Vol. 55, No. 141
Monday, July 23, 1990

Presidential Documents

Title 3—

The President

Proclamation 6161 of July 19, 1990

Lyme Disease Awareness Week, 1990

By the President of the United States of America

A Proclamation

Lyme disease is a complex disorder that can affect the skin, joints, nervous system, heart, and other parts of the body. Although it is easily treated when diagnosed early, Lyme disease can become very serious if it remains undetected.

The disease is caused by a bacterial infection that is transmitted to humans by the bite of a very small tick. These ticks are frequently no larger than the head of a pin. They feed primarily on deer and field mice, but other hosts include cats, dogs, birds, horses, and cattle.

Lyme disease was discovered in 1975 by a rheumatologist who found a high incidence of arthritis first in children, then in adults, living in Lyme, Connecticut, and nearby towns. Most patients lived in wooded areas, and their first symptoms appeared in the summer months. In 1981, the specific cause of the disease, the spiral-shaped bacterium called Borrelia burgdorferi, was identified at the National Institutes of Health by an expert scientist in tick-borne diseases.

Since its discovery in Connecticut, Lyme disease has been found in 45 States. More than 21,000 cases have been reported to the Centers for Disease Control since 1982. People who frequent wooded areas and forest edges—such as campers, hikers, and outdoor workers—are especially likely to come in contact with the tick that carries the disease. Early symptoms include a bull's-eye-shaped rash at the site of a tick bite, headaches, joint pain, fever, and swollen glands. Later symptoms may mimic those of arthritis and/or brain, nerve, and heart disease. If left untreated, Lyme disease can seriously damage the nervous system, heart, joints, and skin. But, in its early stages, Lyme disease is readily treated with antibiotics such as oral penicillin, erythromycin, and tetracycline.

Many governmental, scientific, and voluntary health organizations have committed themselves to promoting public awareness and understanding of Lyme disease. In support of their efforts, the Congress, by Senate Joint Resolution 276, has designated the week beginning July 22, 1990, as "Lyme Disease Awareness Week" and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning July 22, 1990, as Lyme Disease Awareness Week. I urge the people of the United States as well as educational, scientific, health care, and community service organizations to observe this week with appropriate programs, ceremonies, and activities.

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

George Bush

[FR Doc. 90-17339
Filed 7-20-90; 11:11 am]
Billing code 3195-01-M

Reader Aids

Federal Register

Vol. 55, No. 141

Monday, July 23, 1990

INFORMATION AND ASSISTANCE

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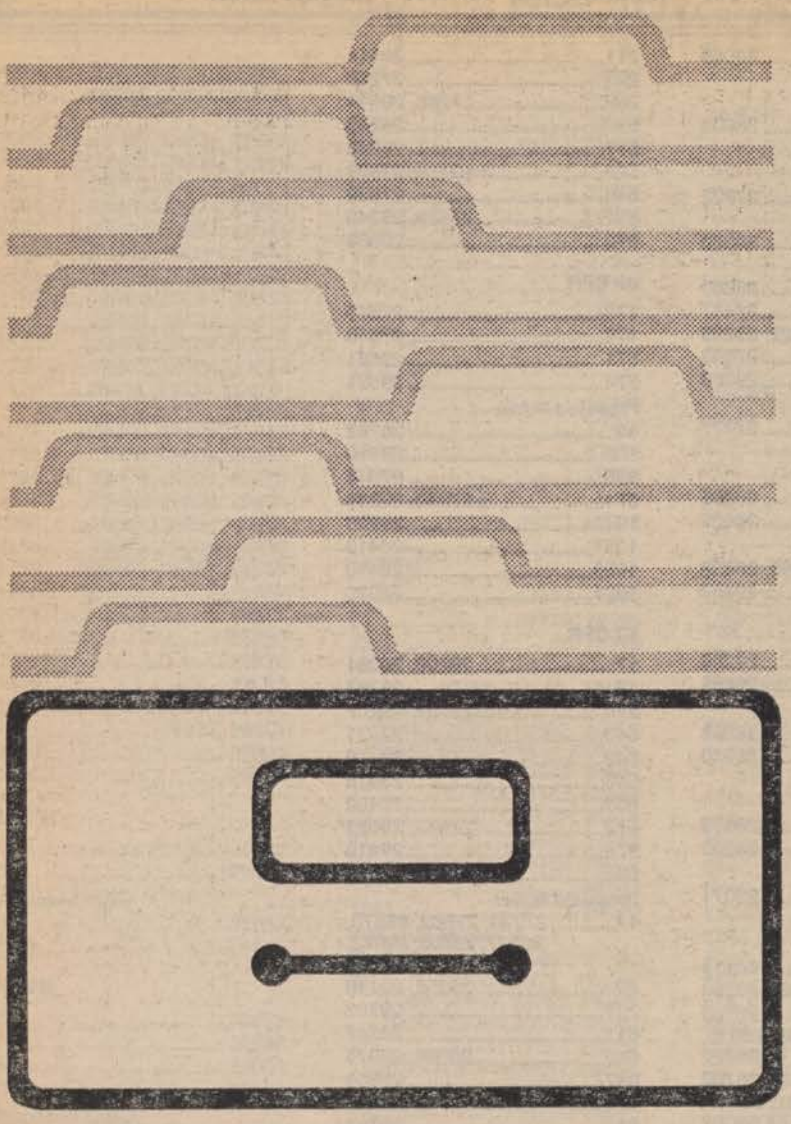

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

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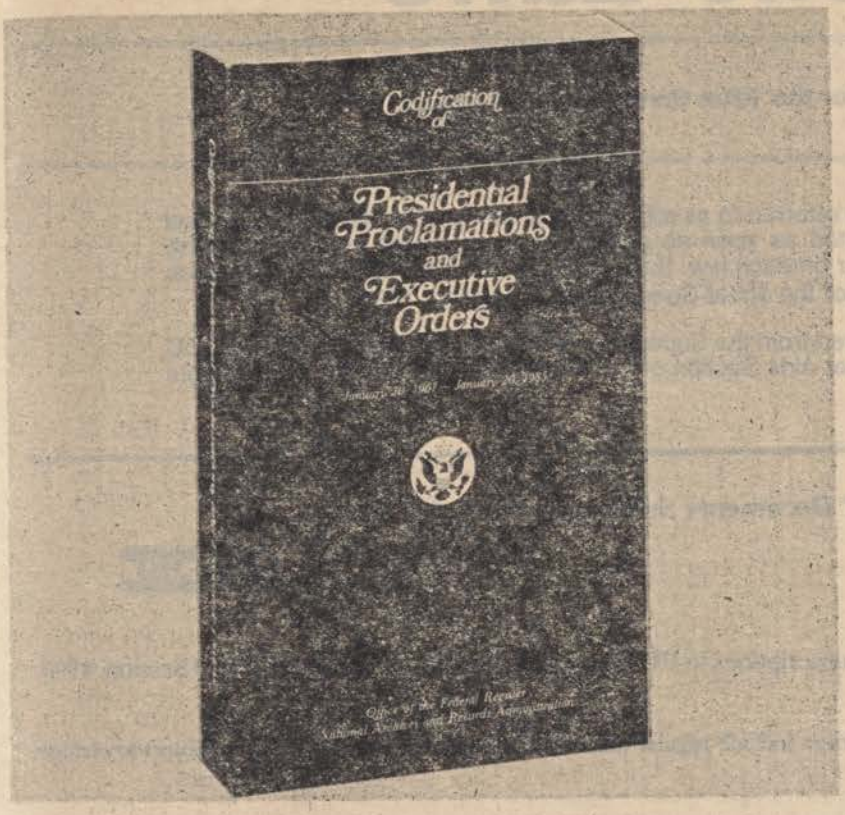

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