

Journal of Federal Reserve



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Rules and Regulations

Federal Register

Vol. 54, No. 242

Tuesday, December 19, 1989

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

GENERAL ACCOUNTING OFFICE

4 CFR Part 31

Claims Against the United States; General Procedure

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This final rule amends the provisions of the General Accounting Office's claims regulations concerning the Barring Act, 31 U.S.C. 3702(b) (1982). Under the prior regulations a claim had to be filed with the General Accounting Office (GAO) within 6 years after the claim accrued in order to be timely filed within the limitations period established by the Barring Act. This amendment provides that a claim is considered timely filed for purposes of the Barring Act when the claim is filed either with GAO or with the agency whose activities gave rise to the claim within 6 years after the claim accrues. Since this amendment relieved a restriction on the filing of claims, immediate implementation was desirable, and we issued it as an interim rule on June 15, 1989, with a 60-day comment period (54 FR 25437). We have considered the comments received and taken them into account in developing a final rule.

This rule also makes editorial changes to update 4 CFR part 31 and bring it into conformance with existing administrative practices of the General Accounting Office.

EFFECTIVE DATE: This final rule is effective, June 15, 1989, and applies to claims not barred by 31 U.S.C. 3702(b) as of that date.

FOR FURTHER INFORMATION CONTACT: Robert L. Higgins, Associate General Counsel, at FTS 275-6410 or commercial (202) 275-6410.

SUPPLEMENTARY INFORMATION: By notice published in the Federal Register on June 15, 1989, the General Accounting

Office issued an interim rule which provided that the timely filing of a claim with the individual federal agency involved is sufficient to satisfy the filing requirements of 31 U.S.C. 3702(b). The so-called Barring Act, 31 U.S.C. 3702(b) (1982), provides that, with certain exceptions, a claim within the settlement jurisdiction of the General Accounting Office "must be received by the Comptroller General within 6 years after the claim accrues * * *". Since enactment of the Barring Act in 1940, we have required that such claims be filed directly with GAO within the allowed 6 years. Therefore, claims filed with any agency other than GAO did not satisfy the filing requirement of the Barring Act.

We no longer believe this requirement is warranted in light of the fact that under current practice, claimants are encouraged to file their claims initially with the particular agency involved in the matter. We believe the purpose of the Barring Act is served if a claim is filed within the statutory 6-year period, either with GAO or with the agency where the claim arose and which will initially adjudicate it.

No written comments were received in response to our request for comments on the interim rule. Several telephone comments and inquiries were received and have been considered.

One question related to the effective date of the new rule. As stated above and in the interim rule, the effective date is June 15, 1989, with respect to any claim not barred by 31 U.S.C. 3702(b) prior to that date. Thus, any claim that accrued before June 15, 1983, is time-barred unless it was filed with GAO within 6 years after the date it accrued. However, a claim that accrued on or after June 15, 1983, is not time-barred if it was filed either with the agency involved or with GAO within the applicable 6-year period. If such a claim was filed with the agency involved before June 15, 1989, the claim need not be filed with GAO for purposes of tolling the statute, but will be treated as if it were filed with GAO on June 15, 1989.

Another question raised was whether the statement in § 31.4 of the interim rule that "[c]laims which cannot be resolved by the department or agency shall be transmitted to the Claims Group, General Accounting Office, for resolution" was intended to preclude claimants from appealing agency

determinations to GAO. It was not so intended. A claimant has always had the right to file a claim with GAO if he or she is not satisfied with the agency's determination or resolution of the claim. Also, agencies may continue to refer doubtful claims to GAO for resolution. The intent of § 31.4 is simply to make it clear that a claim should be initially filed with the department or agency involved in the subject matter and that that department or agency should attempt to resolve the dispute. Both the agency and the claimant continue to have access to GAO to settle doubtful or disputed claims. Section 31.4 has been revised to clarify this issue.

Accordingly, GAO's claims regulations in 4 CFR part 31 are amended to provide that a claim, within GAO's settlement jurisdiction, which is not time-barred prior to June 15, 1989, and which is received within the statutory 6-year period by the agency whose program or activity gave rise to the claim, shall be treated as having been timely filed for purposes of the Barring Act. Agencies are urged to develop procedures to ensure that the date of receipt is clearly recorded to avoid disputes over the filing date.

List of Subjects in 4 CFR Part 31

Accounting, Claims, Filing procedures, Government employees, Military personnel.

Accordingly, for the reasons set forth in the preamble, the interim rule amending 4 CFR part 31 which was published at 54 FR 25437, June 15, 1989, is adopted as final with the following changes:

PART 31—CLAIMS AGAINST THE UNITED STATES; GENERAL PROCEDURE

1. The authority citation for part 31 continues to read as follows:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3702.

§ 31.3 [Amended]

2. The second sentence of § 31.3 is revised to read as follows: "See part 11 of this chapter".

3. Section 31.4 is revised to read as follows:

§ 31.4 Where claims should be filed, appeals.

A claimant should file his or her claim with the administrative department or agency out of whose activities the claim arose. The agency shall initially adjudicate the claim. If the claimant is not satisfied with the agency's determination, he or she may appeal that determination to the Claims Group, General Accounting Office. Claims which cannot be resolved by the department or agency shall be transmitted to the Claims Group, General Accounting Office, for resolution. Claims referred by agencies or by claimants to the General Accounting Office, or any correspondence regarding a claim, should be addressed to: Claims Group, U.S. General Accounting Office, Washington, DC 20548.

4. Section 31.5, paragraph (a), is revised to read as follows:

§ 31.5 Statutory limitations on claims.

(a) *Statutory limitations relating to claims generally.* All claims against the United States Government, except as otherwise provided by law, are subject to the 6-year statute of limitations contained in 31 U.S.C. 3702(b). To satisfy the statutory limitation, a claim must be received by the General Accounting Office, or by the department or agency out of whose activities the claim arose, within 6 years from the date the claim accrued. The burden of establishing compliance with the statute of limitations rests with the claimant.

* * * * *

Milton J. Socolar,
Acting Comptroller General of the United States.

[FR Doc. 89-29436 Filed 12-18-89; 8:45 am]
BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE**Office of Finance and Management****7 CFR Parts 3010 and 3011****Statement of Agency Organization, Functions, and Availability of Information to the Public**

AGENCY: Office of Finance and Management, USDA.

ACTION: Final rule.

SUMMARY: This document amends chapter XXX to reflect the new name and organizational structure of USDA's former Office of Operations and Finance. In this publication, the new Office of Finance and Management sets forth its organizational structure,

functions, and availability of information to the public. By publishing this information, the new Office is now in compliance with the requirements of the Freedom of Information Act and makes the public aware of how information can be requested.

EFFECTIVE DATE: December 19, 1989.

FOR FURTHER INFORMATION CONTACT: Nicholas Giacobbe, Freedom of Information Act Officer, Office of Finance and Management, U.S. Department of Agriculture, Room 117-W, Administration Building, 14th and Independence Ave., SW., Washington, DC 20250-9000. Telephone (202) 382-1221.

SUPPLEMENTARY INFORMATION: Former chapter XXX, title 7, Code of Federal Regulations related to the Office of Operations and Finance, Department of Agriculture. Part 3010 set forth the regulations of the Office of Operations and Finance pertaining to the availability of information to the public. The Office of Operations and Finance is no longer in existence. Hence, this document renames chapter XXX as the "Office of Finance and Management." The regulations in part 3010 are removed and replaced with regulations pertaining to the Organization and Functions of the Office of Finance and Management. A new part 3011 is added prescribing regulations for the Office of Finance and Management relating to the availability of information to the public.

This rule is exempt from 5 U.S.C. 553 because it pertains to agency management. This rule does not constitute a "major rule" within the meaning of Executive Order No. 12291 (Improving Government Regulations), nor will these regulations cause significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply.

List of Subjects**7 CFR Part 3010**

Organization and functions
(Government agencies).

7 CFR Part 3011

Freedom of information.

Accordingly, 7 CFR chapter XXX is amended as follows:

1. The heading for chapter XXX is revised to read as follows:

CHAPTER XXX—OFFICE OF FINANCE AND MANAGEMENT, DEPARTMENT OF AGRICULTURE

2. Part 3010 is revised to read as follows:

PART 3010—ORGANIZATION AND FUNCTIONS

Sec.

3010.1 General statement.

3010.2 Organization.

3010.3 Functions.

Authority: 5 U.S.C. 301 and 552; 7 CFR 2.75.

§ 3010.1 General statement.

This part is issued in accordance with 5 U.S.C. 552(a) to provide guidance for the general public as to Office of Finance and Management (OFM) organization and functions.

§ 3010.2 Organization.

The Office of Finance and Management (OFM) was established January 12, 1982. Delegations of authority to the Director, OFM, appear at 7 CFR 2.75. The organization is comprised of five divisions and one staff at its Washington, DC, Headquarters, and the National Finance Center in New Orleans, Louisiana. Descriptions of the functions of these organizational units are in the following section. The organization is headed by a Director. A Deputy Director or person designated by the Director acts for the Director in the absence of the Director.

§ 3010.3 Functions.

(a) *Director.* Provides executive direction for OFM. Develops and provides leadership, oversight and coordination of USDA management of:

- (1) Finance and accounting policy,
- (2) Financial reporting,
- (3) Development and operation of accounting and financial systems,
- (4) Cash and credit management,
- (5) Safety and health management and
- (6) Management of the Working Capital Fund.

Acts as the Director of Finance, the Chief Financial Officer, and the Chief Management Improvement Office for USDA.

(b) *Deputy Director for Policy.* Assists the Director in the daily operations of the policy divisions that are located at the Headquarters office, and in the absence of the Director, serves as Acting Director.

(c) *Deputy Director for Operations.* Assists the Director in the management of automated systems by serving as the Director of the National Finance Center.

(d) *Working Capital Fund, Budget and Fiscal Services Staff.* Responsible for management the industrial fund which finances centralized services such as data processing, copying and graphic services for USDA agencies. Also provides budget and fiscal services to the Office of the Secretary and the Departmental staff offices.

(e) *Financial Systems Division.* Develops policies, standards, implementation regulations and guidelines for cash and debt management, advises on system requirements and design, and provides oversight to ensure that finance systems are in compliance with USDA policies and Federal Government regulations.

(f) *Resources Management and Analysis Division.* Responsible for externally mandated programs such as internal controls, productivity improvement, performance of commercial activities, audit followup, and privatization studies.

(g) *Technical and Management Assistance Division.* Provides professional and management assistance to USDA agencies and staff offices. Also has responsibility for developing the annual Information Resources Management plan and the ADP security plan for OFM.

(h) *Management Improvement and Fiscal Policy Division.* Responsible for USDA management initiatives such as the Annual Management Plan, coordination of cross-servicing agreements, USDA organizational proposals, travel, and fiscal policy development.

(i) *Safety and Health Management Division.* Has responsibility for USDA's safety and health programs, including providing leadership in the Department to positively influence safety, emotional and physical health of all USDA employees.

(j) *National Finance Center.* Designs, develops and operates automated administrative and financial management systems for the Department of Agriculture.

3. A new part 3011 is added to read as follows:

PART 3011—AVAILABILITY OF INFORMATION TO THE PUBLIC

- Sec.
3011.1 General statement.
3011.2 Public inspection and copying.
3011.3 Indexes.
3011.4 Initial request for records.
3011.5 Appeals.
3011.6 Fee schedule.

Authority: 5 U.S.C. 301 and 522; 7 CFR 1.3

§ 3011.1 General statement.

This part is issued in accordance with 7 CFR 1.3 of the Department of Agriculture regulations governing the availability of records (7 CFR 1.1—1.23 and Appendix A) under the Freedom of Information Act (5 U.S.C. 552, as amended). These regulations supplement the Department's

regulations by providing guidance for any person wishing to request records from the Office of Finance and Management (OFM).

§ 3011.2 Public inspection and copying.

(a) *Background.* 5 U.S.C. 552(a)(2) requires each agency to maintain and make available for public inspection and copying certain kinds of records.

(b) *Procedure.* To gain access to OFM records that are available for public inspection, contact the Freedom of Information Act Officer by writing to the address shown in § 3011.4(b) of this title.

§ 3011.3 Indexes.

5 U.S.C. 552(a)(2) also requires that each agency maintain and make available for public inspection and copying current indexes providing identifying information for the public with regard to any records which are made available for public inspection and copying. OFM does not maintain any materials within the scope of these requirements.

§ 3011.4 Initial requests for records.

(a) *Background.* The Freedom of Information Act Officer is authorized to:

- (1) Grant or deny requests for OFM records,
- (2) Make discretionary release of OFM records when the benefit to the public in releasing the document outweighs any harm likely to result from disclosure,
- (3) Reduce or waive fees to be charged where determined to be appropriate.

(b) *Procedures.* This part provides the titles and mailing address of officials who are authorized to release records to the public. The normal working hours of these offices are 8:30 a.m. to 5:00 p.m., local time, Monday through Friday, excluding holidays, during which public inspection and copying of certain kinds of records is permitted. Persons wishing to request records from the Office of Finance and Management may do so by submitting each initial written request for OFM records to the appropriate OFM official shown below:

(1) For records held at the Washington, DC Headquarters units, submit initial requests to the Freedom of Information Act Officer, Office of Finance and Management, USDA, 14th and Independence Ave., SW., Room 117-W, Administration Building, Washington, DC 20250-9000.

(2) For records held at the National Finance Center in New Orleans, Louisiana, submit initial requests to the

Freedom of Information Act Officer, National Finance Center, OFM, USDA, 13800 Old Gentilly Road, Building 350, (P.O. Box 60,000, New Orleans, LA 70160), New Orleans, Louisiana 70129. If the requester is unable to determine the official to whom the request should be addressed, it should be submitted to the Headquarters Freedom of Information Act Officer who will refer such requests to the appropriate officials.

§ 3011.5 Appeals.

Any person whose initial request is denied in whole or in part may appeal that denial, in accordance with 7 CFR 1.6(e) and 1.8, to the Director, Office of Finance and Management, USDA, Room 117-W, Administration Building, 14th and Independence Ave., Washington, DC 20250-9000.

§ 3011.6 Fee schedule.

Departmental regulations provide for a schedule of reasonable standard charges for document search and duplication. See 7 CFR 1.2(b). Fees to be charged are set forth in 7 CFR part 1, subpart A, Appendix A.

Signed at Washington, DC, this 12th day of December, 1989.

Larry Wilson, Jr.,

Director, Office of Finance and Management.

[FR Doc. 89-29351 Filed 12-18-89; 8:45 am]

BILLING CODE 3410-02-03

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[Order No. 1385-89]

RIN 1115-AA21

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the fee schedule of the Immigration and Naturalization Service. This change adds fees for two new forms created as a result of the Immigration Marriage Fraud Amendments of 1986 (IMFA). These forms are the Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status (Form I-751) and the Application for Waiver of Requirement to File Joint Petition for

Removal of Conditions (Form I-752). The change reflects the estimated cost of providing the benefits and services to the public, taking into account public policy and other pertinent facts.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT:

Charles S. Thomason, Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-4705;

Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: On November 10, 1986, Public Law 99-639, the Immigration Marriage Fraud Amendments of 1986 (IMFA) was enacted. Among other things, IMFA created a conditional basis of lawful permanent residence for most aliens who immigrate to the United States based upon a marriage to a citizen or resident of the United States. IMFA also created a requirement whereby an alien in such conditional status must file a petition (jointly with his or her spouse) to remove the conditional basis of the residence, or (in certain situations) an application for waiver of the requirement.

On June 22, 1989 the Immigration and Naturalization Service ("the Service") published proposed regulations at 54 FR 26210 setting forth fees for both the joint petition and the waiver application. The public was invited to submit comments on the proposed rulemaking on or before July 24, 1989. No comments were received from any interested parties. Accordingly, the Service is publishing the final rulemaking as proposed.

In setting the fees the Service has complied with 31 U.S.C. 9701 and OMB Circular A-25, which require that a benefit or service provided to or for any person by a Federal agency be self-sustaining to the fullest extent possible. The charges are fair and equitable, and take into consideration the direct and indirect costs to the government, the value to the recipient, the public policy or interest served, the other pertinent facts. The services provided to the public by the Service have been examined for applicability of user charges and the costs which should be recovered in order to be fair and equitable to the taxpayers and the recipients. The following fees are based on the principles set forth in the law and the circular:

1. A fee of \$35.00 for the filing Form I-

751, Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status.

2. A fee of \$65.00 for the filing Form I-752, Application for Waiver of Requirement to File Joint Petition for Removal of Conditions.

This rule is not a major rule for the purposes of E.O. 12291 (46 FR 13193, 3 CFR 1981 Comp., p. 127). As required by the Regulatory Flexibility Act, it is hereby certified that the rule will not have a significant impact on small business entities.

This rule contains information collection requirements which have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The Office of Management and Budget control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

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

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301-1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; E.O. 12356; 3 CFR 1982 Comp., P 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by adding in numerical sequence the following:

§ 103.7 Fees.

- * * * * *
- (b) * * *
- (1) * * *

Form I-751, For filing joint petition for removal of conditional basis of residence on Form I-751 under section 216 of the Act—\$35.00.

Form I-752, For filing application for waiver of requirement to file joint petition for removal of conditional basis of residency under section 216 of the Act—\$65.00.

* * * * *

Dated: December 8, 1989.

Dick Thornburgh,
Attorney General.

[FR Doc. 89-29482 Filed 12-18-89; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 077CE, Special Condition 23-ACE-48]

Special Conditions; Beech Model B300 and 1900D Series Airplanes, Electronic Flight Instrument System (EFIS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are being issued for incorporation of an electronic flight instrument system (EFIS) in the Beech Model B300 and 1900D Series Airplanes. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards applicable to these airplanes when EFIS is installed. These novel and unusual design features include the installation of electronic displays and the protection of them from high energy radiated electromagnetic fields (HERF) for which the applicable regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

EFFECTIVE DATE: December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Ervin E. Dvorak, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Service, Central Region, Federal Aviation Administration, Room 1544, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1989, Beech Aircraft Corporation, Wichita, Kansas submitted an application for amended type certificate for the Beech Model B300 and also made application on April 28, 1989, on the Model 1900D airplanes under the commuter category provisions of Part 23. On October 18, 1989, Beech Aircraft Corporation informed the FAA that they intend to certify the airplanes in the near future to install a Collins Model 85B (EFIS) on the Beech Model B300 and 1900D airplanes. This EFIS installation incorporates an electronic attitude director indicator (EADI) and electronic horizontal situation indicator (EHSI) in lieu of the traditional mechanical or

electromechanical displays providing similar information to the flight crew.

Type Certification Basis

The type certification basis for the Beech Model B300 and 1900D airplanes are as follows: part 23 of the Federal Aviation Regulation (FAR) effective February 1, 1965, including amendments 23-1 through 23-34; Special Federal Aviation Regulations (SFAR) No. 27, effective February 1, 1974, as amended by amendments 27-1 through 27-5; Part 36 of the FAR, effective December 1, 1969, as amended by amendments 36-1 through 36-15 and special conditions adopted by this rulemaking action.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane or installation. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become a part of the type certification basis, as provided by § 21.101(b)(2).

The proposed type design of the Collins-85B EFIS installation in the Beech Model B300 and 1900D airplanes contains a number of novel and unusual design features not envisaged by the applicable airworthiness standards. Special conditions are considered necessary because the applicable airworthiness standards do not contain adequate or appropriate safety standards for the novel or unusual design features of the Collins-85B EFIS installation in the Beech Model B300 and 1900D series airplanes.

Special conditions resulting from this notice will also be applicable to all Beech Model B300 and 1900D series airplanes for installation of similar EFIS (not limited to the same manufacturer) without further amendment of the special conditions.

Electronic Flight Instrument System (EFIS)

Beech Aircraft Corporation has proposed cathode-ray tube (CRT) electronic display units for primary attitude, heading, and navigation cockpit displays. The cockpit instrument panel configuration would feature two displays, an EADI and EHSI on the pilot side of the instrument panels. All other displays, i.e., airspeed, altitude, vertical speed, etc., will be conventional

electromechanical instruments. A standby conventional attitude instrument will be near the center of the panel. On some later installations, another EADI and EHSI may be installed on the copilot side.

Emissive color on a CRT display will inevitably appear different than reflective colors on conventional electromechanical displays. Different intensities and color temperatures of ambient illumination will also affect the perceived colors. Therefore, display legibility must be adequate for all cockpit lighting conditions including direct sunlight.

Features of this system are novel and unusual relative to the applicable airworthiness requirements. Current small airplane airworthiness requirements are based on "single-fault" or "fail-safe" concepts and, when promulgated, the FAA did not envision use of complex, safety-critical systems in small airplanes. The current small airplane requirements envisioned instruments that were single function; i.e., a failure would cause loss of only one instrument function, although several instrument functions may have been housed in a common case.

Flight instruments for the pilot are required to be grouped in front of the pilot so deviation from looking forward along the airplane flight path is minimized when the pilot shifts from viewing the flight path to viewing the flight instruments.

For instrument flight, the airplane must be equipped with the minimum flight instruments listed in the operating rules. This minimum listing of instruments includes all instruments that have long been accepted as the minimum for continued safe flight. Standby instruments for flight instruments are not required by the small airplane airworthiness requirements because the FAA has long accepted that the small airplane could be safely flown by using partial panel techniques following a single instrument failure. The basic airman certification program for an instrument flight rules (IFR) rating has long included requirements for the pilot to demonstrate the ability to fly the airplane safely following failure of any one of the previously cited instruments.

The special condition will provide appropriate requirements for installation of electronic displays featuring design characteristics where a single malfunction or failure could affect more than one primary instrument, display, or system. The special condition would also provide requirements to assure adequate reliability of system design functions that are determined to be

essential for continued safe flight and landing of the airplane.

For installations where electronic displays take the place of traditional instruments, the reliability must not be less than that of the traditional instruments. This concerns the collective reliability of the traditional instruments rather than the reliability of a single traditional instrument. For this reason, the special condition includes requirements needed for their certification.

The special condition will also require a detailed examination of each item of equipment/component of the electronic display system, and installation of the system, to determine if the airplane is dependent upon its function for continued safe flight and landing or if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with these adverse operating conditions. Each component of the installation identified by such an examination as being critical to the safe operation of the airplane would be required to meet the proposed special condition.

The existing § 23.1309, which was incorporated into part 23 by amendment 23-14, dated December 20, 1973, has been used as a means of evaluating systems for those airplanes that include § 23.1309 in their type certification basis. The "no-single-fault" or "fail-safe" concept of § 23.1309, along with experience based on service-proven designs and good engineering judgment, have been used to successfully evaluate most airplane systems and equipment. The type certification basis for this airplane includes § 23.1309, however, the "single fault" concept does not provide an adequate means for determining and evaluating the effect of certain failure conditions which may exist in complex systems such as an EFIS installation. Therefore, the FAA considers it necessary to include the proposed additional system analysis requirements in the certification basis. This will also allow the use of the latest available "rational method" of safety analysis of the systems to assure a level of safety intended in the applicable requirements.

The development of rational methods for safety assessment of systems is based on the premise that an inverse relationship exists between the probability of a failure condition and its effect on the airplane. That is, the more serious the effect, the lower the probability must be that the related failure condition will occur. Rational methods of showing compliance for safety assessment of systems may be

shown by the use of numerical analysis but it is not mandatory. In many cases, adequate data is not available for preparing a stand-alone numerical analysis for showing compliance. Therefore, in small airplane certification, a rational analysis based on identification of failure modes and their consequences is frequently a more acceptable substantiation of compliance with the various required levels of system reliability than a numerical analysis alone.

If it is determined that the airplane includes systems that perform critical functions, it will be necessary to show that those systems meet more stringent requirements. These systems would be required to meet requirements establishing either that there will be no failures of that system or that a failure is extremely improbable. Critical functions means those functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

The special condition also requires that the occurrence of system(s) failures that would significantly reduce the airplane's capability or the ability of the crew to cope with adverse operating conditions, and thereby be potentially catastrophic, be improbable. It is recognized that any system(s) failure will reduce the airplane's or crew's capability to some degree, but that reduction may not be of the degree leading to potentially catastrophic results.

The special condition provides reliability requirements that are based on the criticality of the system's function and will provide the standards needed for certification of complex safety-critical systems being proposed for installation.

Protection of Systems From High Energy Radiated Electromagnetic Fields (HERF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of solid state components and digital electronics, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the high energy radiated electromagnetic fields (HERF) incident on the external surface of aircraft. These induced transient currents and voltages can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the electromagnetic environment has undergone a transformation which was not envisioned when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the population of transmitters has increased significantly.

At present, aircraft certification requirements, as well as the industry standards for protection from the adverse effects of HERF, are inadequate in view of the aforementioned technological advances. In addition, some significant safety events have been reported of incidents and accidents involving military aircraft equipped with advanced electronic systems when they were exposed to electromagnetic radiation.

The combined effect of the technological advances in aircraft design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the aircraft. Effective measures against the effects of exposure to high energy radiated electromagnetic fields (HERF) must be provided by the design and installation of these systems. The primary factors that have contributed to this increased concern are: (1) The increasing use of sensitive electronics that perform critical functions; (2) the reduced electromagnetic shielding afforded airplane systems by advanced technology airframe materials; (3) the adverse service experience of military airplanes which use these technologies; and (4) the increase in the number and power of radio frequency emitters and expected future increases.

Cognizant of the need for aircraft certification standards to cope with the developments in technology and environment in 1988, the FAA initiated a high priority program (1) to determine and define the electromagnetic energy levels; (2) to develop and describe guidance material for design, test, and analysis; and (3) to prescribe and promulgate regulatory standards. The FAA sought and received the participation of international airworthiness authorities and industry to develop internationally recognized standards for certification.

At this time, the FAA and other airworthiness authorities have established an agreed level of HERF environment which the airplane is expected to be exposed to in service. While the HERF requirements are being finalized, the FAA has adopted special

conditions for the certification of aircraft which employ electrical and electronic systems which perform critical functions. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. This special condition requires that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HERF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2.

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HERF environment, defined below, or

FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10-500 KH.....	80	80
500-2000.....	80	80
2-30 MH.....	200	200
30-100.....	33	33
100-200.....	33	33
200-400.....	150	33
400-1000.....	8.3K	2K
1-2 GH.....	9K	1.5K
2-4.....	17K	1.2K
4-6.....	14.5K	800
6-8.....	4K	668
8-12.....	9K	2K
12-20.....	4K	509
20-40.....	4K	1K

(2) The applicant may demonstrate by a laboratory test that the electrical and electronic systems that perform critical functions withstand a peak of electromagnetic field strength of 100 volts per meter in a frequency range of 10KHz to 18GHz. When using a laboratory test to show compliance with the HERF requirements, no credit is given for signal attenuation due to installation.

In view of the revised HERF envelope, the requirement for the fixed value test has been changed to 100 v/m from the previously used value of 200 v/m. The applicant opting for the fixed value laboratory test, in lieu of the HERF envelope, will be subject to post

certification reassessment based on the finalized rule requirements. The applicants should be cautioned that choosing 100 v/m may make it difficult, under post certification reassessment requirements, to qualify the installations without design upgrade. If the system should not meet the post certification reassessment requirements, additional protection provisions and/or testing may be required.

A preliminary hazard analysis must be performed by the applicant for approval by the FAA to identify electrical and/or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition which would prevent the continued safe flight and landing of the aircraft. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HERF requirements. The primary electronic flight display and the full authority digital engine control (FADEC) systems are examples of systems that perform critical functions. A system may perform both critical and non-critical functions. Primary electronic flight display systems and their associated components perform critical functions such as attitude, altitude, and airspeed indication. The HERF requirements only apply to critical functions.

Compliance with HERF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or a combination thereof. Service experience alone is not acceptable since such experience in normal flight operations may not include an exposure to the HERF environmental condition.

Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HERF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

The modulation should be selected as the signal most likely to disrupt the operation of the system under test based on its design characteristics. For example, flight control systems may be susceptible to 3 Hz square wave modulation while the video signals for electronic display systems may be susceptible to 400 Hz sinusoidal modulation. If the worst case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80% depth of modulation in the frequency range from 10 KHz to 400 MHz and 1 KHz square wave with greater than 90% depth of modulation from 400 MHz to 18GHz. For

frequencies where the unmodulated signal caused deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable systems performance is attained by demonstrating that the system under consideration continues to perform its intended function during and after exposure to required electromagnetic fields. Deviations from system specification may be acceptable and will need to be independently assessed for each application for approval by the FAA.

Conclusion

In review of the design features discussed for the installation in the Beech Model B300 and 1900D series airplane, the following special conditions are issued to provide a level of safety equivalent to that intended by the regulations incorporated by reference. This action is not a rule of general applicability and affects only the model/series of airplanes identified in these special conditions.

The substance of these special conditions has been subject to the notice and public comment procedure in several prior instances (54 FR 4317; October 25, 1989), (54 FR 41955; October 13, 1989), (53 FR 14782; April 26, 1988), and (51 FR 37711, October 24, 1986). For this reason, and because a delay would significantly affect the applicant installation of the system and the certification of the airplane, which is imminent, the FAA has determined that good cause exists for adopting these special conditions without further notice. Therefore, special conditions are being issued without substantive change for this airplane and made effective immediately.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 803 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.01; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator of the Federal Aviation Administration, the following special conditions are issued as part of the type certification basis for the Beech Model B300 and 1900D series airplanes:

1. Electronic Flight Instrument Displays

In addition to, and in lieu of, the applicable requirements of part 23 of the FAR and requirements to the contrary, for instruments, systems, and installations whose design incorporates electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument display or system, and/or system design functions that are determined to be essential for continued safe flight and landing of the airplane, the following special condition applies:

(a) Systems and associated components must be examined separately and in relation to other airplane systems to determine if the airplane is dependent upon its function for continued safe flight and landing, and if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each system and each component identified by this examination, upon which the airplane is dependent for proper functioning to ensure continued safe flight and landing, or whose failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, must be designed and examined to comply with the following requirements:

(1) It must be shown that there will be no single failure or probable combination of failures under any foreseeable operating condition which would prevent the continued safe flight and landing of the airplane, or it must be shown that such failures are extremely improbable.

(2) It must be shown that there will be no single failure or probable combination of failures under any foreseeable operating condition that would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, or it must be shown that such failures are improbable.

(3) Warning information must be provided to alert the crew to unsafe system operating conditions and to enable them to take appropriate corrective action. Systems, controls, and associated monitoring and warning means must be designed to minimize initiation of crew action which would create additional hazards.

(4) Compliance with the requirements of this special condition may be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider:

(i) Modes of failure, including malfunction and damage from foreseeable sources;

(ii) The probability of multiple failures, and undetected faults;

(iii) The resulting effects on the airplane and occupants, considering the state of flight and operating conditions; and

(iv) The crew warning cues, corrective action required, and the capability of detecting faults.

(5) Numerical analysis may be used to support the engineering examination.

(b) Electronic display indicators, including those incorporating more than one function, may be installed in lieu of mechanical or electro-mechanical instruments if:

(1) The electronic display indicators:

(i) Are easily legible under all lighting conditions encountered in the cockpit, including direct sunlight;

(ii) In any normal mode of operation, do not inhibit the primary display of attitude; and

(iii) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display units.

(2) The electronic display indicators, including their systems and installations, must be designed so that one display of information essential to safety and successful completion of the flight will remain available to the pilot, without need for immediate action by any crewmember for continued safe operation, after any single failure or probable combination of failures that is not shown to comply with paragraph (a)(1) of this section.

2. Protection of Electronic Flight Instrument Systems From High Energy Radiated Electromagnetic Fields (HERF)

(a) Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the airplane is exposed to high energy radiated electromagnetic fields external to the airplane.

Issued in Kansas City, Missouri on December 11, 1989.

Barry D. Clements,

*Manager, Small Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 89-29406 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-253-AD; Amdt. 39-6426]

Airworthiness Directives; Applies To Beech Model 400 Airplanes, Mitsubishi Model MU-300-10 and MU-300 Airplanes, Which Have Been Modified In Accordance With Branson Supplemental Type Certificate (STC) SA2744NM or SA1596NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400 airplanes and Mitsubishi Model MU-300-10 and Model MU-300 airplanes, which requires either the imposition of certain operating limitations or modification of the fuselage fuel tanks. This amendment is prompted by a recent report that fuel vapors in the Branson STC extended range fuel tank ignited, and the resulting deflagration released liquid and vaporous fuel into the cabin. This condition, if not corrected, could result in an explosion and/or fire in the cabin.

DATE: Effective January 2, 1990.

ADDRESSES: The applicable service information may be obtained from Branson Aircraft Corporation, 3790 Wheeling Street, Denver, Colorado 80239, or Beech Aircraft Corporation (United States agents for Mitsubishi Heavy Industries, Incorporated), P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Wichita Aircraft Certification Office, ACE-140W; telephone (316) 946-4427. Mailing address: FAA, Central Region, 1801 Airport Road, Room 100, Wichita, Kansas 67209.

SUPPLEMENTARY INFORMATION: The FAA recently investigated an incident involving a Beech Model 400 airplane, which had been previously modified by the incorporation of Branson STC SA2744NM. This STC adds an extended range fuel tank in the aft area of the cabin, interconnected with the existing Beech fuselage fuel tank and vent system. Further investigation revealed

that fuel vapors in the Branson STC fuel tank were ignited, probably by an electrostatic discharge, and deflagration resulted. The resultant pressure grossly deformed, but did not rupture, the Branson STC fuel tank. The deformation dislodged the tank from the mounting structure and disconnected the fuel and vent interconnect lines from the Beech fuselage fuel tank and vent system, releasing liquid and vaporous fuel into the cabin. This condition, if not corrected, could result in an explosion and/or fire in the cabin.

The Beech Model 400 and the Mitsubishi Models MU-300-10 and MU-300 airplane fuselage fuel tank systems are identical, as are the modifications described in Branson STCs SA2744NM and SA1596NM.

Since this condition is likely to exist or develop in other airplanes of this same type design, this AD requires either (a) the imposition of operating limitations which prohibit gravity refueling of the fuselage tanks and prohibit the use of JP-4 and JET B fuels, or (b) modification of the Branson fuel tank installation to improve electrical bonding and to install static charge dissipating charcoal-colored explosion suppression safety foam in the Branson fuel tank; and the modification of the Beech/Mitsubishi fuselage fuel tanks to remove and replace the blue-colored explosion suppression safety foam with static charge dissipating charcoal-colored explosion suppression safety foam.

Branson has issued Service Bulletins No. 2744-1, dated November 3, 1989, and No. 1596-1, dated November 9, 1989, which describe procedures for modification of the probe mounting clamps and transfer line clamps to ensure proper grounding of these components in the fuselage fuel tank system.

Beech has issued Service Bulletin No. 2338, dated November 1989, and Mitsubishi Heavy Industries has issued Service Bulletin No. 28-001, dated November 21, 1989, which describe procedures for installation of a placard on the fuel filler door, and replacement of the aft fuselage fuel tank foam.

Branson has also issued Service Bulletin No. 2744-2, dated November 3, 1989, and No. 1596-2, dated November 9, 1989, which describe procedures to install static charge dissipating charcoal-colored explosion suppression safety foam in the Branson extended range fuselage fuel tank.

Since a situation exists that requires

immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Branson Aircraft Corporation: Applies to Beech Model 400 airplanes, Serial Numbers RJ-1 through RJ-50, and RJ-52 through RJ-85, which have been modified in accordance with Branson STC SA2744NM; Mitsubishi Model MU-300-10, airplanes Serial Numbers A1001S.A. through A1011S.A., which have been modified in accordance with Branson STC SA2744NM; and Mitsubishi Model MU-300 airplanes, Serial Numbers A001S.A. through A091S.A., which have been modified in accordance with Branson STC SA1596NM; certificated in any category. Compliance is required within the next 10 days after the effective date of this AD, unless previously accomplished.

To prevent the release of liquid and vaporous fuel into the cabin, and possible subsequent explosion and/or fire in the cabin, accomplish the following:

A. Accomplish either paragraph A.1. (Procedure 1) or paragraph A.2. (Procedure 2) below:

1. Procedure 1

a. Incorporate the following into the Operating Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Fuel System Limitations: Only the following fuels are approved for use: Commercial Kerosene JET A and JET A-1, in accordance with Pratt and Whitney Service Bulletin 7144, Revision 9, dated April 17, 1989.

"Fuselage Tank Refueling: Gravity refueling of the fuselage tank is prohibited. Refuel the fuselage tanks only by transfer from the left wing tank. Refer to the Branson Aircraft Corporation AFM Supplement for filling procedures and limitations."

Note: The above limitations supersede any other AFM Limitations which may be contradictory.

b. Install Beech placard P/N 128-920210-1, or equivalent, centered on the fuselage fuel tank fuel filler access door.

c. Obscure the words "JET B" on the fuel placards adjacent to the left and right wing fuel filler ports and the fuselage fuel tank fuel filler port.

2. Procedure 2

a. Modify the fuel quantity probe mounting clamps and the transfer line clamps installation in the Branson extended range fuel tank and in the Beech/Mitsubishi aft fuselage fuel tanks, in accordance with the instructions in Branson Service Bulletin Number 2744-1, dated November 3, 1989 (for Beech Model 400 and Mitsubishi Model MU-300-10 airplanes), or in accordance with Branson Service Bulletin 1596-1, dated November 9, 1989 (for Mitsubishi Model MU-300 airplanes).

b. Install static charge dissipating charcoal-colored explosion suppression safety foam in the Branson extended range fuselage fuel tank in accordance with the instructions in Branson Service Bulletin Number 2744-2, dated November 3, 1989 (for Beech Model 400 and Mitsubishi Model MU-300-10 airplanes), or in accordance with Branson Service

Bulletin 1596-2, dated November 9, 1989 (for Mitsubishi Model MU-300 airplanes).

c. Remove the existing blue-colored explosion suppression safety foam from the Beech/Mitsubishi aft fuselage fuel tank and install static charge dissipating charcoal-colored explosion suppression safety foam in accordance with the instructions in Part II of Beechcraft Mandatory Service Bulletin Number 2338, dated November, 1989 (for Beech Model 400 and Mitsubishi Model MU-300-10 airplanes), or in accordance with Part II of Mitsubishi Heavy Industries Service Bulletin 28-001, dated November 21, 1989 (for Mitsubishi Model MU-300 airplanes).

d. If Procedure 2 is accomplished after accomplishing Procedure 1 (described in paragraph A.1., above), perform the following:

1. Remove the AFM limitations imposed by Procedure 1, paragraph A.1.(a), above.

2. Remove the Beech placard, P/N 128-920210-1, or its equivalent, from the fuselage fuel tank fuel filler access door which was installed in accordance with Procedure 1, paragraph A.1.(b).

3. Remove the obscuring material from the fuel placards adjacent to the left and right fuel filler ports, revealing "JET B", which was obscured in accordance with Procedure 1, paragraph A.1.(c).

B. An alternate means of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Wichita Aircraft Certification Office.

C. Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturers may obtain copies upon request to Branson Aircraft Corporation, 3790 Wheeling Street, Denver, Colorado 80239, or Beech Aircraft Corporation (United States agents for Mitsubishi Heavy Industries, Incorporated), P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

This amendment becomes effective January 2, 1990.

Issued in Seattle, Washington, on December 7, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29408 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-96-AD; Amendment 39-6429]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which requires a one-time inspection and installation, if necessary, of the power control actuator bushings, on the left-hand and right-hand elevators. This amendment is prompted by reports of bushings missing from elevator power control actuator reaction link rod end locations. This condition, if not corrected, could result in unacceptable airframe vibration during flight.

DATES: Effective January 26, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 757 series airplanes, which requires a one-time inspection and installation, if necessary, of the power control actuator bushings, on the left-hand and right-hand elevators, was published in the Federal Register on July 24, 1989 [54 FR 30755].

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requested that the free play check required by AD 89-03-05, Amendment 39-6129 (54 FR 3430; January 24, 1989), be considered as an alternate means of compliance to the proposed one-time inspection of the subject actuator. This commenter indicated that the freeplay check required by the existing AD will accomplish the intent of that proposed by this action; that all of its fleet of Model 757's have had the freeplay check of the PCA assembly performed within the last 90 days in accordance with that AD; and to be required to accomplish the check a second time is redundant and an unnecessary burden and expense to operation. The FAA notes that AD 89-03-05 requires an freeplay check of the elevator PCA assembly (in accordance with Boeing Service Bulletin 757-27A0086, dated June 9, 1988) and applies only to airplanes, line positions 2 through 136; this final rule action, however, requires an inspection to determine if any PCA bushings are missing (in accordance with Boeing Service Letter 757-SL-27-43, dated May 3, 1989) and applies only to airplanes, line positions 137 through 222 and 225. The FAA concurs that the freeplay check required by the existing AD may also determine the presence of the proper number of PCA bushings; however, the two rules apply to two different groups of airplanes. The applicability statement of this final rule specifically states that operators are "credited" for any required action that has been previously accomplished; therefore if an operator has already accomplished the required inspection, a second inspection would not be required. Further, under the provisions of paragraph C. of the final rule, operators may use an alternate means of compliance if it demonstrates an acceptable level of safety and is approved by the FAA.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

There are approximately 75 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 48 airplanes of U.S. registry will be affected by this AD, that it will take approximately 30 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the

total cost impact of the AD on U.S. operators is estimated to be \$57,600.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes, listed in Boeing Service Letter 757-SL-27-43, dated May 3, 1989, certificated in any category. Compliance required within the next 60 days after the effective date of this AD, unless previously accomplished.

To prevent unacceptable airframe vibration during flight, accomplish the following:

A. Conduct a one-time inspection of the left and right elevator power control actuator to determine the presence of the bushings, in accordance with Boeing Service Letter 757-SL-27-43, dated May 3, 1989. If any bushing is missing, prior to further flight, install new a bushing in accordance with the Boeing Model 757 Maintenance Manual.

B. Within 10 days after the completion of the inspection required by paragraph A., above, submit a report of findings, positive or negative, to the Manager, Manufacturing Inspection District Office, FAA, 7300 Perimeter Road South, Seattle, Washington 98108. Reports must include the aircraft serial number.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 28, 1990.

Issued in Seattle, Washington, on December 11, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 89-29407 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

EFFECTIVE DATE: 0901 UTC, March 8, 1990.

FOR FURTHER INFORMATION CONTACT: Henry D. French, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7477.

SUPPLEMENTARY INFORMATION:

History

On Thursday, October 5, 1989, the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish transition area airspace near Clare, MI (54 FR 41109).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes transition area airspace near Clare, MI. This transition area is being established to accommodate a new VOR/DME-A SIAP to Clare Municipal Airport.

The development of this procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

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

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.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended 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:

Clare, MI [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clare Municipal Airport (lat. 43° 49' 55" N., long. 80° 44' 30" W.); within 2 miles each side of the 181° bearing from Clare Municipal Airport, extending from the 5-mile radius to 6.5 miles south of the airport.

Issued in Des Plaines, Illinois on December 6, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89-29410 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 90802-9271]

RIN 0691-AA15

Direct Investment Surveys: BE-10, Benchmark Survey of U.S. Direct Investment Abroad, 1989

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules revise 15 CFR part 806.16 to set forth reporting requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—1989, and to delete the rules now in part 806.16, which were for the last benchmark survey covering 1982. Section 4(b) of the International

14 CFR Part 71

[Airspace Docket No. 89-AGL-14]

Transition Area Establishment, Clare, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Clare, MI, transition area to accommodate a new VOR/DME-A Standard Instrument Approach Procedure (SIAP) to Clare Municipal Airport, Clare, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

Investment and Trade in Services Survey Act (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended) requires that a benchmark survey of U.S. direct investment abroad be conducted covering 1989 and every fifth year thereafter. These rules also amend 15 CFR part 806.14 to change the year of coverage of this next benchmark survey from 1987, as was specified in the original legislation authorizing the survey, to 1989, as now specified by amendment to that legislation (see Pub. L. 97-33 and Pub. L. 97-70).

EFFECTIVE DATE: These rules will be effective January 18, 1990.

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

SUPPLEMENTARY INFORMATION: In the October 6, 1989 Federal Register, Volume 54, No. 193, 54 FR 41275, the Bureau of Economic Analysis published a notice of proposed rulemaking to revise 15 CFR § 806.16 to set forth reporting requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—1989, and to delete the requirements now in § 806.16, which were for the last benchmark survey covering 1982. It also proposed to amend 15 CFR § 806.14 to change the year of coverage of this next benchmark survey from 1987, as was specified in the original legislation authorizing the survey, to 1989, as now specified by amendment to that legislation. No comments on the proposed rulemaking were received. Thus, this final rule is the same as the proposed rule.

The benchmark survey is to be conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act, hereinafter, "the Act." Section 4(b) of the Act, as amended, requires that " * * * With respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter * * * " The responsibility for conducting benchmark surveys of U.S. direct investment abroad has been delegated by the President to the Secretary of Commerce, who has redelegated it to the Bureau of Economic Analysis (BEA).

The benchmark surveys are BEA's censuses, intended to cover the universe of U.S. direct investment abroad in value terms. U.S. direct investment abroad is defined as the ownership or

control, directly or indirectly, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data from the survey are needed to measure the size of U.S. direct investment abroad, monitor changes in such investment, assess its impact on the U.S. and foreign economies, and, based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad. The data will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and gross national product accounts, and for annual estimates of the U.S. direct investment position abroad and of the operations of U.S. parent companies and their foreign affiliates.

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

The survey will consist of an instruction booklet, a claim for not filing the BE-10, and the following report forms:

1. Form BE-10A for reporting by a U.S. Reporter that is not a bank;
2. Form BE-10A Bank for reporting by a U.S. Reporter that is a bank;
3. Form BE-10B(LF) (Long Form) for reporting "large" nonbank foreign affiliates of nonbank parents (those with assets, sales, or net income *outside* the range of negative \$15 million to positive \$15 million);
4. Form BE-10B(SF) (Short Form) for reporting "small" nonbank foreign affiliates of nonbank parents (those with assets, sales, or net income *outside* the range of negative \$3 million to positive \$3 million but *within* the range of negative \$15 million to positive \$15 million) and all nonbank affiliates of bank parents with assets, sales, or net

income *outside* the range of negative \$3 million to positive \$3 million; and

5. Form BE-10B Bank for foreign affiliates that are banks and that have assets, sales, or net income *outside* the range of negative \$3 million to positive \$3 million.

Although the survey is intended to cover the universe of U.S. direct investment abroad, in order to minimize the reporting burden, foreign affiliates with assets, sales, and net income *within* the range of negative \$3 million to positive \$3 million will not have to be reported on Form BE-10B(LF), (SF), or Bank (but will have to be listed on the BE-10A or BE-10A Bank Supplement).

The due date for U.S. Reporters with 50 or more reportable foreign affiliates is June 29, 1990. The due date for all other U.S. Reporters is May 31, 1990. In order to provide major U.S. Reporters with an early look at the survey questions to aid them in preparing for the benchmark survey, BEA plans to mail all U.S. Reporters with 20 or more reportable foreign affiliates a draft copy of the BE-10 report forms in January 1990. Mailout of the printed forms is scheduled for March 1, 1990.

The public reporting burden for this collection of information is estimated to vary from 14 to 8,500 hours per response, with an average of 156 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate, including suggestions for reducing this burden, may be sent to Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 0608-0049, Washington, DC 20503.

Executive Order 12291

BEA has determined that these final rules are not "major" as defined in E.O. 12291 because they are not likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

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

Paperwork Reduction Act

The collection of information requirement in these final rules has been approved by OMB (OMB No. 0609-0049).

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities because few, if any, small businesses are subject to the reporting requirements of this survey. The exemption level is set in terms of the size of a U.S. company's foreign affiliates. If an affiliate is owned 10 percent or more by the U.S. company and has assets, sales, or net income greater than \$3 million (positive or negative), it must be reported. Usually, the U.S. parent company (the one required to file the report) is many times larger.

Also, to minimize the reporting burden on small U.S. businesses, Form BE-10B(SF), the short form, has been introduced for reporting foreign affiliates with assets, sales, and net income of \$15 million or less (but above \$3 million). For these affiliates, far less information must be reported than for those with assets, sales, or net income of more than \$15 million. Affiliates with assets, sales, and net income of \$3 million or less do not have to be reported on Form BE-10B(SF), but must be listed on the BE-10A or BE-10A Bank Supplement.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, U.S. investment abroad, Reporting and recordkeeping requirements.

Dated: November 22, 1989.

Allan H. Young,
Director, Bureau of Economic Analysis.

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

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 continues to read as follows:

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

2. Section 806.14(g)(1) is amended by deleting "at least once every five years" and inserting in its place "in 1982, 1989, and every fifth year thereafter."

3. Section 806.14(g)(2) is revised as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(g) * * *

(2) BE-10-Benchmark Survey of U.S. Direct Investment Abroad: Section 4(b) of the Act (22 U.S.C. 3103) provides that a comprehensive benchmark survey of U.S. direct investment abroad will be conducted in 1982, 1989, and every fifth year thereafter. The survey, referred to as the "BE-10," consists of a Form BE-10A or BE-10A BANK for reporting information concerning the U.S. Reporter and Form(s) BE-10B(LF), BE-10B(SF), or BE-10B BANK for reporting information concerning each foreign affiliate. Exemption levels, specific requirements for, and the year of coverage of, a given BE-10 survey may be found in § 806.16.

4. Section 806.16 is revised as follows:

§ 806.16 Rules and regulations for BE-10, Benchmark Survey of U.S. Direct Investment Abroad—1989.

A BE-10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 1989. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13 and § 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE-10 survey are given below.

(a) *Response required.* Section 806.4 requires that all persons subject to the reporting requirements, contained herein, of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—1989, respond, whether or not they are contacted by BEA. It also requires that a person, or their agent, who is contacted by BEA about reporting in this survey, either by sending them report forms or by written inquiry, must respond in writing. They may respond by:

(1) Certifying in writing, within 30 days of being contacted by BEA, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE-10 survey;

(2) Completing and returning the "BE-10 Claim for Not Filing" within 30 days of receipt of the BE-10 survey report forms; or

(3) Filing the properly completed BE-10 report by May 31, 1990, or June 29, 1990, as required.

(b) *Who must report.* (1) A BE-10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the U.S. person's 1989 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 1989 fiscal year, a "BE-10 Claim for Not Filing" must be filed within 30 days of receipt of the BE-10 survey package. No other forms in the survey are required. If the U.S. person had any foreign affiliates during its 1989 fiscal year, a BE-10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even though the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person's 1989 fiscal year.

(c) *Forms for nonbank U.S. Reporters and foreign affiliates.* (1) Form BE-10A (Report for the U.S. Reporter)—A BE-10A report must be completed by a U.S. Reporter that is not a bank.

Note: If the U.S. Reporter is a corporation, Form BE-10A is required to cover the fully consolidated U.S. domestic business enterprise.

(i) If a nonbank U.S. Reporter had any foreign affiliates at any time during its 1989 fiscal year, whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or income (or loss) after provision for U.S. income taxes—was outside the range of negative \$3 million to positive \$3 million, the U.S. Reporter must file a complete Form BE-10A and, as applicable, a BE-10A SUPPLEMENT listing each, if any, exempt foreign affiliate. It must also file a Form BE-10B(LF), BE-10B(SF), or BE-10B, BANK, as appropriate, for each nonexempt foreign affiliate.

(ii) If a nonbank U.S. Reporter had no foreign affiliates for which any of the three items listed in paragraph (c)(1)(i) of this section was outside the range of negative \$3 million to positive \$3 million, then only items 1-4 of Form BE-10A and the BE-10A SUPPLEMENT, listing all exempt foreign affiliates, must be completed.

(2) Form BE-10B(LF) or (SF) (Report for foreign affiliate).

(i) A BE-10B(LF) (Long Form) must be filed for each nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues

excluding sales taxes, or net income (loss) after provision for local income taxes—was *outside* the range of negative \$15 million to positive \$15 million.

(ii) A BE-10B(SF) (Short Form) must be filed

(A) For each nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which *any one* of the three items listed in (c)(2)(i) of this section was *outside* the range of negative \$3 million to positive \$3 million but for which all of these items were *within* the range of negative \$15 million to positive \$15 million and

(B) For each nonbank foreign affiliate of a U.S. bank Reporter for which *any one* of the three items listed in (c)(2)(i) of this section was *outside* the range of negative \$3 million to positive \$3 million.

(iii) Notwithstanding (c)(2)(i) and (c)(2)(ii) of this section, a Form BE-10B (LF) or (SF) must be filed for a foreign affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, i.e., a Form BE-10B (LF) or (SF) must be filed for all affiliates upward in a chain of ownership.

(d) *Forms for U.S. Reporters and foreign affiliates that are banks or bank holding companies.* (1) For purposes of the BE-10 survey, "bank" means a business entity engaged in deposit banking, an Edge Act corporation engaged in international or foreign banking, a foreign branch or agency of a U.S. bank whether or not it accepts deposits abroad, and a bank holding company, i.e., a holding company for which over 50 percent of its total revenues is from banks which it holds. If the bank or bank holding company is part of a consolidated business enterprise and the gross operating revenues from nonbanking activities of this consolidated entity are more than 50 percent of its total revenues, then the consolidated entity is deemed *not* to be a bank even if banking revenues make up the largest single source of all revenues. (Activities of subsidiaries of a bank or bank holding company that may not be banks but that provide support to the bank parent company, such as real estate subsidiaries set up to hold the office buildings occupied by the bank parent company, are considered bank activities.)

(2) Form BE-10A Bank, (Report for a U.S. Reporter that is a bank). A BE-10A Bank report must be completed by a U.S. Reporter that is a bank. Note: For purposes of filing Form BE-10A Bank, the U.S. Reporter is deemed to be the fully consolidated U.S. domestic business enterprise and all required

data on the form shall be for the fully consolidated domestic entity.

(i) If a U.S. bank had *any* foreign affiliates at any time during its 1989 fiscal year, whether a bank or nonbank and whether held directly or indirectly, for which *any one* of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income (loss) after provision for local income taxes—was *outside* the range of negative \$3 million to positive \$3 million, the U.S. Reporter must file a complete Form BE-10A Bank and, as applicable, a BE-10A Bank Supplement listing each, if any, exempt foreign affiliate, whether bank or nonbank. It must also file a Form BE-10B(SF) for *each* nonexempt nonbank foreign affiliate and a Form BE-10B Bank for *each* nonexempt foreign bank affiliate.

(ii) If the U.S. bank Reporter had *no* foreign affiliates for which *any one* of the three items listed in paragraph (d)(2)(i) of this section was *outside* the range of negative \$3 million and positive \$3 million, then only items 1-4 of Form BE-10A Bank and the BE-10A Bank Supplement, listing all exempt foreign affiliates, should be completed.

(3) Form BE-10B Bank (Report for a foreign affiliate that is a bank).

(i) A BE-10B Bank report must be filed for each foreign bank affiliate of a bank or nonbank U.S. Reporter, whether directly or indirectly held, for which *any one* of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income (loss) after provision for local income taxes—was *outside* the range of negative \$3 million to positive \$3 million.

(ii) Notwithstanding paragraph (d)(3)(i) of this section, a Form BE-10B Bank must be filed for a foreign bank affiliate of the U.S. Reporter that owns another *nonexempt* foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, i.e., a Form BE-10B Bank must be filed for all bank affiliates upward in a chain of ownership. However, a Form BE-10B Bank is not required to be filed for a foreign bank affiliate in which the U.S. Reporter holds only an indirect ownership interest of 50 percent or less and that does not own a reportable nonbank foreign affiliate, but the indirectly owned bank affiliate must be listed on the BE-10A or BE-10A Bank Supplement.

(e) *Due date.* A fully completed and certified BE-10 report comprising Form BE-10A or 10A Bank (as required) and Form(s) BE-10B (LF), (SF), or Bank (as required) is due to be filed with BEA not later than May 31, 1990 for those U.S. Reporters filing less than fifty, and June 29, 1990 for those U.S. Reporters filing

fifty or more, Forms BE-10B (LF), (SF), or Bank.

[FR Doc. 89-29428 Filed 12-18-89; 8:45 am]
BILLING CODE 3510-06-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Rel. No. SAB-87]

Staff Accounting Bulletin No. 87; Property-Casualty Insurance Reserves for Unpaid Claims Costs; Contingency Disclosures

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin expresses the staff's views regarding contingency disclosures on property-casualty insurance reserves for unpaid claim costs.

FOR FURTHER INFORMATION CONTACT: James W. Barge, Office of the Chief Accountant (202-272-2130), Robert A. Bayless, Division of Corporation Finance (202-272-2553), or Michael L. Hund, Division of Corporation Finance (202-272-3233), Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: December 12, 1989.

Jonathan G. Katz,

Secretary.

Part 211 of title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 87 to the table found in subpart B.

Staff Accounting Bulletin No. 87

The staff hereby adds section W to Topic 5 of the Staff Accounting Bulletin Series. Topic 5-W discusses contingency disclosures related to property-casualty insurance reserves for unpaid claim costs.

Topic 5: Miscellaneous Accounting W. Contingency Disclosures Regarding Property-Casualty Insurance Reserves for Unpaid Claim Costs

Facts: A property-casualty insurance company (the "Company") has established reserves, in accordance with Statement of Financial Accounting Standards No. ("SFAS") 60, *Accounting and Reporting by Insurance Enterprises*, for unpaid claim costs, including estimates of costs relating to claims incurred but not reported ("IBNR").¹ The reserve estimate for IBNR claims was based on past loss experience and current trends except that the estimate has been adjusted for recent significant unfavorable claims experience that the Company considers to be nonrecurring and abnormal. The Company attributes the abnormal claims experience to a recent acquisition and accelerated claims processing; however, actuarial studies have been inconclusive and subject to varying interpretations. Although the reserve is deemed adequate to cover all probable claims, there is a reasonable possibility that the abnormal claims experience could continue, resulting in a material understatement of claim reserves.

SFAS 5, *Accounting for Contingencies*, requires, among other things, disclosure of loss contingencies.² However, paragraph 2 of that pronouncement notes that "[n]ot all uncertainties inherent in the accounting process give rise to contingencies as that term is used in [SFAS 5]"

Question 1: In the staff's view, do SFAS 5 disclosure requirements apply to property-casualty insurance reserves for unpaid claim costs? If so, how?

Interpretive Response: Yes. The staff believes that specific uncertainties (conditions, situations and/or sets of circumstances) not considered to be normal and recurring because of their significance and/or nature can result in loss contingencies³ for purposes of applying SFAS 5 disclosure requirements. General uncertainties, such as the amount and timing of claims, that are normal, recurring, and inherent to estimations of property-casualty insurance reserves are not considered subject to the disclosure requirements of SFAS 5. Some specific uncertainties that may result in

loss contingencies pursuant to SFAS 5, depending on significance and/or nature, include insufficiently understood trends in claims activity; judgmental adjustments to historical experience for purposes of estimating future claim costs (other than for normal recurring general uncertainties); significant risks to an individual claim or group of related claims; or catastrophe losses.

Question 2: Do the facts presented above describe an uncertainty that requires SFAS 5 disclosures?

Interpretive Response: Yes. The staff believes the judgmental adjustments to historical experience for insufficiently understood claims activity noted above results in a loss contingency within the scope of SFAS 5. Based on the facts presented above, at a minimum the Company's financial statements should disclose that for purposes of estimating IBNR claim reserves, past experience was adjusted for what management believes to be abnormal claims experience related to the recent acquisition of Company A and accelerated claims processing. It should also be disclosed that there is a reasonable possibility that the claims experience could be the indication of an unfavorable trend which would require additional IBNR claim reserves in the approximate range of \$XX-\$XX million (alternatively, if Company management is unable to estimate the possible loss or range of loss, a statement to that effect should be disclosed). Additionally, the staff also expects companies to disclose the nature of the loss contingency and the potential impact on trends in their loss reserve development discussions provided pursuant to Property-Casualty Industry Guides 4 and 6. Consideration should also be given to the need to provide disclosure in Management's Discussion and Analysis.

Question 3: Does the staff have an example in which specific uncertainties involving an individual claim or group of related claims result in a loss contingency the staff believes requires disclosure?

Interpretive Response: Yes. A property-casualty insurance company (the "Company") underwrites product liability insurance for an insured manufacturer which has produced and sold millions of units of a particular product which has been used effectively and without problems for many years. Users of the product have recently begun to report serious health problems that they attribute to long term use of the product and have asserted claims under the insurance policy underwritten and retained by the Company. To date, the number of users reporting such problems is relatively small, and there is presently no conclusive evidence that demonstrates a causal link between long term use of the product and the health problems experienced by the claimants. However, the evidence generated to date indicates that there is at least a reasonable possibility that the product is responsible for the problems and the assertion of additional claims is considered probable, and therefore the potential exposure of the Company is material. While an accrual may not be warranted since the loss exposure may not be both probable and estimable, in view of the reasonable possibility of material future

claim payments, the staff believes that disclosures made in accordance with SFAS 5 would be required under these circumstances.

The disclosure concepts expressed in this example would also apply to an individual claim or group of claims that are related to a single catastrophic event or multiple events having a similar effect.

[FR Doc. 89-29454 Filed 12-18-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 222

RIN 1810-AA20

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education; Correction

AGENCY: Department of Education.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors made in the final regulations published in the Federal Register on September 7, 1989 (54 FR 37250) concerning assistance for local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hansen, Director, Impact Aid Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2079, Washington, DC 20202-6272 Telephone: (202) 732-3637.

Dated: December 12, 1989.

Daniel F. Bonner,
Acting Assistant Secretary, Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance No. 84.041, School Assistance in Federally Affected Areas—Maintenance and Operation)

The following corrections are made in FR Doc. 89-20935, 54 FR 37250 in the issue of September 7, 1989:

§ 222.3 [Amended]

1. On page 37253, item 3, column 3, in the definition of *Parent employed on Federal property*, paragraph (1)(iii), "(a)(ii)" on the fifth line, should read "(1)(ii)".

§ 222.37 [Amended]

2. On page 37256, column 3, the amendatory language for item 17 is corrected by removing the words "paragraph (e)" and adding in their

¹ Paragraph 18 of SFAS 60 prescribes that "[t]he liability for unpaid claims shall be based on the estimated ultimate cost of settling the claims (including the effects of inflation and other societal and economic factors), using past experience adjusted for current trends, and any other factors that would modify past experience." [Footnote reference omitted].

² Paragraph 10 of SFAS 5 specifies that "[i]f no accrual is made for a loss contingency because one or both of the conditions in paragraph 8 are not met, or if an exposure to loss exists in excess of the amount accrued pursuant to the provisions of paragraph 8, disclosure of the contingency shall be made when there is at least a reasonable possibility that a loss or an additional loss may have been incurred. The disclosure shall indicate the nature of the contingency and shall give an estimate of the possible loss or range of loss or state that such an estimate cannot be made." [Footnote reference omitted and emphasis added].

³ The loss contingency referred to in this document is the potential for a material understatement of reserves for unpaid claims.

place, the words "paragraph (f)" and revising the new paragraph designation in § 222.37 accordingly.

§ 222.61 [Amended]

3. On page 37256, column 3, the amendatory language for item 19, is corrected by removing the designation "(b)(4) and (b)(5)" and adding in its place "(b)(3) and (b)(4)", and revising the paragraph designations in § 222.61 accordingly.

[FR Doc. 89-29394 Filed 12-18-89; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6758

[AZ-930-00-4214-10; AR-05059]

Partial Revocation of Public Land Order No. 1176; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order (PLO) insofar as it affects 17.80 acres of National Forest System land withdrawn for use as an administrative site. The land is no longer required for administrative site purposes and is needed to permit consummation of a proposed Forest Service exchange. The land is being opened to surface entry and mining, subject to the proposed Forest Service exchange and other segregations of record. The land has been open to mineral leasing; however, both the surface and mineral estates will be a part of the proposed exchange.

EFFECTIVE DATE: January 3, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-241-5509.

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

1. Public Land Order No. 1176 is hereby revoked insofar as it affects the following land:

Gila & Salt River Meridian

T. 12 N., R. 17 E.,
Sec. 32, lot 13.

The area described contains 17.80 acres in Navajo County.

2. At 10 a.m. on January 3, 1990, the land shall be opened to such forms of disposition as may by law be made of National Forest System lands, including

location and entry under the United States mining laws, subject to segregation by an exchange application pursuant to the General Exchange Act, other segregations of record, valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. Appropriation of land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: December 14, 1989.

Dave O'Neal,
Assistant Secretary of the Interior.
[FR Doc. 89-29475 Filed 12-18-89; 8:45 am]
BILLING CODE 4310-32-M

43 CFR Public Land Order 6759

[CA-940-00-4214-10; CACA-26069]

Partial Revocation of Executive Order dated April 17, 1926, Public Water Reserve No. 107; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 40 acres of public land withdrawn for a public water reserve. The land is no longer needed for public water reserve purposes. This action will open 40 acres to surface entry and nonmetalliferous mining. The land has been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, Room E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

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

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as interpreted by Bureau of Land Management Order dated October 2,

1978, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 22 S., R. 12 E.,
Sec. 18, NE¼SE¼.

The area described contains 40 acres in Monterey County.

2. At 10 a.m. on January 18, 1990, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 18, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on January 18, 1990, the land will be opened to nonmetalliferous mining under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: December 14, 1989.

Dave O'Neal,
Assistant Secretary of the Interior.
[FR Doc. 89-29476 Filed 12-18-89; 8:45 am]
BILLING CODE 4310-40-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6857]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes

the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached

list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal

Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligible—Emergency Program				
Arkansas	Boone County, unincorporated areas	050016	Nov. 1, 1989	June 17, 1977.
Missouri	Velda Village Hills, village of, St. Louis County.	290857	Nov. 10, 1989	Do.
North Carolina	¹ Whispering Pine, village of, Moore County.	370464	Nov. 10, 1989	Do.
New Eligible—Regular Program				
North Carolina	Walnut Creek, village of, Wayne County.	370435	Oct. 19, 1989	Sept. 9, 1983.
Montana	Hamilton, city of, Ravalli County	300186	Nov. 10, 1989	Aug. 3, 1989.
North Dakota	² Oxbow, city of, Cass County	380681	Do. Emerg.	Do.
Reinstatements—Regular Program				
Colorado	Cripple Creek, town of, Teller County	080174	July 15, 1975, Emerg.; Dec. 18, 1985, Reg.; Aug. 15, 1989, Susp.; Nov. 2, 1989, Rein.	Dec. 18, 1985.
Do	Gilpin County, unincorporated areas	080075	Mar. 17, 1980, Emerg.; Mar. 1, 1986, Reg.; July 17, 1989, Susp.; Nov. 2, 1989, Rein.	Mar. 1, 1986.
Texas	³ Borger, city of, Hutchinson County	480374	Aug. 1, 1978, Emerg.; Apr. 15, 1985, Withdrawn Nov. 3, 1989, Rein.	Apr. 16, 1976.
Colorado	Fremont County, unincorporated areas.	080067	June 25, 1975, Emerg.; Sept. 29, 1989, Reg.; Sept. 29, 1989, Susp.; Nov. 6, 1989, Rein.	Sept. 29, 1989.
Pennsylvania	Versailles, borough of, Allegheny County.	420081	June 11, 1978, Emerg.; Oct. 18, 1988, Reg.; Oct. 18, 1988, Susp.; Nov. 7, 1989, Rein.	Oct. 18, 1988.
Louisiana	Grosse Tete, village of, Iberville Parish.	220084	Apr. 23, 1973, Emerg.; Mar. 1, 1978, Reg.; May 4, 1988, Susp.; Nov. 8, 1989, Rein.	Mar. 1, 1978.
Kentucky	⁴ Wheelwright, city of, Floyd County	210074	Oct. 15, 1974, Emerg.; June 16, 1986, Reg.; June 16, 1986, Susp.; Nov. 1, 1989, Rein.	June 16, 1986.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Wisconsin	Tony, village of, Rusk County	550377	July 22, 1975, Emerg.; Sept. 16, 1988, Reg.; Sept. 16, 1988, Susp.; Nov. 10, 1989, Rein.	Sept. 16, 1988.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Wyoming	Jackson, town of, Teton County	560052	Aug. 8, 1975, Emerg.; May 4, 1989, Reg.; May 4, 1989, Susp.; Nov. 10, 1989, Rein.	May 4, 1989.
Ohio	Parma, city of, Cuyahoga County	390123	April 10, 1975, Emerg.; Aug. 17, 1981, Reg.; Aug. 3, 1989, Susp.; Nov. 14, 1989, Rein.	Aug. 17, 1981.
New Jersey	Lakehurst, borough of, Ocean County	340377	June 25, 1975, Emerg.; Dec. 15, 1982, Reg.; Dec. 15, 1982, Susp.; Nov. 21, 1989, Rein.	Dec. 15, 1982.
Colorado	Montrose County, unincorporated areas.	080124	Jan. 31, 1975, Emerg.; Jan. 1, 1984, Reg.; June 19, 1989, Susp.; Nov. 22, 1989, Rein.	July 17, 1986.
Pennsylvania	Irvona, borough of, Clearfield County	420308	Dec. 6, 1976, Emerg.; Nov. 3, 1989, Reg.; Nov. 3, 1989, Susp.; Nov. 22, 1989, Rein.	Nov. 3, 1989.
Do	Lilly, borough of, Cambria County	421430	Feb. 25, 1977, Emerg.; Oct. 17, 1989, Reg.; Oct. 17, 1989, Susp.; Nov. 22, 1989, Rein.	Oct. 17, 1989.
New York	Athens, village of, Greene County	360285	April 24, 1975, Emerg.; Sept. 6, 1989, Reg.; Sept. 6, 1989, Susp.; Nov. 24, 1989, Rein.	Sept. 6, 1989.
Pennsylvania	Ashville, borough of, Cambria County	422266	July 25, 1975, Emerg.; May 1, 1985, Reg.; Nov. 3, 1989, Susp.; Nov. 29, 1989, Rein.	Nov. 3, 1989.
Do	Amwell, town of, Washington County	422615	Jan. 17, 1975, Emerg.; Sept. 15, 1989, Reg.; Sept. 15, 1989, Susp.; Nov. 29, 1989, Rein.	Sept. 15, 1989.
Do	East St. Clair, township of, Bedford County	421337	March 3, 1977, Emerg.; June 19, 1989, Reg.; June 19, 1989, Susp.; Nov. 29, 1989, Rein.	June 19, 1989.
Colorado	Castle Rock, town of, Douglas County	080050	April 22, 1975, Emerg.; Sept. 30, 1987, Reg.; Sept. 30, 1987, Susp.; Nov. 29, 1989, Rein.	Sept. 30, 1987.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Region I—				
Regular Program Conversions				
Connecticut	Cheshire, town of, New Haven County	090074	Nov. 3, 1989. Suspension withdrawn.	Nov. 3, 1989.
Maine	Canton, town of, Oxford County	230091	.....do.....	Do.
Region III				
Pennsylvania	Port Matilda, borough of, Centre County	420268	.....do.....	Nov. 3, 1975.
Do	Unionville, borough of, Centre County	420272	.....do.....	Nov. 3, 1989.
Do	Washington, township of, Cambria County	421448	.....do.....	Do.
Virginia	Harrisonburg, city of, Independent city	510076	.....do.....	Do.
Do	Urbanna, town of, Middlesex County	510292	.....do.....	Do.
Region IV				
Tennessee	Maury County, unincorporated areas	470123	.....do.....	Do.
Do	Williamson County, unincorporated areas.	470204	.....do.....	Do.
Region V				
Michigan	Brooks, township of, Newaygo County	260467	.....do.....	Do.
Region VI				
Texas	Poteat, city of, Atascosa County	480016	.....do.....	Do.
Region X				
Oregon	Burns, city of, Harney County	410084	.....do.....	Do.
Do	Hines, city of, Harney County	410085	.....do.....	Do.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Region I				
Maine	Jay, town of, Franklin County	230349	Nov. 15, 1989. Suspension withdraw.	Nov. 15, 1989
Do	Nobleboro, town of, Lincoln County	230219	.....do.....	Do.
Region II				
New York	Amenia, town of, Dutchess County	361332	.....do.....	Do.
Do	Greenport, town of, Columbia County	361319	.....do.....	Do.
Region III				
Pennsylvania	Choconut, township of, Susquehanna County	422076	.....do.....	Do.
Do	Conneaut, township of, Erie County	421361	.....do.....	Do.
Do	New Ringgold, borough of, Schuylkill County	421996	.....do.....	Do.
Do	North Manheim, township of, Schuylkill County	422013	.....do.....	Do.
Virginia	Purcellville, town of, Loudoun County	510231	.....do.....	Do.

State	Location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
West Virginia	Grant County, unincorporated areas	540038	.....do.....	Do.
Region IV				
Florida	Bradford County, Suwannee County	120015	.....do.....	Do.
Mississippi	Columbus, city of, Lowndes County	280108	.....do.....	Do.
Region V				
Indiana	Carroll County, unincorporated areas	180019	.....do.....	Do.
Michigan	Manistee, township of, Manistee County	260132	.....do.....	Do.
Ohio	Allen County, unincorporated areas	390758	.....do.....	Do.
Do	Butler, village of, Richland County	390605	.....do.....	Do.
Do	Sabina, village of, Clinton County	390627	.....do.....	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

* Declared Disaster Area.

¹ The Village of Whispering Pines, North Carolina will be converted to the Regular Program on December 15, 1989. The Community's FIRM becomes effective on that date.

² The City of Oxbow has adopted the Township of Pleasant's Flood Insurance Study and FIRM dated February 3, 1982, and all subsequent revisions for floodplain management and insurance purposes.

³ Reinstatement Emergency Program.

Harold T. Duryee,
Administrator, Federal Insurance
Administration.

[FR Doc. 89-29426 Filed 12-18-89; 8:45 am]

BILLING CODE 6718-21-M

**GENERAL SERVICES
ADMINISTRATION**

**48 CFR Parts 501, 515, 536, 552, and
553**

[APD 2800.12A CHGE 2]

**General Services Administration
Acquisition Regulation; Implement
FAC 84-49**

AGENCY: Office of Acquisition Policy,
GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise section 501.707 to add a reference in paragraph "i" to FAR 25.901 (c) and (d) under the "D&F Requirement" Column of Table 501-1; to delete section 515.406-2 because the new provision at FAR 52.204-4, Contractor Establishment Code, will provide the DUNS number previously obtained through the GSAR provision prescribed in this section; to delete reference to the Standard Form 1410 and substitute a reference to Optional Form 1419 and 1419A; to correct section 552.212-1 by substituting "DESIRED" for "REQUIRED" in the column heading under the Time of Delivery clause in paragraph (b); to delete section 552.215-75 because the new provision at FAR 52.204-4, Contractor Establishment Code, will provide the DUNS number previously obtained through the GSAR provision; to revise section 553.370-72A to illustrate the May 1989 edition of GSA Form 72A, Contractor's Report of Orders Received;

to add section 553.370-3516 to illustrate the October 1989 edition of GSA Form 3516, Solicitation Provisions (Acquisition of Leasehold Interests in Real Property); to add section 553.3517 to illustrate the October 1989 edition of GSA Form 3517, General Clauses (Acquisition of Leasehold Interests in Real Property); to add section 553.370-3518 to illustrate the October 1989 edition of GSA Form 3518, Representations and Certifications (Acquisition of Leasehold Interests in Real Property).

EFFECTIVE DATE: December 26, 1989.

FOR FURTHER INFORMATION CONTACT:
John Joyner, Office of GSA Acquisition
Policy (202) 566-1224.

SUPPLEMENTARY INFORMATION:

A. Public comments

This rule was not published in the Federal Register for public comment because it simply revises the GSAR to conform to the Federal Acquisition Regulation (FAR) as amended by FAC 84-49 which had already undergone the public comment process.

B. Background

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. This rule amends the GSAR as necessary to conform with the FAR as amended by FAC 84-49. The Regulatory Flexibility Act does not apply to this rule because the proposed policy was not required to be published in the Federal Register. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

**List of Subjects in 48 CFR Parts 501, 515,
536, 552 and 553**

Government procurement.

1. The authority citation for 48 CFR parts 501, 515, 536, 552 and 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 501—[AMENDED]

2. Section 501.707 is amended by revising paragraph "i" to read as follows:

§ 501.707 Signatory authority.

TABLE 501-1—SIGNATORY AUTHORITY

D&F requirement	Signatory authority
i. Determinations to omit the clause specified at FAR 52.215-1, Examination of Records by Comptroller General, from contracts with foreign contractors or subcontractors. (See 41 U.S.C. 254(c), FAR 15.106-1(b) and 25.901 (c) and (d)).	Individual D&Fs must be signed by the Administrator with the concurrence of the Comptroller General or a designee.

PART 515—[AMENDED]

§ 515.406-2 [Removed]

3. Section 515.406-2 is removed.

PART 536—[AMENDED]

4. Section 536.203 is amended by revising paragraph (c) to read as follows:

§ 536.203 Government estimate of construction cost.

(c) If the procurement is by sealed bidding, the sealed copy of the Government estimate must be stored with the bids received until bid opening. Before releasing an amendment to a solicitation that may affect the price, a revised sealed Government estimate must be stored with the bids until bid opening. After the bids are read and recorded, the sealed Government estimate will be opened and retained with the abstract of offers (See Optional Forms 1419 and 1419A). However, the Government's estimate must not be disclosed until after award. Immediately after award the Government estimate must be recorded on the abstract of offers as the Independent Government Estimate.

PART 552—[AMENDED]

5. Section 552.212-1 is amended by revising the Time of Delivery Clause under paragraph (b) that references 512.104(a)(2) to read as follows:

§ 552.212-1 Time of delivery.

(b) As prescribed in 512.104(a)(2) insert the following clause:

Time of Delivery (May 1989)

The Government desires that delivery be made at destination within the number of calendar days after receipt of order (ARO) as set forth below. Offerors are requested to insert in the "Time of Delivery (days ARO)" column in the Schedule of Items a definite number of calendar days within which delivery will be made. If the Offeror does not insert a delivery time, the Offeror will be deemed to offer delivery in accordance with the Government's stated desired delivery time.

ITEMS OR GROUPS OF ITEMS
(Special Item Numbers or Nomenclature)

DESIRED DELIVERY TIME (DAYS ARO)

(End of Clause)

§ 552.215-75 [Removed]

6. Section 552.215-75 is removed.

Note: The GSA forms mentioned in the summary are made a part of the GSAR looseleaf edition. Copies may be obtained from the Director of the Office of GSA Acquisition Policy (VP), 18th and F Streets, NW, Washington, DC 20405. The forms will not appear in this volume of the Federal Register or title 48, chapter 5 of the Code of Federal Regulations.

Dated: December 5, 1989.
Richard H. Hopf, III,
Associate Administrator for Acquisition Policy.
[FR Doc. 89-29353 Filed 12-18-89; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 81130-8265]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of closure and request for comments.

SUMMARY: NOAA issues this notice closing the fishery for widow rockfish off the coasts of Washington, Oregon, and California, and seeks public comment on this action. This closure is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) which state that retention or landing of a species is prohibited when that species' quota is reached.

DATES: Effective from 0001 hours Pacific Standard Time, December 13, 1989, until 2400 hours Pacific Standard Time, December 31, 1989. Comments will be accepted until January 3, 1990.

ADDRESSES: Send comments to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115. The aggregate data upon which this determination is based are available for public inspection at the address listed above during business hours until the end of the comment period.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 528-6140.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP at 50 CFR 663.21(b) require the Secretary of Commerce (Secretary) to prohibit retention or landing of a species when

the numerical optimum yield (OY) quota for that species is reached. The 1989 OY for widow rockfish is 12,400 metric tons (54 FR 32, January 3, 1989).

Based on the best available information to date from the Pacific Fishery Management Council's Groundfish Management Team, the Regional Director has determined that the widow rockfish quota was reached on November 25, 1989. Accordingly, the Secretary announces that retention or landing of widow rockfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California is prohibited from 0001 hours Pacific Standard Time, on December 13, 1989, the earliest date possible, until 2400 hours Pacific Standard Time, December 31, 1989. The states of Washington, Oregon, and California also will close state ocean waters during the same period.

Classification

The determination to prohibit further landings of widow rockfish is based on the most recent data available. This action is taken under the authority of 50 CFR 663.21(b) and 663.23, and is in compliance with Executive Order 12291.

Because of the immediate need to prohibit further landings of widow rockfish and thereby prevent the excessive harvest that could otherwise result, the Secretary finds that advance notice and public comment prior to this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. Public comments, however, will be accepted for 15 days after this notice is published in the Federal Register. The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of § 663.23(c).

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

Dated: December 13, 1989.

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

[FR Doc. 89-29402 Filed 12-13-89; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 90407-9170]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment; reopening of fishery.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the joint venture processing (JVP) portion of the domestic annual harvest (DAH) for pollock in the Bering Sea subarea. This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area and to fully achieve the optimum yield.

DATES: This notice is effective December 14, 1989. Comments will be accepted through January 3, 1990.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Initial specifications for DAH, DAP (domestic annual processing) and JVP for 1989 were published at 54 FR 3605 (January 25, 1989). Subsequent reapportionments occurred on September 3 at 54 FR 37112, September 16 at 54 FR 38686 (September 20, 1989), on October 6 at 54 FR 41977 (October 13, 1989), on October 31 at 54 FR 46619 (November 6, 1989), on November 9 at 54 FR 47683 (November 16, 1989), on November 27 at 54 FR 49298 (November

30, 1989), and on December 7 at 54 FR 51200 (December 13, 1989).

On November 27 foreign permits of all foreign vessels, except Polish vessels, were restricted and the authority to receive pollock from U.S. catcher vessels operating in joint venture fisheries was terminated. Notice of the decision to amend these permits was published at 54 FR 50009 (December 4, 1989). That action allowed Polish vessels to receive the remaining amounts of pollock JVP in both the Bering Sea and Aleutian Islands subareas. Subsequently, on December 7, the amount of Aleutian Islands subarea pollock available for JVP operations was increased by 13,000 metric tons (mt), and the permit restrictions of vessels of all foreign nations other than Poland were modified to allow receipt of 13,000 mt at 54 FR 51200 (December 13, 1989).

Because the amounts of Bering Sea subarea pollock available for JVP operations will be increased by 21,000 mt in this notice, the Regional Director intends to inform vessels of all other foreign nations which participate in joint ventures in the Bering Sea and Aleutian Islands area that the permit restriction is modified to allow receipt of pollock in the Bering Sea subarea up to 17,000 mt, effective on the date of this notice. When the Regional Director determines that 17,000 mt of pollock has been received by foreign fishing vessels other than Polish vessels, or, alternatively, that the total amount of pollock specified as JVP in the Bering Sea subarea has been received by all foreign fishing vessels, this modification of the permit restriction will expire, and further receipts of pollock will be

subject to the terms of the foreign vessels' permits.

Reapportionment (Table 1)

The following actions are taken to apportion groundfish from the non-specific reserve to JVP: an amount identified as excess to DAP needs for Bering Sea subarea pollock, 21,000 mt, is apportioned to JVP for Bering Sea subarea pollock. This amount does not result in overfishing of Bering Sea subarea pollock, as the resulting amount available for DAH harvest, 1,340,000 mt is equal to the acceptable biological catch (ABC) (1,340,000 mt).

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen who have only a few weeks of fishing remaining in the year. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: December 14, 1989.

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

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC

		Current	This action	Revised
Pollock (Bering Sea)	DAP	1,045,585		1,045,585
TAC=1,340,000	JVP	273,415	+21,000	294,415
ABC=1,340,000				
Total (TAC=2,000,000)	DAP	1,341,387		1,341,387
	JVP	635,257	+21,000	656,257
	Reserves	23,356	-21,000	2,356

Proposed Rules

Federal Register

Vol. 54, No. 242

Tuesday, December 19, 1989

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-245-AD]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42 series airplanes, which currently requires repetitive inspections of the aileron control tab hinge pins, repair if necessary, and modification of the hinge pins on certain airplanes. Those actions were necessary to prevent hinge pin migration, which could lead to excessive aileron forces and loss of controllability of the airplane. This proposal would require the installation of a previously optional modification, consisting of new hinge pins and stop plates, which will terminate the need for the currently required repetitive inspections. Additionally, this proposal would add additional airplanes to the applicability of the rule.

DATE: Comments must be received no later than February 2, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-245-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the

Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-66966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-245-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 11, 1989, the FAA issued AD 89-18-03, Amendment 39-6304 (54 FR 34498; August 21, 1989) to require repetitive inspections of the aileron control tab hinge pins, and repair, if necessary. That action was prompted by reports of hinge pin migration continuing to occur following a previous modification. This condition, if not corrected, could lead to excessive aileron forces and loss of controllability of the airplane. This proposal would require installation of new hinge pins

and stop plates, and would terminate the need for the repetitive inspections. The FAA has determined that the optional modification in the existing AD should be made mandatory rather than relying on repetitive inspections.

Since issuance of that AD, Aerospatiale has issued Service Bulletin ATR42-57-0030, Revision 2, dated September 18, 1989, which updates procedures for installation of new hinge pins and stop plates. Installation of this modification terminates the need for the repetitive inspections. The Direction Generale de L'Aviation Civile, which is the airworthiness authority of France, has classified this service bulletin as mandatory and has issued Airworthiness Directive 89-077-021(B)R3 addressing this subject.

Additionally, since issuance of AD 89-18-03, the Model ATR42 fleet has increased and additional airplanes that were not listed in the applicability of the existing AD are also subject to the unsafe condition addressed by that action. This is reflected in both Service Bulletins ATR42-57-0028, Revision 1, dated April 20, 1989, and ATR42-57-0030, Revision 2, dated September 18, 1989.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would revise AD 89-18-03 to require installation of new hinge pins and stop plates, in accordance with the service bulletin previously described.

The degree of assurance necessary as to the adequacy of inspections needed to maintain the safety of the transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position of continual inspection, the FAA has decided to require, whenever practicable, airplane modifications necessary to remove the source of the problem addressed. The proposed modification requirements of this action

are in consonance with that policy decision.

It is estimated that 53 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. The required modification kit will be supplied by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$10,800.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety; Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39-6304 (54 FR 34498; August 21, 1989), AD 89-18-03, as follows:

Aerospatiale: Applies to Model ATR42 series airplanes, Serial Numbers 003 through 147, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent migration of the aileron control tab hinge pins, accomplish the following:

A. Within 7 days after June 12, 1989 (the effective date of AD 89-12-05, Amendment 39-6229), for airplanes Serial Numbers 003 through 068, modify the aileron control tab hinge pins in accordance with Part B of Aerospatiale Service Bulletin ATR42-57-0019, Revision 1, dated June 7, 1989.

B. Within 7 days after June 12, 1989 (the effective date of AD 89-12-05, Amendment 39-6229), for airplanes Serial Numbers 003 through 135, perform an inspection of the aileron control tab hinge pins in accordance with Part B of Aerospatiale Service Bulletin ATR42-57-0028, Revision 1, dated April 20, 1989. If the inspection reveals that the end knuckle is not peened, prior to further flight, modify the aileron control tab hinge pins in accordance with the service bulletin.

C. Within 7 days after September 5, 1989 (the effective date of AD 89-18-03, Amendment 39-6304), for airplanes Serial Numbers 003 through 147, unless accomplished within the last 50 hours time-in-service, inspect all aileron control tab hinges to determine if the hinge pin has visibly migrated out of its housing. If the inspection reveals that a hinge pin has migrated, prior to further flight, push the hinge pin back into its housing. Repeat the inspection for hinge pin migration, and the associated repair, if necessary, at intervals not to exceed 50 hours time-in-service.

D. Within 60 days after the effective date of this amendment, for airplanes Serial Numbers 003 through 147, install new hinge pins and stop plates, in accordance with Service Bulletin ATR42-57-0030, Revision 2, dated September 18, 1989. This modification constitutes terminating action for the repetitive inspections required by paragraph C., above.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 7, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29411 Filed 12-18-89; 8:45 a.m.]

BILLING CODE 4910-19-M

14 CFR Part 39

[Docket No. 89-NM-250-AD]

Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, which would require repetitive inspections of the attachment bolts and nuts in the rear spar root joint attachment fittings at wing rib 2, left and right, for integrity of nuts, tightness of bolts, and/or fuel leaks, and repair, if necessary. This proposal is prompted by reports of fuel leaks from bolt positions on the rear spar attachment fitting at wing rib 2. This condition, if not corrected, could result in loss of fuel and a subsequent fire.

DATE: Comments must be received no later than February 12, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-250-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-250-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes. There have been recent reports of fuel leaks from bolt positions on the rear spar attachment fitting at wing rib 2. Leaks have been attributed to loose bolts, thread bound bolts, ineffective sealing, and damaged bolts. This condition, if not corrected, could result in loss of fuel and a subsequent fire.

British Aerospace has issued Service Bulletin 57-33, dated August 31, 1989, which describes procedures for repetitive inspections of the attachment bolts and nuts in the rear spar root joint attachment fittings at wing rib 2, left and right, for loose or damaged bolts and/or fuel leaks, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the

Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive inspections of the attachment bolts and nuts in the rear spar root joint attachment fittings at wing rib 2, left and right, for loose or damaged bolts and/or fuel leaks, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 61 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$4,880.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39 [AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.69.

§ 39.13 [Amended]

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

British Airspace: Applies to Model BAe 146-100A, -200A, and -300A series airplanes, as listed in British Aerospace Service Bulletin 57-33, dated August 31, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent fuel leakage from bolt positions on the rear spar attachment fitting at wing rib 2 on the left and right side of the airplane, accomplish the following:

A. Within 12 months after the effective date of this AD, and thereafter at intervals not to exceed 3,000 landings, visually inspect the outboard vertical row of fasteners at the left and right rear spar root joint attachment fittings for integrity of nuts, tightness of bolts, and/or fuel leaks, in accordance with British Aerospace Service Bulletin 57-33, dated August 31, 1989.

1. If no defects are found, reinstall the left and right wing-to-fuselage fairing panels, in accordance with the service bulletin.

2. If defects are found, repair prior to further flight, in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington. Issued in Seattle, Washington, on December 11, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29412 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-46

14 CFR Part 39**[Docket No. 89-NM-239-AD]**

Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes, and Model MD-88 Airplanes, Fuselage Numbers 909 through 1619

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-80 series and Model MD-88 airplanes, which would require inspection and modification of all generator power feeder cable installations to preclude overheating of the firewall connector. This proposal is prompted by reports of the APU generator power feeder firewall connector overheating and burning attached wiring. This condition, if not corrected, could result in loss of electrical power from the affected generator and fire on board the airplane.

DATE: Comments must be received no later than February 12, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-239-AD, 17900 Pacific Highway South, C-88966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Alan T. Shinseki, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5343.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket

number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, conformed with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-239-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been five reports of loose terminal connections in the Auxiliary Power Unit (APU) generator firewall connector on McDonnell Douglas Model DC-9-80 series airplanes. Investigations by McDonnell Douglas revealed that loose terminal lugs and heat shrink insulation pinched between a terminal lug and mating surface had contributed to loose connections. This condition, if not corrected, could result in overheating, arcing, and possible loss of electrical power from the APU generator and fire aboard the airplane. The firewall connectors used with each engine-driven generator power feeder cable installation are identical to that of the APU installation; therefore, the firewall connections of the power feeder cable installation are also susceptible to the reported problem.

The FAA has reviewed and approved McDonnell Douglas MD-80 Service Bulletin A24-113, dated October 30, 1989, which describes inspection procedures and modification instructions to correct the generator power feeder cable firewall connector terminations. The modification consists of replacing worn or damaged attachments, correctly assembling, and tightening to proper torque value to minimize the possibility of loose terminal connections.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed

which would require a one-time inspection and modification of the generator power feeder cable firewall connector installation in McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and Model MD-88 airplanes, in accordance with the service bulletin previously described.

There are approximately 531 McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and Model MD-88 series airplanes of the affected design in the worldwide fleet. It is estimated that 375 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. The required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$180,000.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and Model MD-88 airplanes, Fuselage Numbers 909 through 1619, certificated in any category. Compliance required within 12 months after the effective date of this Airworthiness Directive (AD), unless previously accomplished.

To eliminate a potential fire ignition source from the generator power feeder cable installations, accomplish the following:

A. Visually inspect the generator power feeder cable at the receptacle for evidence of arcing, burning, or chafing. If damage is found, prior to further flight, replace damaged feeder cable.

B. Modify the generator power feeder firewall connector installation in accordance with the Accomplishment Instructions of McDonnell Douglas MD-80 Alert Service Bulletin A24-113, dated October 30, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Avionics Inspector (PAI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, C1-HCW (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90808.

Issued in Seattle, Washington, on December 11, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 89-29413 Filed 12-18-89; 8:45 am]

BILLING Code 4910-19-M

14 CFR Part 39

[Docket No. 89-NM-240-AD]

Airworthiness Directives: McDonnell Douglas Model DC-9-81, -82, -83, and -87 Series Airplanes and Model MD-88 Airplanes, Fuselage Numbers 909 through 1644

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-80 and MD-88 series airplanes, which would require inspection and modification of the electrical bonding straps for the overhead stowage compartment support rail assembly to preclude premature chafing of electrical wiring in the cabin overhead area. This proposal is prompted by two reports of electrical shorting and smoke emanating from the passenger compartment ceiling area. This condition, if not corrected, could result in fire on board the airplane above the cabin overhead stowage compartments.

DATE: Comments must be received no later than February 12, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-240-AD, 17900 Pacific Highway South, C-68986, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, CI-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Alan T. Shinseki, Aerospace Engineer, ANM-132L, FAA Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90808-2425; telephone (213) 988-5343.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-240-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

An operator of McDonnell Douglas Model DC-9-80 series airplanes reported an electrical fire in the main cabin above the overhead stowage compartment area at row 16R on one airplane. The reported fire extinguished by itself within two to three minutes after electrical power to the cabin lights was removed. No circuit breakers had tripped. Investigation revealed that the cabin lights wiring had shorted and burned in the vicinity of a terminal strip and caused damage to the electrical wiring, a stowage compartment module, and the surrounding insulation blankets. However, there was no reported damage to the airplane structure or airplane exterior skin. A similar occurrence was reported by that same operator on a different airplane. Further investigations have revealed that a bonding strap installed between the overhead stowage compartment support rail assembly and the fuselage frame assembly had chafed through the insulation of cabin lights electrical wiring and shorted the wires. This condition, if not corrected, could result in shorting and sparking of electrical wire, which could lead to similar occurrence of fire in the main cabin above the overhead stowage compartment area.

The FAA has reviewed and approved McDonnell Douglas MD-80 Alert Service Bulletin A25-309, dated October

30, 1989, which describes modification instructions to correct the bonding strap installation in the overhead stowage compartment support rail assembly.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a one-time inspection and modification of the bonding strap installation for the overhead stowage compartment support rail assembly on McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and MD-88 Model airplanes, in accordance with the service bulletin previously described.

There are approximately 556 McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and Model MD-88 airplanes of the affected design in the worldwide fleet. It is estimated that 313 airplanes of U.S. registry would be affected by this AD, that it would take approximately 30 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. The required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$375,800.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39 [AMENDED]

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, -82, -83, and -87 series and Model MD-88 airplanes, Fuselage Numbers 909 through 1644, certificated in any category. Compliance required within 12 months after the effective date of this Airworthiness Directive (AD), unless previously accomplished.

To eliminate a potential fire ignition source in the main cabin above the overhead stowage compartment area, accomplish the following:

A. Visually inspect the overhead stowage compartment rail assembly for evidence of arcing, burning, or chafing to electrical wiring in the vicinity of each electrical bonding strap. If damage is found, prior to further flight, repair the electrical wires in accordance with McDonnell Douglas MD-80 Maintenance Manual, Chapters 20-50-01 and 20-50-02.

B. Modify the electrical bonding strap installation of the overhead stowage compartment rail assembly in accordance with the Accomplishment Instructions of McDonnell Douglas MD-80 Alert Service Bulletin A25-309, dated October 30, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Avionics Inspector (PAI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, CI-HCW (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on December 11, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 89-29414 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-246-AD]

Airworthiness Directives; Sud Aviation Caravelle SE 210 Models III and VIR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all Sud Aviation Caravelle SE 210 Models III and VIR series airplanes, which would require repetitive inspections to detect cracks in the left-hand forward passenger door frame, and repair, if necessary. This proposal is prompted by reports of cracks discovered on in-service airplanes in the upper corners of the left-hand forward passenger door frame. This condition, if not corrected, could lead to failure of the passenger door frame and subsequent decompression of the airplane.

DATE: Comments must be received no later than February 7, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-246-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Rue de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Standardization Branch, ANM-113; telephone (206) 431-1950. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to

participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-246-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Sud Aviation Caravelle SE-210 Models III and VIR series airplanes. There have been reports of cracks found on in-service airplanes in the corners of the left-hand forward passenger door frame. The cracks initiate in the hole of the 4 mm. diameter rivet located in the first row of rivets counted from the edge of the door frame. This condition, if not corrected, could lead to failure of the passenger door and subsequent decompression of the airplane.

Sud Aviation has issued Service Bulletin 53-56, dated October 21, 1988, which describes procedures for repetitive inspections to detect cracks in left-hand forward passenger door frame, and repair, if necessary. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 88-112-067(B)R1 addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of

§ 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive inspections to detect cracks in the left-hand forward passenger door frame, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 5 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,000.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Sud Aviation: Applies to Sud Aviation Caravelle SE 210 Model III and VIR series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the left-hand forward passenger door frame and subsequent decompression of the airplane, accomplish the following:

A. Prior to the accumulation of 20,000 landings, or within 50 landings after the effective date of this AD, whichever occurs later, perform one of the following inspections in accordance with Sud Service Bulletin 53-56, dated October 21, 1988:

1. Perform a visual inspection of the skin plating, stamping, and visible edge of the fitting, plus a dye penetrant inspection of the fitting edge; or

2. Perform an X-ray inspection in accordance with the following maintenance manuals:

a. For Mark III airplanes—Chapter 53-1-1, Figure 606;
b. For Mark VIR airplanes—Chapter 53-12-1, Figure 604; or

3. Perform an inspection of holes by defectometer, after removal of fasteners identified on Figure 606 (Mark III) or Figure 604 (Mark VIR), as applicable; or

4. Perform an inspection of holes by Rototest, after removal of fasteners identified on Figure 606 (Mark III) or Figure 604 (Mark VIR), as applicable.

B. If no cracks are found, repeat the inspections at the following intervals:

a. If the immediately preceding inspection was performed by visual method and dye check, the next inspection must be performed within 100 landings.

b. If the immediately preceding inspection was performed by X-ray, the next inspection must be performed within 300 landings.

c. If the immediately preceding inspection was performed by defectometer, the next inspection must be performed within 2,000 landings.

d. If the immediately preceding inspection was performed by rototest, the next inspection must be performed within 4,000 landings.

C. If cracks are found, repair prior to further flight, in accordance with Sud Service Bulletin 53-56, dated October 21, 1988.

Thereafter, repeat visual inspections of the fasteners around the edge at intervals not to exceed 500 landings, and replace with a new fitting prior to the accumulation of 5,000 landings, in accordance with the service bulletin.

D. Upon the installation of a new fitting, perform the initial inspection prior to the accumulation of 20,000 landings, in accordance with paragraph A., above, and thereafter at intervals specified in paragraph B., above.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may

be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Rue de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 7, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29415 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-247-AD]

Airworthiness Directives; Sud Aviation Caravelle SE 210 Model III and VIR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Sud Aviation Caravelle SE 210 Model III and VIR series airplanes, which would require repetitive visual and radiographic or eddy current inspections to detect cracks in the nose gear well area, and repair, if necessary. This proposal is prompted by fatigue testing by the manufacturer and in-service experience, which have identified fatigue cracks in the nose gear well angles. This condition, if not corrected, could result in reduction of the structural integrity within the nose wheel well area of these airplanes.

DATE: Comments must be received no later than February 7, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal

Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-247-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Rue de Bayonne, 31060, Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Huhn, Standardization Branch, ANM-113; telephone (206) 431-1950. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-247-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction General de l'Aviation civile (DEAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has

notified the FAA of an unsafe condition which may exist on certain Sud Aviation Caravelle SE-210 Model III and VIR series airplanes. Results of fatigue testing by the manufacturer and in-service experience have identified fatigue cracks in the nose gear well angles. This condition, if not corrected, could result in reduced structural integrity within the nose gear well area of these airplanes.

Sud Aviation has issued Service Bulletin 53-49, Revision 3, dated June 2, 1986, which describes procedures for repetitive visual and radiographic or eddy current inspections to detect cracks in nose gear well angles and fuselage skin, and repair, if necessary. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 79-06-48(B)RI addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual and radiographic or eddy current inspections to detect cracks in the fuselage skin and well angles in the nose landing gear zone, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 5 airplanes of U.S. registry would be affected by this AD, that it would take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,400.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact,

positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety. Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [AMENDED]

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

Sud Aviation: Applies to all Sud Aviation Caravelle SE 210 Model III and VIR series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To identify and correct fatigue cracks in the nose landing gear well angles, which could result in reduction of the structural integrity within that area of the airplane, accomplish the following:

A. Prior to the accumulation of 32,500 landings or within 30 days after the effective date of this AD, whichever occurs later, perform the following inspections in accordance with Sud Service Bulletin 53-49, Revision 3, dated June 2, 1988:

1. Perform a visual and dye penetrant inspection of doublers and fuselage skin bordering doublers (fitted in accordance with Sud Service Bulletins 53-15 and 53-36) at frame 9 and frame 17, in accordance with the service bulletin. Repeat this inspection thereafter at intervals not to exceed 2,500 landings.

2. Perform an X-ray inspection or low frequency eddy current inspection of skin panels under doublers at frame 9 and at frame 17, in accordance with the service bulletin. Repeat this inspection thereafter at intervals not to exceed 5,000 landings.

3. Perform a visual inspection and dye penetrant inspection of the front angles at frame 15 on airplanes not fitted with doublers in this area, in accordance with the service bulletin. Repeat this inspection thereafter at intervals not to exceed 2,500 landings.

4. Perform an X-ray inspection of the front angles at frame 15, on airplanes fitted with repair doublers, in accordance with the service bulletin. Repeat this inspection at intervals not to exceed 5,000 landings.

B. If cracks are found, repair prior to further flight, in accordance with Sud Service Bulletin 53-49, Revision 3, dated June 2, 1988. Repeat inspections thereafter at intervals specified in paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 318 Rue de Bayonne, 31060 Toulouse Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 7, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-29416 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AWA-12]

Proposed Establishment of the Tampa Terminal Control Area and Revocation of the Tampa International Airport Airport Radar Service Area; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This action corrects minor errors in the "Summary" section and the "Proposal" section of the notice of proposed rulemaking (NPRM) that was published in the Federal Register on October 17, 1989. This action corrects those mistakes.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 89-24412, published on October 17, 1989, proposed to establish the Tampa Terminal Control Area (TCA) at Tampa International Airport, FL, (54 FR 42694). The Summary and the Proposal sections indicate that a segment of the TCA contains altitude restrictions "from 8,000 to 10,000 feet MSL" when in fact that statement should read "8,000 to 10,000 feet MSL." Also, under the Proposal section it states airspace extending upward "from 1,200 feet AGL" when actually it should read "from 1,200 feet MSL."

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas and Airport radar service areas

Correction to NPRM

Accordingly, pursuant to the authority delegated to me, the preamble of the NPRM (Federal Register Document No. 89-24412), as published on October 17, 1989, (54 FR 42694), is corrected to read as follows:

1. In the Summary section (page 42694, column 1), on line twelve, remove the words "restrictions from 8,000" and add the words "restrictions from 6,000."

2. In the Proposal section (page 42697, column 1), on the second line of paragraph number 2, remove the words "from 1,200 feet above ground level" and add the words from 1,200 feet mean sea level." Also, on the second line of paragraph numbers 4 and 5 (page 42697, column 2), remove the words "from 8,000 feet MSL" and add the words "from 6,000 feet MSL."

Issued in Washington, DC, on December 8, 1989.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-29417 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ANE-32]

Proposed Alteration of Transition Area, Biddeford, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to amend the description of the Biddeford, Maine 1200 foot Transition Area so as to

provide protected airspace for instrument flight rules helicopters executing a new Copter TACAN 135/ Copter TACAN 315 Standard Instrument Approach Procedure (SIAP) to the Walker's Point Heliport, Kennebunkport, Maine.

DATE: Comments must be received no later than February 2, 1990.

ADDRESSES: Send comments on the Rule in triplicate to: Manager, Systems Management Branch, Air Traffic Division, New England Region, Docket No. 89-ANE-32, Department of Transportation, Federal Aviation Administration, Burlington, MA 01803.

The Official Docket may be examined in the Office of Assistant Chief Counsel, New England Region, Federal Aviation Administration, Room 311, 12 New England Executive Park, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT: Charles M. Taylor, Airspace Specialist, Systems Management Branch, ANE-530, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803; Telephone: (617) 270-2428.

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, aeronautical, 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. 89-ANE-32." 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 Office of the Assistant Chief Counsel, New England Region, Room 311, 12 New England Executive Park, Burlington, MA 01803, 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 this docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the 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 notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs 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 section 181 part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the description of the Biddeford, ME 1200 foot transition area so as to provide protected airspace for Instrument Flight Rules Helicopters executing a new Standard Instrument Approach Procedure to the Walker's Point Heliport, Kennebunkport, Maine. Section 181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.8E dated January 3, 1989.

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. Therefore, this proposed regulation, (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 proposed rule will not have a significant economic impact on a substantial number of small business 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—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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:

Biddeford, ME [Amended]

On line eleven, after coordinates, (Latitude 43°30'00" N., Longitude 70°06'00" W.), add: to Latitude 43°22'45" N., Longitude 70°18'10" W.; to Latitude 43°22'30" N., Longitude 70°17'45" W.; to Latitude 43°15'15" N., Longitude 70°23'00" W.; to Latitude 43°16'10" N., Longitude 70°25'00" W.; to Latitude 42°56'00" N., Longitude 70°25'00" W.; 70°34'00" W.; thence to clockwise via the state boundary to the point of beginning.

Issued in Burlington, Massachusetts, on December 8, 1989.

James I. Lucas

Manager, Air Traffic Division.

[FR Doc. 89-29418 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AEA-25]

Proposed Alteration of Transition Area; Wurtsboro, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Due to the reorganization of Air Traffic Control procedures provided to the Wurtsboro-Sullivan County Airport, Wurtsboro, NY, the FAA has determined that portions of controlled airspace which were designated to contain arrivals and departures to the airport are no longer required. The FAA proposes to reduce that amount of controlled airspace within the Wurtsboro, NY, 700-foot Transition Area to that which is deemed necessary to accommodate aircraft arriving at and departing from this airport. In addition, a minor change to the geographic coordinates of the airport would be made to reflect the actual location.

DATES: Comments must be received on or before January 26, 1990.

ADDRESSES: Send comments on the rule in triplicate to: Edward R. Trudeau, Manager, System Management Branch,

AEA-530, Docket No. 89-AEA-25, FAA Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Systems Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 917-0857.

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, aeronautical, 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. 89-AEA-25." 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 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs 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 revise the Wurtsboro, NY 700-foot Transition Area to reflect that airspace which is necessary to contain arriving and departing flights at the Wurtsboro/Sullivan County Airport, Wurtsboro, NY. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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 proposed 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 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—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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:

Wurtsboro, NY [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, lat. 41° 35' 50" N., long. 74° 27' 32" W., of Wurtsboro-Sullivan County Airport, Wurtsboro, NY; within 3 miles each side of the 084° (T) 096° (M) bearing from the Wurtsboro-Sullivan County Airport extending from the 5-mile radius to 7 miles east of the airport; excluding the portions that coincide with the Newburgh, NY and Monticello, NY transition areas. This transition area is effective from sunrise to sunset daily.

Issued in Jamaica, New York, on November 29, 1989.

John D. Caneles,

Manager, Air Traffic Division.

[FR Doc. 89-29419 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 91047-9247]

Quarterly Review of the Commodity Control List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of quarterly review of the Commodity Control List; Request for comments.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. Section 5(c)(3) of the Export Administration Act of 1979 (the Act), as amended by the Omnibus Trade and Competitiveness Act of 1988, requires that the Department of Commerce conduct quarterly reviews of entries on the CCL that are controlled for national security reasons. The Act also mandates that the Department provide a 30-day period during each review for the submission of comments by affected or potentially affected parties. This notice and request for comments is being issued to solicit public comments on the CCL entries that are being reviewed.

Section 5(g)(2)(A) of the Act, as amended by the Omnibus Trade and Competitiveness Act of 1988, requires

the Department of Commerce to conduct annual reviews of items controlled for national security reasons to determine the appropriate performance levels for eligibility to export under: (1) existing special licensing procedures, (2) the PRC Advisory Notes to the CCL that permit exports to China with only notification to COCOM, and (3) the QWY Advisory Notes (AEN level) that permit exports to the Soviet Bloc with only notification to COCOM. This notice and request for comments also is being issued to solicit public comments on the appropriateness of these technical performance levels. Comments on the technical performance levels should be submitted during the 30-day comment periods provided for the quarterly review of CCL entries and should address only those performance levels that are contained in the entries being reviewed during a particular quarter.

DATES: Comments should be received between:

December 19, 1989, and January 18, 1990 (Quarterly Review Cycle Number One);

January 1–January 31, 1990 (Quarterly Review Cycle Number Two);

April 1–May 1, 1990 (Quarterly Review Cycle Number Three);

July 1–July 31, 1990 (Quarterly Review Cycle Number Four).

ADDRESS: Written comments (six copies) should be sent to: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Room 1622, Washington, DC 20230.

FURTHER INFORMATION CONTACT: Richard Barth, Program Review Staff, Bureau of Export Administration. Telephone: (202) 377-3984.

SUPPLEMENTARY INFORMATION: This is a notice and request for comment in connection with four quarterly reviews of entries on the Commodity Control List (CCL) of the Department of Commerce Export Administration Regulations. Each review will cover roughly one fourth of the entries on the CCL. The entries included in each quarterly review are listed below. The public is invited to comment on the controls reflected in these entries for the following purposes. After consultation with the Departments of Defense and State:

(1) Commerce will review controls imposed for national security reasons to determine whether each item, if uncontrolled, would make a significant contribution to the military potential of a controlled country, which contribution would prove detrimental to the national security of the United States. Items that do not meet this standard will not

continue to be controlled under Section 5 of the Export Administration Act (EAA). This element of the review is required by sections 3(2)(A) and 5(c)(3) of the Act.

(2) Commerce will review controls imposed for national security reasons to determine whether controlled countries possess an item or a functionally equivalent item and whether the item is available in fact to a controlled country from outside the United States in sufficient quantity and of comparable quality to render the control ineffective. This element of the review is required by sections 5(c)(3) and 5(d)(4) of the Act. If the item meets the standard in paragraph one above and if comparable items are available from sources outside of the United States in sufficient quality and quantity to render a control ineffective, then Commerce will either cause the initiation of negotiations to eliminate the source of foreign availability or remove the item from the Control List. Items that meet both the standard in paragraph one above and the standard in this paragraph will remain under control under Section 5 of the Act.

(3) Commerce will review controls imposed for national security reasons to determine appropriate performance levels for eligibility to export under:

(a) Each special license (e.g., the distribution license, the project license, and the service supply license);

(b) The PRC Advisory Notes to the CCL—which permit Commerce to license exports to China without referral to COCOM or to other agencies;

(c) The Advisory Notes to the CCL (known as the "AEN level")—which permit Commerce to license exports to the Soviet Bloc without referral to COCOM;

(d) General Licenses G-COCOM, G-COM, and CFW—which permit certain exports to certain destinations without a validated license.

This element of the review is mandated by section 5(g)(2)(A) of the Act, which requires annual assessment of these performance levels.

In addition to the above, Commerce will review controls imposed for national security reasons to determine appropriate performance levels of other general licenses that may be of interest to the public.

As provided in section 5(c)(3) of the Act, Commerce will use the results of these list reviews to formulate U.S. proposals for revisions in multilateral controls. In the course of the reviews, Commerce shall integrate items from the Military Critical Technologies List established under section 5(d) into the control list in accordance with the

requirements and standards of section 5(c). Pursuant to section 5(d), it is also an objective of the review to insure that export controls cover and are limited to militarily critical goods and technology.

The Role of the Technical Advisory Committees

Commerce will consult with the various Technical Advisory Committees in connection with this quarterly list review. The Technical Advisory Committees are chartered by the Department of Commerce under section 5(h) of the Act. The Technical Advisory Committees consist of representatives of industry and government. They advise Commerce on technical matters, worldwide availability and actual utilization of production technology, licensing procedures that affect the level of export controls applicable to any goods or technology, revisions of the control list (as provided in sections 5(c)(4) and 5(b)(2) of the Act), including proposed revisions of the multilateral controls in which the United States participates, the issuance of regulations, and any other actions designed to carry out the policy set forth in section 3(2)(A) of the Act.

Presentations to Technical Advisory Committee for Review

Because of the important role of the Technical Advisory Committees in advising the Commerce Department concerning the development of proposals to change the control list, interested parties may wish to make presentations to the appropriate Technical Advisory Committees in addition to filing comments during the proper 30-day review period. The CCL entries that are assigned to each Technical Advisory Committee are listed below. For more information on the Technical Advisory Committees, including current membership, gaining membership, schedules for public meetings, and making presentations, you may contact the Bureau of Export Administration by calling Betty Ferrell at (202) 377-2583.

Because the United States controls exports in cooperation with other countries, Commerce may require the Technical Advisory Committees to complete their recommendations well in advance of the time that Commerce will make control list proposals for interagency review and introduction at international negotiations.

The Western allies schedule regular reviews of each entry only once every four years. Commerce will review each item every year and will make appropriate recommendations for

multilateral changes in controls. However, it is especially important for interested parties to comment in advance of the regularly scheduled multilateral review. The dates that items are scheduled for regular multilateral review by the Western allies are indicated on the following quarterly review cycle lists.

After the end of each quarterly review cycle, Commerce shall consult—within thirty days—with the Departments of State and Defense and other concerned agencies and determine what revisions should be made in the CCL unilaterally or proposed for multilateral review. Additional time will be required to implement these changes. In particular, determinations to recommend changes in multilateral controls will require that negotiating proposals be submitted by the U.S. Government to the Western allies for consideration in the multilateral control process.

Quarterly Review Cycle Lists:

Technical advisory committees (TACs) identified in the lists include:

- AME—Automated Manufacturing Equipment
- BIO—Biotechnology
- CP—Computer Peripherals, Components, and Related Test Equipment
- CS—Computer Systems
- EI—Electronic Instrumentation
- MAT—Materials
- MI—Militarily Critical Technology List Implementation
- SEMI—Semiconductors
- TE—Telecommunications Equipment
- T&RE—Transportation and Related Equipment.

A. Quarterly Review Cycle Number One

Quarterly Review Cycle Number One began on October 1, 1989 and will continue until January 18, 1990. The comment period will open on December 19, 1989, and will close on January 18, 1990. The following Export Control Commodity Numbers (ECCNs) in the Commodity Control List (Supplement No. 1 to § 799.1 of the Export Administration Regulations) will be subject to review during Quarterly Review Cycle Number One, and are scheduled for regular review by the Western allies beginning in September 1990.

ECCN	TAC
1110A—Equipment for the production of liquid fluorine.	MAT
1129A—Vacuum pump systems.....	MAT
1131A—Pumps.....	MAT
1145A—Containers (jacketed only)....	MAT
1203A—Electric furnaces.....	MAT

ECCN	TAC
1305A—Metal rolling mills.....	AME
1356A—Equipment for continuous coating of polyester based magnetic recording tape controlled by ECCN 1572A.	CP
1358A—Equipment for the manufacture or testing of certain devices, assemblies, or magnetic recording media.	CP
1514A—Pulse modulators.....	EI
1516A—Receivers and specially designed components.	TE
1517A—Radio transmitters, except radio relay communications equipment.	TE
1519A—Telecommunications and transmission equipment.	TE
1520A—Radio relay communications equipment.	TE
1521A—Solid state amplifiers.....	EI
1527A—Cryptographic equipment and specially designed components.	TE
Cryptographic equipment in computer systems.	CS
1531A—Frequency synthesizers [paragraphs (a) and (b) only].	EI
Airborne communication equipment, digitally-controlled radio receivers, and radio transmitters using frequency synthesizers [paragraphs (c) through (e) only].	TE
1532A—Precision linear and angular measuring systems.	AME
1534A—Flatbed microdensitometers.	EI
1541A—Cathode-ray tubes.....	EI
1542A—Cold cathode tubes and switches.	EI
1553A—Flash discharge type X-ray system.	EI
1565A—Electronic computers.....	CS (also TE, EI, T&RE)
Peripheral equipment and related equipment only.	CP
1568A—Software and technology not covered in other entries.	CS (also CP)
1572A—Recording or reproducing equipment.	CP
Optical/magnetic recording equipment only.	CS
1588A—Materials composed of crystals.	MAT

B. Quarterly Review Cycle Number Two

Quarterly Review Cycle Number Two will begin on January 1, 1990. The comment period will open on the same date and will close on January 31, 1990. The quarterly review cycle will end on March 31, 1990. The following Export Control Commodity Numbers (ECCNs) in the Commodity Control List (Supplement No. 1 to § 799.1 of the Export Administration Regulations) will be subject to review during Quarterly Review Cycle Number Two, and are scheduled for regular review by the Western allies beginning in September 1991.

ECCN	TAC
1001A—Technology for metal-working manufacturing.	MAT
1075A—Spin-forming and flow-forming machines.	AME
1080A—Tooling and fixtures for gas turbines and vanes.	AME
1081A—Specially designed machinery for aircraft manufacturing.	AME
1086A—Specially designed machinery for jet engine manufacturing.	AME
1088A—Gear Making or finishing machinery...	AME
1091A—Machine tools.....	AME
1093A—Machine tool parts and components...	AME
1301A—Equipment and technology for production of super alloys.	MAT
1312A—Isostatic presses.....	AME
1353A—Equipment specially designed for the manufacture of optical fiber and optical cable.	TE
1357A—Equipment specially designed for the manufacture of fibers.	AME
1359A—Specially designed tooling and fixtures for the manufacture of fiber-optic connectors and couplers.	TE
1370A—Machine tools for generating optical quality surfaces.	AME
1371A—Anti-friction bearings.....	AME
1391A—Robots, robot controllers.....	AME
1399A—Software and technology for auto-controlled industrial systems.	AME
1518A—Telemetry and telecontrol equipment.	TE
1526A—Optical cable and optical fibers.....	TE
Sensors only.....	EI
1567A—Stored program-controlled communication equipment.	TE
1568A—Equipment as specified (A/D, D/A converters).	TE
1601A—Inert gas and vacuum atomizing technology.	MAT
1602A—Pyrolytic deposition technology.....	MAT
1635A—Iron and steels.....	MAT
1648A—Cobalt-based alloys.....	MAT
1661A—Nickel-based alloys.....	MAT
1672A—Aluminides of titanium.....	MAT
1733A—Base materials.....	MAT
1734A—Thermal insulating materials.....	MAT
1763A—Fibrous and filamentary materials.....	MAT
1767A—Preforms of glass.....	TE

C. Quarterly Review Cycle Number Three

Quarterly Review Cycle Number Three will begin on April 1, 1990. The comment period will open on the same date and will close on May 1, 1990. The quarterly review cycle will end on June 29, 1990. The following Export Control Community Numbers (ECCNs) in the Commodity Control List (Supplement No. 1 to § 799.1 of the Export Administration Regulations) will be subject to review during Quarterly Review Cycle Number Three, and are scheduled for regular review by the Western allies beginning in September 1992.

ECCN	TAC
1361A—Test facilities and equipment for the design or development of aircraft or gas turbine aero-engines.	T&RE
1362A—Vibration test equipment.....	T&RE

ECCN	TAC	ECCN	TAC	ECCN	TAC
1363A—Specially designed water tunnel equipment.	T&RE	2418A—Manned submersible vehicles.	T&RE	1574A—Electronic devices, circuits and systems made from super-conducting materials.	EI
1364A—Machinery and equipment for the manufacture of hydrofoil vessels.	T&RE	2460A—Military trainer aircraft	T&RE	1586A—Acoustic wave devices.....	SEMI
1365A—Equipment specially designed for in-service monitoring.	EI	2603A—Specially designed components and parts for ammunition.	MAT	1631A—Magnetic metals.....	MAT
1372A—Technology for industrial gas turbine engines.	T&RE	2616A—Gilding metal clad steel, munitions materials.	MAT	1675A—Superconductive materials..	MAT
1385A—Specially designed production equipment for compasses, gyroscopes accelerometers, and inertial equipment controlled by ECCN 1485A.	T&RE	2708A—Explosives, propellants, and fuels.	MAT	1702A—Hydraulic fuels.....	MAT
1388A—Specially designed equipment for deposition.	AME	2901A—Military equipment.....	MAT	1715A—Boron.....	MAT
1389A—Materials and coatings.....	MAT	2913A—Military helmets equipped with or designed or modified to accept any type of accessory device.	MAT	1746A—Polymeric substances	MAT
1401A—Diesel engine development and production technologies.	T&RE			1749A—Polycarbonate sheet	MAT
1416A—Vessels, surface effect vehicles.	T&RE			1754A—Fluorinated compounds, materials, manufactures.	MAT
1417A—Submersible systems	T&RE			1755A—Silicone fluids and greases.	MAT
1418A—Deep submergence vehicles.	T&RE			1757A—Compounds and materials...	AME
1425A—Floating docks.....	T&RE			1760A—Compounds of tantalum and niobium.	MAT
1431A—Marine gas turbine engines.	T&RE			1781A—Synthetic lubricating oils and greases.	MAT
1460A—Aircraft, helicopters, aero-engines, aircraft and helicopter equipment.	T&RE			3131A—Valves and specially designed parts and accessories.	T&RE
1465A—Spacecraft and launch vehicles.	T&RE			3261A—Neutron generator systems.	EI
1485A—Compasses and gyroscopes.	T&RE			3336A—Plants specially designed for the production of uranium hexafluoride.	T&RE
1501A—Airborne communication equipment [paragraph (a) only]. Navigation/direction-finding equipment [paragraphs (b) & (c) only].	TE			3362A—Power generating and/or propulsion equipment specially designed for use with military nuclear reactors.	T&RE
1502A—Communication, detection or tracking equipment.	T&RE			3363A—Electrolytic cells for the production of fluoroine.	MAT
1510A—Marine or terrestrial acoustic or ultrasonic systems.	T&RE			3604A—Zirconium metal/allows/compounds.	MAT
1529A—Electronic equipment for testing, measuring, calibrating or counting, or for microprocessor/microcomputer development.	EI (also TE)			3605A—Nickel powder and porous nickel metal.	MAT
1533A—Signal analyzers.....	EI (also TE)			3607A—Lithium.....	MAT
1549A—Photomultiplier tubes.....	EI			3608A—Hafnium metal/alloys/compounds.	MAT
1555A—Electron tubes.....	EI			3609A—Beryllium	MAT
1556A—Optical elements.....	EI			3709A—Beryllium oxide ceramic and refractory tubes, pipes, crucibles, and other shapes in semi-fabricated or fabricated form.	MAT
1571A—Magnetometers.....	T&RE			3711A—Chlorine trifluoride	MAT
1584A—Cathode-ray oscilloscopes	EI				
1585A—Photographic equipment.....	EI (also MAT)				
1587A—Quartz crystals.....	MAT				
1585A—Gravity meters.....	T&RE				
1759A—Syntactic foam	T&RE				
2018A—Specialized machinery, equipment, and gear for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war.	AME (also T&RE)				
2120A—Cryogenic equipment	AME (also MAT)				
2317A—Miscellaneous equipment and materials.	T&RE				
2319A—Environmental chambers capable of pressures below 10 ⁻⁴ Torr, and specially designed components.	T&RE				
22406A—Vehicles specially designed for military purposes and specially designed components therefor.	T&RE				
22409A—Naval equipment.....	T&RE				
2410A—Equipment specially designed for military purposes.	T&RE				
2414A—Specialized military training equipment.	T&RE (also EI)				

D. Quarterly Review Cycle Number Four

Quarterly Review Cycle Number Four will begin on July 1, 1990. The comment period will open on the same date and will close on July 31, 1990. The quarterly review cycle will end on September 28, 1990. The following Export Control Commodity Numbers (ECCNs) in the Commodity Control List (Supplement No. 1 to § 799.1 of the Export Administration Regulations) will be subject to review during Quarterly Review Cycle Number Four, and are scheduled for regular review by the Western allies beginning in September 1993.

ECCN	TAC
1205A—Electrochemical devices.....	AME
1206A—Electric arc and equipment.	AME
1352A—Nozzles, dies, and extruder barrels for processing fluorocarbon materials.	SEMI
1354A—Equipment for the manufacture or testing of printed circuit boards.	SEMI
1355A—Equipment for the manufacture or testing of semiconductor devices.	SEMI
1360A—Equipment capable of the orientation and correction of SC quartz crystals.	SEMI
1522A—Lasers and equipment containing lasers.	EI
Equipment containing lasers [paragraph (b) only].	TE
1537A—Microwave equipment.....	EI (also TE)
1544A—Semiconductor diodes	SEMI
1545A—Transistors.....	SEMI
1547A—Thyristors	SEMI
1548A—Photosensitive components.	SEMI
1558A—Electronic vacuum tubes and cathodes.	EI
1559A—Hydrogen/hydrogen isotope thyratrons of ceramic-metal construction.	SEMI
1561A—Materials specially designed and manufactured for use as absorbers of electromagnetic waves.	MAT
1564A—Assemblies of electronic components, printed circuit boards, and integrated circuits.	SEMI
1570A—Thermoelectric materials and devices.	MAT
1573A—Superconductive electromagnets and solenoids.	MAT

Submission of Comments

The Department of Commerce encourages interested parties to submit comments on the entries covered by the quarterly review of the Commodity Control List. Comments should be limited to the entries that are being covered during the quarterly review in process (see the lists of entries for each of the quarterly review cycles).

Comments are also solicited concerning the annual review of the technical performance levels used to determine export eligibility under existing special licensing procedures and general licenses, and those PRC Advisory Notes and QWY Advisory Notes that permit exports with only notification to COCOM. These comments should be submitted during the 30-day comment periods provided for the quarterly review of CCL entries and should address only those performance levels that are contained in the entries being reviewed during a particular quarter.

All comments will become a matter of public record and will be available for

public inspection and copying. In the interest of accuracy and completeness, comments in written form are required. If oral comments are received, they must be followed by written memoranda that will be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments are welcome, but will not routinely be made available for public inspection.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copies made in accordance with the regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at this facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202 377-2593).

Dated: December 12, 1989.

James M. LeMunyon,
Deputy Assistant Secretary for Export
Administration.

[FR Doc. 89-29430 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-OT-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM89-16-000]

18 CFR Part 272

Proposal Implementing the Natural Gas Wellhead Decontrol Act of 1989

Issued December 13, 1989.

AGENCY: Federal Energy Regulatory
Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to reflect provisions of the Natural Gas Wellhead Decontrol Act of 1989 (Pub. L. No. 101-60, 102 Stat. 157 (1989)) that deregulates certain categories of first sales prior to January 1, 1993. Section 272.103 of the Commission's regulations lists the categories of natural gas that are already decontrolled by the Natural Gas Policy Act of 1978. In this notice, the

Commission proposes to add several additional categories of natural gas deregulated pursuant to the Natural Gas Wellhead Decontrol Act of 1989.

DATES: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by January 18, 1990.

ADDRESSES: All filings should refer to Docket No. RM89-16-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David J. Saggau, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8141.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

I. Introduction

On July 28, 1989, the President signed the Natural Gas Wellhead Decontrol Act of 1989 (Decontrol Act or Act), Public Law No. 101-60.¹ The Act takes the final step in the wellhead decontrol of natural gas by removing those price and nonprice controls that remain in place following the partial wellhead decontrol implemented under the Natural Gas Policy Act of 1978 (NGPA).² The

¹ 103 Stat. 157 (1989).

² 15 U.S.C. 3301 *et. seq.* (1988).

Commission is proposing technical amendments to the Commission's regulations to conform with the provisions of the new Act.

II. Background

In 1954 the Supreme Court held that independent producer rates were subject to regulation under the Natural Gas Act, which resulted in the regulation of wellhead prices by the Commission's predecessor agency, the Federal Power Commission (FPC).³ In view of the infeasibility of case-by-case regulation of producer wellhead sales, the FPC between 1960 and 1965 initiated a series of ratemaking proceedings to establish wellhead ceiling prices in various geographical regions. The rates established in those so-called area rate cases ranged from roughly 15 to 20 cents per Mcf. Commencing in the late 1960's consumption of natural gas began to outstrip new reserve additions, resulting in a decline in the total inventory of proved reserves.

In 1973, the FPC began establishing producer rates on a nationwide basis; however, reserves continued to decline, resulting in a severe shortage of gas in the interstate market. In response to the worsening gas supply situation, Congress enacted the Natural Gas Policy Act of 1978 (NGPA). The NGPA, which restructured regulation of natural gas by merging the interstate and intrastate markets into a unified national market, provided for phased deregulation of most "new" (post-enactment) gas and for the continued regulation of "old" gas.

Title I of the NGPA defined various categories of natural gas production and prescribed the maximum lawful price (MLP) that could be charged for "first sales"⁴ of each category. Section 121 of the NGPA provided for the phased, partial decontrol of wellhead sales. Certain high-cost natural gas as defined in sections 107(c)(1)-(4) was deregulated on November 1, 1979.⁵ New natural gas

³ Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672 (1954).

⁴ Section 2(21)(A), 15 U.S.C. 3301(21)(A) (1988), provides that a first sale is generally any sale of any volume of natural gas—(i) to any interstate pipeline or intrastate pipeline; (ii) to any local distribution company; (iii) to any person for use by such person; and (iv) any sale which precedes or follows any of these sales, which is defined as a first sale to avoid circumvention of maximum lawful prices. Sales by interstate pipelines are not "first sales" and the NGPA does not apply to such sales except to the extent that the gas is produced by the pipeline. See Public Service Commission of the State of New York v. Mid-Louisiana Gas Co., 463 U.S. 319 (1983) (interstate pipelines' own production entitled to first sale treatment under the NGPA).

⁵ 15 U.S.C. 3331(a). See Order No. 78, Final Rule Defining and Deregulating Certain High-Cost Gas.

Continued

as defined in section 102(c), certain new onshore production wells as defined in section 103(c), and some intrastate gas was deregulated on January 1, 1985.⁶ Gas from new on shore production wells completed at a depth of 5,000 feet or less was deregulated on July 1, 1987 if the gas was not committed or dedicated to interstate commerce on April 20, 1977.⁷

The NGPA provides that price and nonprice controls upon wellhead sales of other categories of natural gas remain in place. In particular, gas dedicated to interstate or intrastate commerce before the NGPA was passed (old gas);⁸ gas from new reservoirs on old Outer Continental Shelf (OCS) leases; and certain "incentive gas" under section 107(c)(5)⁹ and stripper well gas under section 108 remain regulated at the wellhead.¹⁰

The NGPA provides that ceiling prices for the various categories (or vintages) automatically rise at the rate of inflation, while some ceiling prices also receive an additional increment as an incentive for production. The statutory ceiling prices for the various categories that remain subject to NGPA controls are widely disparate, ranging from \$0.358 per Mcf for "minimum rate" gas under section 104, to almost \$7.00 per

MMBtu for gas produced from "tight formations" under section 107.

III. The Decontrol Act

Congress acted to repeal the remaining price and nonprice controls because those controls were "not in keeping with the evolution of natural gas markets and the regulatory environment."¹¹

Section 2(a) of the Act deregulates certain categories of first sales prior to January 1, 1993, in the following situations: (1) The Act immediately decontrols gas as to which no first sales contract applies on the date of enactment. Gas subject to post-enactment contracts is also decontrolled. (2) The Act decontrols gas under existing contracts that the parties renegotiate, after March 23, 1989, to provide that the gas will not be subject to any maximum lawful price on the date specified by the parties, but not before the date of enactment. (4) The Act decontrols gas from newly spudded (post-enactment) wells on May 15, 1991, or the date on which an existing contract expires or is terminated, whichever is earlier.¹²

Section 2(b) of the Decontrol Act provides for the complete decontrol of wellhead prices of first sales of natural gas as of January 1, 1993 by repealing title 1 of the NGPA.

Section 3 of the Act amends Title IV of the NGPA, which deals with the coordination of the NGPA and the NGA. In essence, these amendments remove NGA jurisdiction from any gas that is price decontrolled, make Alaska Prudhoe Bay gas subject to decontrol the same as any other gas, and continue the authority of individual states to prescribe a ceiling price from the first sale of natural gas produced and consumed in that state.

IV. Discussion

The Commission proposes to amend its regulations to reflect the provisions of the Act that decontrol gas prior to January 1, 1993. Section 272.103 of the Commission's regulations lists the categories of natural gas that have already been decontrolled by the NGPA. To this list the Commission proposes to add the following: (1) Gas not subject to a first sales contract as of July 26, 1989; (2) gas subject to a first sales contract that expires or terminates after July 26, 1989; (3) gas that was subject to a first

sales contract on July 26, 1989, which the parties renegotiate, in writing, after March 23, 1989, to provide that the gas will be price deregulated (but deregulation may not take effect prior to July 26, 1989); and (4) gas from wells spudded after July 26, 1989, with decontrol to be effective on May 15, 1991 or the date on which an existing contract expires or is terminated, whichever is earlier. The Commission clarifies that under this proposal no applications for well determination must be filed for gas which was not subject to a first sales contract on July 26, 1989, in order for such gas to be deregulated and decontrolled. However, for gas which was subject to a first sale contract on July 26, 1989, this proposal requires producers to file applications for determinations if they wish to collect a price under sections 102, 103, 107 or 108 until the gas is deregulated. Moreover, under this proposal producers may file applications for well determinations for high-cost gas, such as Devonian shale and coal seam gas.

The Commission requests comments on the desirability of continuing to allow producers to file applications for well determinations after the subject gas has otherwise been decontrolled. Comments should address the appropriateness of this proposal in view of the fact that section 29 of the Internal Revenue Code provides for a tax credit for the production of fuel from non-conventional sources while the Decontrol Act repeals sections of the NGPA that prescribe maximum lawful prices and procedures for qualifying under certain categories of natural gas that are referenced in section 29.

A discrete issue raised by the Decontrol Act is how pipeline production should be treated. The Act does not deal specifically with this category of production, and the Commission would appreciate the views of interested parties concerning whether and if so how under the Decontrol Act pipeline production will be decontrolled prior to January 1, 1993.

V. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information concerning the proposals in this Notice. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 and should refer to Docket No. RM89-16-000. An original and fourteen copies should be filed with the Commission within 30 days after publication in the Federal Register.

⁴ 45 FR 28,092 (Apr. 28, 1980), FERC Stats. & Regs. [Regulations Preambles 1977-1981] 30,147 (April 22, 1980).

⁶ 15 U.S.C. 331(a). See Order No. 406, Deregulation and Other Pricing Changing on January 1, 1985, Under the Natural Gas Policy Act, 49 FR 48,874 (Nov. 29, 1984), FERC Stats. & Regs. [Regulations Preambles 1981-1985] ¶ 30,614 (Nov. 19, 1984).

⁷ 15 U.S.C. § 3331(c). Order No. 476, Natural Gas Policy Act; Deregulation and Other Pricing Changes on July 1, 1987, 52 FR 26,473 (July 15, 1987), FERC Stats. & Regs. 30,753 (July 1, 1987). The categories are not mutually exclusive: a particular sale may be "dually qualified" within a "new" or "old" gas category and also a difficult to produce category. In Order No. 406, *supra* n. 5, the Commission held the gas that qualified for both regulated and deregulated treatment would be deemed to be deregulated. The Supreme Court upheld the Commission in *FERC v. Martin Exploration Management Co.*, 108 S.Ct. 1765 (1988).

⁸ "Old" gas is generally produced from wells which had been operating before the passage of the NGPA. See NGPA section 104, 15 U.S.C. 3314 (sales of natural gas dedicated to interstate commerce at the time of the passage of the NGPA); NGPA section 105, 15 U.S.C. 3315 (sales of gas under intrastate contracts existing at the time of the passage of the NGPA); and NGPA section 108, 15 U.S.C. 3318 (sales of gas under rollover contracts). Any gas under section 105 was decontrolled on January 1, 1985 if the price exceeded \$1.00 per MMBtu provided that the price was not established under an indefinite price escalator clause. Gas subject to section 108(b) was decontrolled on January 1, 1985, if the price exceeded \$1.00 per MMBtu.

⁹ Under NGPA section 107(b), the Commission has the authority to determine what incentive price, if any, should be established for such gas.

¹⁰ Alaskan Prudhoe Bay gas also remained regulated.

¹¹ S. Rep. No. 39, 101st Cong., 1st Sess. at 2 (1989).

¹² This, however, applies only to newly spudded wells on acreage subject to a contract on the date of enactment. Production from wells not under contract on that date is decontrolled immediately under category (1) above.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room, 825 North Capitol Street, NE., Washington, DC, during regular business hours.

VI Administrative Findings

A. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA)¹³ requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The Commission is not required to make an analysis if a proposed rule will not have such an impact.¹⁴

In general the economic impact of a proposed rule is not "significant" within the meaning of the RFA if the impact on small entities is expected to be beneficial.¹⁵ The proposed rule will exempt certain natural gas producers that may qualify as a small entity¹⁶ from Commission regulation in response to a Congressional mandate. The Commission believes this impact is beneficial and, therefore, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.¹⁷

B. Environmental Review

Because this proposal changes the Commission's regulations to conform to the Decontrol Act, the Commission is not preparing an environmental impact statement in this proceeding.¹⁸

C. Paperwork Reduction Act Statement

Although this proposal which would implement the Decontrol Act reduces reporting burdens on producers of natural gas, the Commission is nonetheless submitting this proposal to the Office of Management and Budget (OMB) for its review under the Paperwork Reduction Act.¹⁹ Interested

persons may obtain information on this proposal's information collection aspects by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Michael Miller (202) 357-9205). Comments relating to the Paperwork Reduction Act may be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Building, Washington, D.C. 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission).

List of Subjects in 18 CFR Part 272

Natural gas.

In consideration of the foregoing, the Commission proposes to amend part 272, chapter I, title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Lois D. Cashell,
Secretary.

PART 272—DEREGULATED NATURAL GAS

1. The authority citation for Part 272 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Natural Gas Wellhead Decontrol Act of 1989 Pub. L. 101-60, July 26, 1989.

2. In § 272-103, paragraphs (a)(5) through (a)(8) are added to read as follows:

§ 272.103 Definitions.

(a) * * *

(5) Natural gas which was not subject to a first sales contract as of July 26, 1989.

(6) Natural gas which, as of July 26, 1989, was subject to a first sales contract which has expired or been terminated after that date.

(7) Natural gas subject to a first sales contract as of July 26, 1989, where the parties have agreed, in writing, after March 23, 1989, that the gas would not be subject to any maximum lawful price. Such gas is deregulated as of the date specified by the parties, but not before July 26, 1989.

(8) Natural gas produced from a well spudded after July 26, 1989. Such gas is deregulated on May 15, 1991, or the date on which an existing contract expires or is terminated, whichever is earlier.

[FR Doc. 89-29449 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 715

Surface Coal Mining and Reclamation Operations; Postmining Use of Land; Denial of Petition

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

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) is making available to the public its final decision on a petition for rulemaking from Mr. J. Nathan Noland, President of the Indiana Coal Council. The petition, submitted pursuant to the Surface Mining Control and Reclamation Act (SMCRA), requested that OSM amend its regulations governing the criteria for alternative postmining land use applicable to coal mining operations permitted under the Initial Regulatory Program. The Director has decided to deny the petition.

ADDRESS: Copies of the petition and other relevant materials comprising the administrative record of this petition are available for public review and copying at OSM's administrative Record, Room 5131, 1100 L St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sheffield, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202-343-5950 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: Pursuant to section 201(g) of SMCRA, and applicable regulations, 30 CFR 700.12, any person may petition the Director of OSM for a change in OSM's regulations. On June 20, 1989, OSM received a petition dated June 15, 1989, from Mr. J. Nathan Noland, President of the Indiana Coal Council, suggesting that paragraph (d) of 30 CFR 715.13, which contains the criteria for postmining land use applicable to Initial Program sites, be replaced with the language in paragraph (c) of 30 CFR 816.133, which contains the criteria for postmining land use applicable to Permanent Program sites.

OSM announced receipt of the petition in the Federal Register with a 30-day comment period on July 6. By the close of the comment period, OSM had received five comments.

Following an analysis of the petition and the public comments, the Director

¹³ 5 U.S.C. 601-12 (1988).

¹⁴ 5 U.S.C. 605-(b) (1988).

¹⁵ Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327, 340-43 (D.C. Cir. 1985).

¹⁶ The Act defines a "small entity" as a small business, a small not-for-profit enterprise or a small government jurisdiction. 5 U.S.C. 601(b) (1988). A "small business" is defined by reference to section 3 of the Small Business Act as an enterprise "which is independently owned and operated and which is not dominant in its field of operation." 15 U.S.C. 632(a) (1988).

¹⁷ 5 U.S.C. 605(n) (1988).

¹⁸ Section 380.4(a)(1) of the Commission's regulations [18 CFR 380.4 (1989)] exempts from environmental review Commission actions that are "procedural" or "ministerial" in nature.

¹⁹ 44 U.S.C. 3501-3520 (1982).

decided to deny the petition. OSM will, instead, propose a different rule that the agency believes would achieve what the petitioner has requested.

In a letter to the petitioner dated December 5, 1989, the Director reported his decision and the basis for that decision, as well as briefly summarizing the comments received during the comment period. That letter appears as an appendix to this notice.

In accordance with the Director's decision on this petition, OSM has initiated rulemaking proceedings. A proposed rule will be published in the Federal Register for public comment prior to any final rulemaking.

Dated: December 12, 1989.

Harry M. Snyder,

*Director, Office of Surface Mining
Reclamation and Enforcement.*

Appendix

The text of the Director's letter of December 5, 1989, to Mr. J. Nathan Noland, is as follows:

Mr. J. Nathan Noland,
*President, Indiana Coal Council, Inc., 701
Harrison Bldg.—143 W. Market St.,
Indianapolis, Indiana 46204.*

Dear Mr. Noland: This is to inform you of my decision on your June 15, 1989, petition for rulemaking. In that petition, you requested that the Initial Program criteria for approving alternative postmining land use at 30 CFR 715.13(d) be removed and replaced with the Permanent Program criteria found in 30 CFR 816.133(c).

The Office of Surface Mining Reclamation and Enforcement (OSM) announced receipt of the petition in the Federal Register with a 30-day comment period on July 6. By the close of the comment period on August 7, OSM had

received five comments, all supporting the petition for rulemaking.

Decision on the Petition

Based on the substance of the petition and the comments submitted, I have decided to deny your petition. We will, however, proceed with a proposed rulemaking that we believe will accomplish the goal of the petition. Although we will not be proposing an actual change in 30 CFR 715.13(d), we will propose rule changes that would authorize regulatory authorities to apply the criteria for alternative postmining land use in 30 CFR 816.133(c) to operations permitted under the Initial Program. The proposed rule would also authorize regulatory authorities to apply other Permanent Program performance standards to operations permitted under the Initial Program in lieu of applying the Initial Program standards. This would allow Initial Program sites to be reclaimed to the latest technical and environmental standards of the Permanent Program and would help Initial Program permittees obtain bond release.

I have directed my staff to begin preparation of the proposed rule for publication in the Federal Register before the end of 1989. At that time, the public will be given a reasonable opportunity to comment on the proposal prior to final publication.

Although your petition makes a persuasive case for replacing the Initial Program criteria for alternative postmining land use at 30 CFR 715.13(d) with provisions identical to the Permanent Program criteria at 30 CFR 816.133(c), such a proposed rulemaking would address the problem of continued applicability of Initial Program performance standards for postmining land use only. It would not address numerous other areas where the Initial Program standards are similarly deficient, and where application of the Permanent Program standards would result in reclamation superior to that which would be achieved under the Initial Program standards. OSM will discuss some examples

of deficient Initial Program performance standards in the preamble to the proposed rulemaking.

Substance of the Petition and Comments

Essentially, the petition cited (1) the confusion of having two different sets of postmining land use provisions in the regulations; (2) the fact that OSM had acknowledged the inadequacy of the Initial Program rules for postmining land use when the current Permanent Program rules were developed in 1982/83 (even though the Initial Program rules were left intact); and (3) the legal basis for such a change, supported by court decisions.

Three of the commenters based their support primarily on a contention that having two sets of postmining land use rules caused confusion, and that the permanent requirements are more logical to apply because they reflect OSM's current policy on postmining land use. One of the commenters noted a situation in Indiana where the U.S. Fish and Wildlife Service continues to assert its authority to approve or disapprove postmining land use changes under 30 CFR 715.13(d)(8)—authority they don't have under the Permanent Program rules at 30 CFR 816.133.

The two remaining commenters presented detailed legal analyses, including citing past OSM stated policies and recent court decisions, in support of the petition.

In addition to providing you with this notification, we will soon announce the decision in the Federal Register.

I appreciate your interest in OSM's rulemaking process, and I welcome your suggestions on improvements that we can make in our regulations.

Sincerely,

Harry M. Snyder.

[FR Doc. 89-29435 Filed 12-18-89; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register

Vol. 54, No. 242

Tuesday, December 19, 1989

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

Office of the Secretary

Members of Performance Review Boards

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: This document amends and corrects the list of Performance Review Board members published November 7, 1989, 54 FR 48754.

EFFECTIVE DATE: December 19, 1989.

FOR FURTHER INFORMATION CONTACT: Evelyn White, Chief, Compensation, Employment and Performance Management Staff, Office of Personnel, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC 20250, (202/447-2830).

The membership of the U.S. Department of Agriculture's Performance Review Boards is amended by adding the names of Sally Inge Buikema, Patricia M. Kearney, and Birge S. Watkins.

The following name is also corrected: Adis M. Vila.

Dated: December 8, 1989.

Jack C. Parnell,
Deputy Secretary.

[FR Doc. 89-29452 Filed 12-18-89; 8:45 am]

BILLING CODE 3410-06-M

Animal and Plant Health Inspection Service

[Docket No. 89-167]

National Animal Damage Control Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Animal Damage Control Advisory Committee.

Place, Dates, and Time of Meeting: The meeting will be held in the Wilson Room, East Wing of the Holiday Inn-Crowne Plaza, 300 Army Navy Drive, Arlington, Virginia 22202, January 23-24, 1990, from 8 a.m. to 5 p.m. each day.

FOR FURTHER INFORMATION CONTACT: Bobby Acord, Acting Deputy Administrator, ADC, APHIS, USDA, Room 1624, South Building, 14th and Independence Avenue SW., Washington, DC 20090-6464, (202) 447-2054.

SUPPLEMENTARY INFORMATION: We are giving notice of a meeting of the National Animal Damage Control Advisory Committee. The purpose of the Committee is to advise the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Animal Damage Control Program. Committee members will discuss these matters during the meeting. The public is invited to attend the meeting. However, due to time constraints, the public will not be allowed to participate in the Committee's discussion.

Written statements concerning the Animal Damage Control Program can be sent to Bobby Acord at the address listed under "FOR FURTHER INFORMATION CONTACT." These statements may be submitted before or after the meeting. Please refer to Docket Number 89-167 when submitting your statements.

This notice is given in compliance with the Federal Advisory Committee Act (Public Law 92-463).

Done in Washington, DC, this 14th day of December 1989.

James W. Glosser,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-29451 Filed 12-18-89; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 90916-92161]

Short Supply Export Controls: Investigation of Unprocessed Timber Exports From All Public Lands in Oregon and Washington

AGENCY: Office of Industrial Resource Administration, Bureau of Export Administration, Commerce.

ACTION: Notice of public hearings on the Short Supply Investigation.

SUMMARY: Consistent with the U.S. Department of Commerce's commitment to solicit public comment and to involve the public in the review of unprocessed timber export policy, the Bureau of Export Administration is sponsoring public hearings regarding the short supply petition of the Northwest Independent Forest manufacturers. This notice identifies issues on which the Department is interested in obtaining the public's views. It also sets forth the procedures for public participation in the hearings.

DATES: The hearings will be held in Portland, Oregon on January 31, 1990, and in Seattle, Washington on February 1, 1990. Requests to speak are due by December 29, 1989, for the Portland hearing and January 3, 1990, for the Seattle hearing. The hearing in Portland will be held at the Portland Building City Hall Annex, 2nd floor auditorium, 1120 SW. Fifth Avenue, Portland, Oregon, 97204. The hearing in Seattle will be held at the Federal Building, North Auditorium, 4th floor, 915 Second Avenue, Seattle, Washington, 98174-1010.

ADDRESS: Send requests to speak to Brad Botwin, Director, Strategic Analysis Division, Office of Industrial Resource Administration, Room H-3878, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Senior Policy Advisor, Office of Industrial Resource Administration, Room H-3878, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4060.

SUPPLEMENTARY INFORMATION:

- I. Background and specific comments requested
- II. Scope of Investigation
- III. Public hearings and comment procedures

I. Background and Specific Comments Requested

The Northwest Independent Forest Manufacturers (NIFM), a trade group representing 163 independent forest manufacturers in Oregon and Washington, filed a petition under sections 7 and 3(2)(C) of the Export Administration Act of 1979 (Act) for export restrictions on unprocessed timber harvested from all public lands.

The Department initiated an investigation on September 29, 1989, under sections 7 and 3(2)(C) of the Act. For further details, see *Federal Register* of September 29, 1989 (54 FR 40152-53).

The presentations at the hearings will assist the Department in learning more about the public perspectives on: (1) Whether or not there is a shortage of unprocessed softwood timber; and (2) whether exports of unprocessed timber result in an excessive drain of scarce materials and produce an inflationary impact on the domestic economy.

In particular, but without limiting the scope of the information requested, we solicit information on the following:

(a) The adequacy of domestic timber supplies in meeting United States unprocessed and processed wood needs. This should include estimates of current and future harvest levels of softwood logs from public (Federal, state, and local) and private lands in the United States in general and in the Pacific Northwest in particular;

(b) The quantity, quality, and retail price of processed wood products available to consumers in the United States in general and in the Pacific Northwest in particular;

(c) The acquisition costs of logs by domestic sawmills in the United States generally and in the Pacific Northwest in particular;

(d) The impact on the United States trade balance of unprocessed and processed wood products exports to Pacific Rim countries;

(e) The financial viability of sectors of the domestic forest products industry (including independent sawmills and processors of finished wood products); and

(f) The impact of timber exports on labor, infrastructure (transportation/ports), and state government responsibilities.

II. Scope of Investigation

This investigation includes logs of tree species harvested from public lands in Oregon and Washington. The Schedule B commodity description includes logs and timber, in the rough, split, hewn, roughly sided or squared, but excludes lumber. The Schedule B commodity numbers are: 200.3504 Ponderosa Pine (*Pinus ponderosa*); 200.3506 Pine Other; 200.3508 Spruce (*Picea* spp.); 200.3510 Douglas-fir (*Pseudotsuga menziesii*); 200.3514 Western Hemlock (*Tsuga heterophylla*); 200.3516 Western Red Cedar (*Thuja plicata*); 200.3518 Softwood Other; and 200.3536 Hardwood Other (Alder).

The subject commodities are described in the Harmonized Tariff Schedule of the United States as wood

in the rough whether or not stripped of bark or sapwood, or roughly squared, which include: 4403.20.00/25/2 Ponderosa Pine (*Pinus ponderosa*); 4403.20.00/30/5 Pine Other; 4403.20.00/35/0 Spruce (*Picea* spp.); 4403.20.00/40/3 Douglas-fir (*Pseudotsuga menziesii*); 4403.20.00/50/0 Western Hemlock (*Tsuga heterophylla*); 4403.20.00/55/5 Western Red Cedar (*Thuja plicata*); 4403.20.00/60/8 Logs & Timber Other; and 4403.99.00/50/6 Western Red Alder (*Alnus Rubra*).

In compliance with section 7(i) of the EAA, the Department maintains quantitative restrictions on the export of unprocessed western red cedar logs harvested from Federal and state lands. Western red cedar logs are deemed not to be an agricultural commodity pursuant to section 7(g) of the EAA. However, the commodities subject to this investigation do not fall within that statutory provision and thus will be treated as agricultural commodities. Under section 7(g), the Secretary may not exercise short supply controls with respect to any agricultural commodity without the approval of the Secretary of Agriculture.

III. Public Hearings and Comment Procedures

The public hearings are scheduled to be held in Portland, Oregon on January 31, 1990, and in Seattle, Washington February 1, 1990. The hearings will commence at 8:30 a.m. and end 5:00 p.m. The Portland hearings will be held in Portland Building, City Hall Annex, 2nd floor auditorium, 1120 SW. Fifth Avenue, Portland, Oregon, 97204. The Seattle hearings will be held in the Federal Building, North Auditorium, 4th floor, 915 Second Avenue, Seattle, Washington, 98174-1010.

1. Procedure for Requesting Participation

Interested public participants are encouraged to present their views orally at the hearings. Please submit a written request to participate to the address noted above by December 29, 1989 for the Portland hearing and by January 3, 1990 for the Seattle hearing. In addition, please submit a written synopsis of your remarks simultaneously with your request to speak. If all interested parties cannot be accommodated, these statements will be used to allocate speaking time and ensure that a full range of comments is heard. Please note that the submission of this written summary for the public hearings is separate from any submission of comments in response to the request for written comments contained in the

September 29, 1989 *Federal Register* notice.

In addition, the request to speak should contain a daytime phone number where you may be contacted before the hearing. Since it may be necessary to limit the number of persons making presentations, you should be prepared to describe your interest in the proceeding. If appropriate, please explain why you are a proper representative of a group or class of persons that has such an interest and provide a concise summary of your proposed presentation. If you have already submitted a written presentation in connection with the September 29, 1989 *Federal Register* notice and want to participate in the hearings, please prepare a statement which addresses the six issues set forth in Part I of the Supplementary Information and avoids repetition of any earlier submission.

The Department of Commerce will notify each person selected to be heard before 5:00 p.m. on January 17, 1990, or January 18, 1990, which is two weeks prior to the January 31st and February 1st hearings. In addition, the Department will arrange the presentation times for the speakers. Attendees will be seated on a first-come, first-served basis. Persons selected to be heard should bring 100 copies of the oral presentation on the day of the hearing to the hearing address indicated in the "DATES" section of this notice.

In addition, please submit 10 written copies of your oral presentation to the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Attn: Margaret Cornejo, U.S. Department of Commerce, Room H-4886, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 377-2593. All comments received will be available for public inspection in the Freedom of Information Records Inspection Facility, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

Identify separately any information you consider to be company confidential and submit it in writing, one copy only. We reserve the right to return information if we do not deem it to be business confidential.

2. Conduct of the Hearing

We reserve the right to select the persons to be heard at this hearing. Each speaker will be limited to 10 minutes and comments must be directly related to the Short Supply Timber Investigation.

A Commerce official will be designated to preside at the hearings. Representatives from the Department of

Agriculture and Interior will also participate in the hearings. This will not be a judicial or evidentiary-type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements.

Any further procedural rules for the proper conduct of the hearing will be announced by the presiding officer.

James M. LeMunyon,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-29636 Filed 12-15-89; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-122-807]

Countervailing Duty Order: Aluminum Sulfate From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters of aluminum sulfate from Venezuela. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of aluminum sulfate from Venezuela are materially injuring a U.S. industry.

As a result of the affirmative findings of the Department and the ITC, pursuant to section 705 (a) and (b) of the Tariff Act of 1930, as amended [19 U.S.C. 1671d (a) and (b)] (the Act), all unliquidated entries of aluminum sulfate from Venezuela, as described in this notice, which were entered, or withdrawn from warehouse, for consumption on or after October 25, 1989, the date on which the Department published its final affirmative countervailing duty determination in the Federal Register, will be liable for the possible assessment of countervailing duties.

Furthermore, a cash deposit of the estimated countervailing duties must now be made on all entries or withdrawals from warehouse, of aluminum sulfate from Venezuela, for consumption, made on or after the date of publication of this countervailing duty order in the Federal Register.

EFFECTIVE DATE: December 19, 1989.

FOR FURTHER INFORMATION CONTACT: Michelle L. O'Neill or Carole A. Showers, Office of Countervailing

Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1873, or 377-3217.

SUPPLEMENTARY INFORMATION: To clarify the definition of the scope, this investigation covers both liquid and dry aluminum sulfate. Aluminum sulfate is used in water purification, in waste water treatment, and for other industrial applications and currently provided for under Harmonized Tariff Schedule (HTS) item number 2833.22.00000.

In accordance with section 705(a) of the Act, [19 U.S.C. 1671(a)], on October 18, 1989, the Department made its final determination that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters of aluminum sulfate from Venezuela [54 FR 43440, October 25, 1989].

On December 6, 1989, in accordance with section 705(d) of the Act, the ITC notified the Department that imports of aluminum sulfate from Venezuela are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act [19 U.S.C. 1671e and 1675], the Department will direct U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751 of the Act [19 U.S.C. 1671e(a)(1) and 1675], countervailing duties equal to the amount of the estimated net subsidy on all entries of aluminum sulfate from Venezuela. These countervailing duties will be assessed on all unliquidated entries of aluminum sulfate from Venezuela entered, or withdrawn from warehouse, for consumption, on or after October 25, 1989, the date on which the Department published its final affirmative countervailing duty determination notice in the Federal Register [54 FR 43440, October 25, 1989].

On and after the date of publication of this notice, U.S. Customs officers must require cash deposit equal to the estimated net subsidy rate noted below for entries of aluminum sulfate from Venezuela:

	<i>Estimated Net Subsidy (percent)</i>
Manufacturers/producers/ exporters:	
Ferroaluminio, C.A	38.40
All Other Companies	19.03

This determination constitutes a countervailing duty order with respect

to aluminum sulfate from Venezuela pursuant to section 706 of the Act [19 U.S.C. 1671e(a)(1)]. Interested parties may contact the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, for copies of an updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Holly Kuga at (202) 377-2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act [19 U.S.C. 1671e].

Eric I. Garfinkel,
Assistant Secretary for Import Administration

[FR Doc. 89-29424 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-05-M

[C-201-406]

Fabricated Automotive Glass From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 2, 1989, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on fabricated automotive glass from Mexico. We have now completed that review and determine the total bounty or grant for the period January 1, 1986 through December 31, 1986 to be zero.

EFFECTIVE DATE: December 19, 1989.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Anne D'Alauro, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1989, the Department of Commerce ("the Department") published in the Federal Register [54 FR 8783] the preliminary results of its administrative review of the countervailing duty order on fabricated

automotive glass from Mexico (50 FR 1906; January 14, 1985). The Department has now completed that administrative 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 Mexican fabricated automotive glass, including tempered and laminated automotive glass. During the review period, such merchandise was classifiable under items 544.3100 and 544.4120 of the Tariff Schedules of the United States Annotated. Such merchandise is currently classifiable under item numbers 7007.11.00, 7007.19.00, and 7007.21.50 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1986 through December 31, 1986 and 14 programs: (1) FOMEX; (2) FICORCA; (3) CEPROFI; (4) FOGAIN; (5) CEDI; (6) FONEI; (7) import duty drawback; (8) National Development Program preferential discounts; (9) Article 15/94 loans; (10) preferential state investment incentives; (11) NAFINSA loans; (12) BANCOMEXT loans; (13) debt/equity swaps; and (14) CEDIs for foreign trade consortia.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, PPG Industries, Inc. ("PPG"), we held a hearing on May 19, 1989. We received written comments from PPG and the respondents, Vitro Flex, S.A. and CRINAMEX, S.A.

Comment 1: PPG argues that the Department's determination that FICORCA does not provide countervailable benefits is incorrect because the Department has not properly examined whether the program provided benefits to specific enterprises or industries. In its "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod from Malaysia" (53 FR 13303; April 22, 1988), the Department stated that it will examine (1) the extent to which a foreign government acts to limit the availability of a program; (2) the number of companies using the program and whether particular companies or industries have received disproportionate benefits; and (3) the extent to which the foreign government exercises discretion in the bestowal of benefits. The Department has not obtained the relevant information regarding the application and approval process, as well as the information on

the actual distribution of FICORCA benefits. This omission is particularly significant given information submitted showing that FICORCA benefits were provided to a relatively small number of companies in Mexico and that, of these, nine companies or corporate groups accounted for more than 50 percent of all refinancing extended by FICORCA. Therefore, the Department has *prima facie* evidence that FICORCA was bestowed in a disproportionate manner and, therefore, provides countervailable benefits.

Respondents reply that, during this administrative review, the Department did not re-examine its prior determination that the basic FICORCA program is not countervailable. The Department's determination that FICORCA was not countervailable was upheld by the Court of International Trade (CIT) in *PPG Industries, Inc. v. United States*, 882 F. Supp. 258 (1987), appeal pending, CAFC No. 88-1175 ("PPG I").

Department's Position: We did not re-evaluate our determinations regarding the FICORCA program during this administrative review. In "Unprocessed Float Glass from Mexico; Final Affirmative Countervailing Duty Determination" (49 FR 23097; June 4, 1984), we determined that the FICORCA program was available to all Mexican firms with foreign indebtedness and that it was not targeted to a specific enterprise or industry, group of enterprises or industries, or to companies located in specific regions. In the "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Fabricated Automotive Glass from Mexico" (50 FR 1906; January 14, 1985), we stated that we did not initiate an investigation of the FICORCA program because we had previously found it not countervailable and because PPG had not provided new evidence sufficient to warrant reinvestigation. In "Fabricated Automotive Glass from Mexico; Final Results of Countervailing Duty Administrative Review" (51 FR 44652; December 11, 1986), we examined new information provided by PPG regarding the availability and use of FICORCA and reiterated our position that the FICORCA program is not provided to a specific enterprise or industry, or group of enterprises or industries, and that the program is not countervailable. Moreover, the Department's position on FICORCA has been upheld by the CIT in *PPG I* and *PPG Industries, Inc. v. United States* 712 F. Supp. 195 (1989) ("PPG II").

Comment 2: PPG contends that the Department should examine "new" and/or recent countervailable changes in the

FICORCA regulations not previously addressed: (1) Enrollment of non-bank debt in FICORCA; (2) provisional enrollment of unrescheduled debt; and (3) capitalization of unpaid interest.

Although FICORCA covered only debt owed to foreign financial institutions, the Mexican government allowed certain companies to enroll non-bank debt, such as commercial paper, in FICORCA. While the Department's verification report states that FICORCA regulations make clear that FICORCA has never been limited to bank debt only, these regulations were not included as a verification exhibit and have never been included in the administrative record. Therefore, the Department should assume that non-bank debt was not enrollable in FICORCA without special permission, and that coverage of such debt represents the discretionary extension of countervailable benefits.

Under the terms of FICORCA, only long-term debt or debt that had been rescheduled to become long-term by the November 5, 1983 deadline could be enrolled in FICORCA. It appears that the Department accepted a verbal explanation by the Mexican government regarding provisional enrollment of debt in FICORCA and did not obtain any further information regarding the approval process by which FICORCA contracts were concluded to cover debt that was still being rescheduled at the time of the deadline. The Department should conclude that the inclusion of such contracts represents the discretionary extension of benefits, and that if FICORCA as a whole is not countervailable, the benefits accruing to debt provisionally enrolled is countervailable.

Finally, under FICORCA, participants may opt for a minimum payment schedule. Interest payments in the first years do not cover the interest due and the difference is capitalized and treated as an additional loan by FICORCA. Since the inception of the FICORCA program in late 1983, the Mexican economy has experienced severe inflation, with inflation of approximately 65 percent in 1984, 53 percent in 1985, 88 percent in 1986, 135 percent in 1987, and 114 percent in 1988. The interest rate charged on FICORCA loans was approximately 58 percent. This interest rate was at, or below, the inflation rate for every year since FICORCA came into existence. To the extent that the inflation rate exceeds the interest rate, it is clearly in the interest of FICORCA borrowers to capitalize interest at the same below-inflation interest rate, so that they ultimately pay off their debt in

inflated pesos. FICORCA loans were provided to a specific group of enterprises, and the effect of capitalization of these loans represents further extension of credit at preferential rates. Capitalization of interest rates under FICORCA could in and of itself provide a subsidy if such capitalization features are not normal commercial loan terms in Mexico. There is nothing in the Department's verification report to indicate that this aspect of commercial loan terms was considered.

Respondents reply that the Department's verification report makes clear that none of PPG's allegations involve "new" aspects of FICORCA, but instead were parts of the original FICORCA regulations. The FICORCA regulations were obtained by the Department and were part of the administrative record before the CIT when it upheld the Department's final determination in PPG I. Since PPG's "new" allegations involve aspects that were provided for in the original FICORCA program, the Department's prior determinations that FICORCA was not countervailable necessarily include determinations that the specific allegations raised during the instant review are also not countervailable.

Respondents point out that, in the original FICORCA regulations, the relevant criterion for enrollment in FICORCA was that debt had to be denominated in a foreign currency and payable abroad, clearly broad enough to encompass non-bank debt. Regardless, PPG's allegations are irrelevant because neither Vitro Flex or CRINAMEX enrolled non-bank debt in FICORCA. Second, as stated in the Department's verification report and discussed in the preliminary results of this review, there was no provisional enrollment of debt in the sense intended by PPG and no selective determination made by FICORCA regarding provisional enrollment. Finally, the capitalization of interest was an inherent part of the FICORCA program from its inception. The FICORCA regulations make it clear that FICORCA does not assume any liability on behalf of the debtor. Capitalization of interest on debt enrolled in FICORCA simply alters the timing sequence of the debtor's payment of its obligation.

Department's Position: PPG requested that the Department evaluate aspects of the FICORCA program that allegedly presented "new" information and/or changes to existing FICORCA regulations. We verified that the alleged new features or changes to FICORCA

programs were provided for in the original FICORCA regulations.

It is clear from the regulations that FICORCA was not intended solely for bank debt because Mexican firms having indebtedness denominated in a foreign currency and payable abroad to foreign financial entities, or suppliers, could participate in the FICORCA program. Thus, no special approval was required for non-bank debt. With respect to the provisional enrollment of unrescheduled debt, we discussed this fully in the preliminary results of this review; PPG simply insists on characterizing provisional enrollment in a way not meant by the regulations and not as such enrollment actually occurred.

Finally, the Department need not consider whether commercial loans permit capitalization of interest because firms that capitalize unpaid interest under FICORCA are not relieved of their obligations or provided with any pecuniary benefit. The interest rate on FICORCA contracts is the average of the 3-month and 6-month certificate of deposit rates in effect on the first day of each month. Interest is accrued on the entire outstanding balance and any unpaid interest is added to the principal. The capitalization feature was part of the FICORCA regulations and was intended to provide debt service ratio throughout the life of the loan. However, because high inflation rates in Mexico had a substantial impact on interest rates, continued participation in FICORCA could result in a significant increase in a company's long-term peso liability caused by the capitalization of interest under the terms of the FICORCA agreement. Consequently, the outstanding peso liability under a FICORCA contract would increase and a balloon payment would have to be made at a later stage in the life of the loan. The FICORCA scheme for debt repayment could actually cost a company more than the original foreign debt.

Comment 3: PPG argues that floating rate notes covered by FICORCA are exempt from the 15 percent withholding tax on interest paid to foreign banks. The exemption from the tax has the effect of increasing the rate of return realized by the creditor, as it would receive 100 percent of the interest payments, rather than 85 percent. As a result, creditors can achieve the same rate of return by charging FICORCA participants lower interest rates than they would have had to pay absent the exemption. Information previously submitted shows that foreign lenders who encouraged adoption of this

scheme stated that the withholding tax exemption allowed faster repayment of principal. In addition, the issuance of securities to be offered abroad by Mexican companies require government approval. Because the Mexican government controls the issuance of floating rate notes, it also controls access to the foreign interest withholding exemption. Therefore, the exemption from the withholding tax on floating rate notes would provide an additional countervailable benefit.

Respondents reply that the exemption from payment of income tax on interest payable abroad on floating rate notes should not have been included in this administrative review since PPG failed to offer any factual basis in support of its allegation that this constituted a countervailable subsidy. Furthermore, the exemption from payment of income tax for floating rate notes is part of Mexico's general tax law and is not related to, or conditioned in any way by, FICORCA. PPG's supposition that foreign banks would offer reduced interest rates fails to consider that under the tax laws of many countries, taxes paid abroad would be fully creditable toward home country tax liabilities. Accordingly, the interest rate charged by the lenders depend on commercial consideration and not on direction or control from the Mexican government. Mexican debtors are required to pay 100 percent of the interest under both floating rate notes and fixed rate notes. Since the foreign creditor bank receives 100 percent of the interest payments required from the debtors, either 100 percent directly from the debtor or 85 percent in cash, and 15 percent in the form of a tax credit, the Mexican debtor is not receiving any benefit from floating rate notes.

Department's Position: We verified that the exporters of fabricated automotive glass did not convert FICORCA liabilities to floating rate notes. Moreover, in making its allegation, PPG assumes without providing evidence; (1) That the interest on floating rate notes is not taxed either in Mexico or in the bank's home jurisdiction and (2) that the withholding tax exemption on floating rate notes is special to FICORCA contracts and not part of Mexico's general tax law.

Comment 4: PPG argues that FICORCA debt refinancing was available only to a limited number of companies. The fact that FICORCA contracts could be sold only to other Mexican firms with foreign debt registered with the Mexican government is further evidence of the restricted availability of FICORCA benefits.

Therefore, any benefit gained from the sale, trade, or other disposition of a FICORCA contract would be countervailable.

Respondents reply that the Mexican government is not involved with the approval of the sale or transfer of FICORCA contracts. Parties participating in a transfer or sale of a FICORCA contract are merely required to notify FICORCA of any changes in the parties to the contracts for record keeping purposes. It is also evident that the sale or transfer of a FICORCA contract does not constitute a countervailable bounty or grant, because the contract itself is not countervailable.

Department's Position: We verified that Vitro Flex sold a FICORCA contract because it was prohibitively expensive to service the increasing peso liability. The FICORCA contract that was sold carried an interest rate that was the average of the 3-month and 6-month certificate of deposit rates in effect on the first day of each month, not a fixed below-market rate as assumed by PPG. Furthermore, there was no government involvement or approval required for this sale. Consequently, we determine that the sale of this FICORCA contract does not provide a countervailable benefit.

Comment 5: PPG contends that, in 1987, the Mexican government entered into a new agreement with foreign banks whereby the Mexican government guaranteed repayment of debt enrolled in FICORCA. The Department did not address the additional benefit the guarantee of FICORCA debts provides to participants by the Mexican government in its preliminary results in this review. The provision of such a guarantee is clearly inconsistent with commercial considerations.

Respondents reply that since PPG admits that the "guarantee" of FICORCA contracts is part of a revised program which was only available as of the fall of 1987, it should not be addressed by the Department in the context of this review. Any possible benefit from such a guarantee, if utilized, could only have been obtained or utilized after the period of this administrative review. Furthermore, the record establishes that neither of the exporters of automotive glass entered into any modification or alteration of their FICORCA contracts.

Department's Position: The so-called "guarantee" referred to by PPG and the respondents is not a guarantee by the Mexican government to pay off the Mexican firms' foreign debt. As part of a general rescheduling of Mexico's external debt, a new agreement was

signed on August 14, 1987 by FICORCA and foreign and domestic creditor banks. According to the new agreement, firms enrolled in FICORCA continue to pay their FICORCA liabilities according to the terms and conditions agreed upon in the original (1983) contract. FICORCA, in turn, complies with the payment terms of the 1983 contract. When FICORCA makes a payment, the creditor bank frees FICORCA and the enterprise from the obligations of the original loan. At the same time, the creditor bank issues a new loan to FICORCA, in the amount of the payment made by FICORCA, on a 20-year term with a 7-year grace period. In short, the Mexican firm pays the debt as scheduled and, on this basis, FICORCA is able to obtain a new loan. During the period of review, this program was non-operational.

Comment 6: PPG contends that the Department failed to address the current status of the CEDI program and failed to determine whether the exporters of fabricated automotive glass benefitted, either directly or indirectly, from the receipt of CEDIs. PPG states: (1) The Department has not been able to determine if export consortia or other members of the Vitro group continue to receive CEDIs; (2) the Department has not made the distinction between the benefit derived from the direct receipt of CEDIs by Vitro Flex and CRINAMEX and the indirect benefit resulting from CEDIs received by other members of the Vitro group based on exports of this merchandise to the United States; (3) during verification, the Department was refused access to computer printouts which would indicate if any members of the Vitro group, other than Vitro Flex and CRINAMEX, received CEDIs; (4) during verification, the Department established that the majority of CEDIs issued during the review period were "global" CEDIs which are paid to export consortia and are not tied to any specific industry; and (5) during verification, the Department was denied access to documents which would indicate whether export consortia related to the export of automotive glass received "global" CEDIs. Having been denied important information during verification regarding this program, the Department should, based on the best information available, impose a countervailing duty on imports of automotive glass from Mexico of 4 percent *ad valorem*, the CEDI rate paid to export consortia.

Respondents reply that PPG has finally acknowledged that neither CRINAMEX or Vitro Flex directly received CEDIs. PPG's argument that the Department's verification was

insufficient because the Department failed to verify that no company in Mexico received CEDIs based upon exports of automotive glass is without merit.

Department's Position: We verified that CRINAMEX and Vitro Flex did not receive CEDIs directly on the exports of automotive glass to the United States. We also verified that no automotive glass was exported to the United States through export consortia during the period of review. With respect to PPG's concern of possible indirect benefits, CEDIs are earned on a shipment-specific basis and are not transferable; any benefits received from them can only be used by the exporting company.

Comment 7: PPG argues that the Mexican government's policy of selling natural gas to domestic industries at controlled prices confers a countervailable benefit upon the production or manufacture of automotive glass. The CIT in *Cabot Corp. v. United States*, 694 F. Supp. 949 (1988), held that the Department's determination regarding the countervailability of the Mexican natural gas program was based upon an impermissible application of the specificity test. Because the Department's determination on natural gas was based upon the improper use of the specificity test, the Department should reconsider this determination regarding the automotive glass producers.

Respondents reply that the Department's determination that natural gas pricing practices were not countervailable was upheld by the CIT in PPG I. Since the Department previously determined that PPG's allegations were without merit, the Department's administrative review properly did not involve a re-examination of this program.

Department's Position: PPG has not provided any new evidence that natural gas provided at government-controlled prices to all industrial users confers a countervailable benefit. We have repeatedly held that the provision of natural gas on these terms does not confer countervailable benefits. See, e.g., "Final Negative Countervailing Duty Determination; Anhydrous and Aqua Ammonia from Mexico" (48 FR 28522; June 22, 1983), and "Unprocessed Float Glass from Mexico; Final Results of Countervailing Duty Administrative Review" (51 FR 44503; December 10, 1986). Moreover, the Department's position was upheld in PPG I, PPG II, *Can-Am v. United States* 664 F. Supp. 1444 (1987) and *Cabot Corp. v. United*

States (Judgment for the Department) Court No. 88-09-01109.

Comment 8: PPG and the respondents contend that the Department must address the issue of revocation in the final results of this administrative review. They claim that, in "Fabricated Automotive Glass from Mexico; Final Results of Countervailing Duty Administrative Review" (51 FR 44652; December 11, 1986) and the Motion to Dismiss in *PPG Industries, Inc. v. United States*, 696 F. Supp. 650 (1988), the Department committed itself to addressing this issue in the context of the 1986 review since entries after August 24, 1986 would be affected.

Vitro Flex and CRINAMEX argue that, absent an injury determination, the United States' international obligations within the meaning of section 303(a)(2) of the Tariff Act require the Department to revoke the countervailing duty order on fabricated automotive glass from Mexico, effective August 24, 1986, the date of Mexico's accession to the General Agreement on Tariffs and Trade (GATT). Automotive glass from Mexico is duty-free, and the GATT is considered an international obligation within the meaning of section 303(a)(2). Since the Department has acknowledged that it does not have the authority to assess countervailing duties on post-August 24, 1986 entries of duty-free merchandise without an affirmative injury determination, and since the International Trade Commission (ITC) stated that it did not have the authority to conduct an injury investigation on outstanding orders under Title VII of the Tariff Act, the Department has no choice but to revoke the order effective August 24, 1986. Furthermore, respondents argue that a section 332 investigation is not a legally valid surrogate for the ITC investigation required under Title VII.

PPG contends that at the time of the investigation in this case no "international obligation" under section 303(a)(2) existed to provide an injury determination on duty-free automotive glass from Mexico because Mexico was not a contracting party to the GATT. No document associated with Mexico's GATT accession indicates that Mexico has a right to an injury determination on outstanding countervailing duty orders. Finally, the question of revocation is not relevant, regardless of the level of subsidy found in this review, since the Department lacks the authority to consider this issue outside of a changed circumstances administrative review.

Department's Position: In both the last administrative review and the Motion to Dismiss, the Department stated that it was currently considering "whether the accession of the Government of Mexico

to the GATT on August 24, 1986 precludes the United States Government from levying countervailing duties on duty-free entries after the date of accession in the absence of an affirmative injury determination."

The merchandise covered by this review is afforded duty-free status under the Generalized System of Preferences. Section 303(a)(2) prohibits the imposition of countervailing duties on duty-free products absent an affirmative injury determination when the United States has an "international obligation" to provide such a test. Mexico's accession to the GATT imposes such an international obligation on the United States with respect to duty-free merchandise entered into the United States after the date of Mexico's accession.

Assessment of duties is not an issue at this time because the total bounty or grant for the period January 1, 1986 through December 31, 1986, is zero. Moreover, we are currently pursuing means by which an injury determination could be made concerning imports of Mexican automotive glass entered on or after August 24, 1986, the date of Mexico's accession to the GATT.

Final Results of Review

After reviewing the comments received, we determine the total bounty or grant for the period January 1, 1986 through December 31, 1986 to be zero.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all entries of this merchandise exported on or after January 1, 1986 and on or before December 31, 1986.

Further, the Department will instruct the Customs Service to waive deposits of estimated countervailing duties on all shipments of this merchandise entered, or without from warehouse, for consumption on or after the date of publication of this notice. The deposit waiver shall remain in effect until publication of the final results of the next 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 19 CFR 355.22).

Dated: December 8, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-29437 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-03-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an export trade certificate of review, application No. 89-00015.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Airborne Business Cargo, Inc. ("ABC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

DESCRIPTION OF CERTIFIED CONDUCT:

Export Trade

Products

General aviation aircraft, parts, components and materials.

Export Trade Facilitation Services (as They Relate to the Export of Products)

All trade-facilitating services in connection with the export of Products, including consulting, financing, insurance, advertising, foreign exhibiting and demonstration, trade documentation, countertrade and offsetting services, packing and crating, assembly, customs brokerage, market research and coordination.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the

Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

ABC may:

1. Coordinate the participation of various domestic Suppliers in foreign trade exhibitions through the sharing of trade information that is generally available to the public.

2. Provide Export Trade Facilitation Services to domestic Suppliers.

3. Enter into exclusive agreements with domestic Suppliers to arrange for the export of Products to foreign customers in response to foreign invitations to bid.

"Exclusive" means that ABC may agree not to represent any competitors of the Supplier without the Supplier's authorization, and the Supplier may agree not to otherwise sell, directly or indirectly, into Export Markets in which ABC serves the Supplier.

4. Enter into exclusive agreements with foreign customers to select domestic Suppliers of Products in order to match foreign buyer specifications. "Exclusive" means that ABC may agree to sell Products only to that foreign customer, and that foreign customer may agree not to buy those Products from anyone other than ABC.

5. Establish export prices for domestic Suppliers seeking to respond to a foreign bid opportunity.

6. Contract with other Export Intermediaries and consultants for the arrangement of the export of the Products of domestic Suppliers to the Export Markets.

7. Meet and negotiate with domestic Suppliers concerning the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in the Export Markets.

Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "Supplier" means a person who produces, provides, or sells Products.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: December 13, 1989.

Douglas J. Aller,
Director, Office of Export Trading Company Affairs.

[FR Doc. 89-29425 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-DR-M

[C-201-505]

Porcelain-on-Steel Cookware From Mexico; 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 porcelain-on-steel cookware from Mexico. We preliminarily determine the net subsidy to be 2.18 percent *ad valorem* during the period January 1, 1988 through December 31, 1988. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: December 19, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Driscoll or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1989, the Department of Commerce ("the Department") published in the Federal Register (54 FR 13093) the final results of its last administrative review of the countervailing duty order on porcelain-on-steel cookware from Mexico (51 FR 44827; December 12, 1986). On December 13, 1988, the Mexican exporters requested an administrative review of the order. We published the initiation of the administrative review on January 31, 1989 (54 FR 4871). The Department has now conducted this administrative 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 porcelain-on-steel cookware from Mexico. The products are porcelain-on-steel cookware (except teakettles), which do not have self-contained electric heating elements. All of the foregoing are constructed of

steel, and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item number 654.0818 of the Tariff Schedule of the United States Annotated. This merchandise is currently classifiable under item number 7323.94.0020 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period from January 1, 1988 through December 31, 1988 and 10 programs.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to Mexican manufacturers and exporters for two purposes: pre-export financing and export financing. Export loans are also available to U.S. importers. We consider benefits from these loans to U.S. importers as benefits to the corresponding Mexican exporters.

We consider both pre-export and export FOMEX loans to be export subsidies since these loans are given at preferential rates only on merchandise destined for export. We found that the annual interest rate that financial institutions charged borrowers for peso-denominated FOMEX pre-export financing outstanding during the period of review ranged from 37 to 130 percent. The annual interest rate for dollar-denominated pre-export and export FOMEX financing ranged from 7.20 to 9.50 percent during the period of review.

We consider the benefit from loans to occur when the interest is paid. Interest on FOMEX pre-export loans is paid at maturity, and those that matured during the period of review were obtained between November 1987 and October 1988. Since interest on FOMEX export loans is pre-paid, we calculated benefits from all FOMEX export loans received during the period of review.

The Banco de Mexico stopped publishing data on nominal and effective commercial lending rates in Mexico after 1984. Therefore, as the basis for our benchmark, we have relied in part on the rates for the years 1981 through 1984, as published in the Banco de Mexico's Indicadores Economicos y Moneda (I.E.). We calculated the

average difference between the I.E. effective interest rates and the Costo Porcentual Promedio (CPP) rates, the average cost of short-term funds to banks, for the years 1981 through 1984. We added this average difference to the 1987 and 1988 CPP rates. Because the CPP rates published monthly in the first quarter of 1988 were substantially higher than those during the remainder of 1988, we determine that a benchmark for peso-denominated loans calculated on a quarterly basis is more appropriate than an annual average. Hence, we calculated a benchmark of 11.08 percent per month for pre-export peso loans received in the first quarter of 1988, and 5.88 percent, 3.99 percent and 4.18 percent for those received in the second, third and fourth quarters, respectively.

To determine the effective interest rate benchmark for 1988 dollar loans, we used the quarterly weighted-average effective interest rates published in the Federal Reserve Bulletin, which resulted in an annual average benchmark of 10.53 percent in 1988.

The two known exporters of this merchandise, as well as their U.S. importers, used this program during the period of review. Because we found that the exporters were able to tie their FOMEX loans to exports to specific countries, we measured the benefit only from FOMEX loans tied to shipments to the United States. We allocated each company's FOMEX benefit over the value of its total exports of the subject merchandise to the United States during the period of review. We then weight-averaged the resulting benefits by each company's proportion of exports of the subject merchandise to the United States during the period of review. On this basis, we preliminarily determine the benefit from this program to be 2.14 percent *ad valorem*.

(2) FONEI

The Fund for Industrial Development ("FONEI"), administered by the Banco de Mexico, is a specialized financial development fund that provides long-term loans at below-market rates. FONEI loans are available under various provisions having different eligibility requirements. The plant expansion provision is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the national Development Plan (NDP), which include industrial decentralization. We consider this FONEI loan provision to confer a subsidy because it restricts loan benefits

to those enterprises located outside Zone IIIA.

One firm had a variable-rate, peso-denominated FONEI loan for an industrial mortgage outstanding during the period of review. We treated this variable-rate loan as a series of short-term loans. To calculate the benefit, we used the same benchmarks as for the FOMEX peso-denominated pre-export loans and compared them with the preferential interest rates in effect for each FONEI loan payment made during the period of review. We allocated the benefits over the firm's total sales to all markets during the period of review. We then weight-averaged the resulting benefit by the firm's proportion of exports of this merchandise to the United States during the period of review. On this basis, we preliminarily determine the benefit from this program to be 0.04 percent *ad valorem*.

(3) Other Programs

We also examined the following programs and preliminarily determine that exporters of cookingware did not use them during the review period:

- (A) Certificates of Fiscal Promotion (CEPROFI);
- (B) Guarantee and Development Fund for Medium and Small Industries (FOGAIN);
- (C) Bancomext preferential financing;
- (D) Import duty reductions and exemptions;
- (E) Energy subsidies (NDP preferential discounts);
- (F) Article 15 loans;
- (G) State tax incentives; and
- (H) Debt/equity swaps.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 2.18 percent *ad valorem* during the period January 1, 1988 through December 31, 1988.

Therefore, the Department intends to instruct the Customs Service to assess countervailing duties of 2.18 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1988 and on or before December 31, 1988.

The Department also intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 2.18 percent of the f.o.b. invoice price on all shipments of this merchandise 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 calculations methodology and interested parties may request a hearing not later than 10 days

after date of publication of this notice. Interested parties may submit written arguments 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 brief. 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).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

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: December 8, 1989.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 89-29432 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended export trade certificate of review, application no. 88-A0012.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the National Tooling & Machining Association on October 18, 1988. Notice of issuance of the Certificate was published in the Federal Register on October 25, 1988 (53 Fed. Reg. 43140).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5153. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export

Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

DESCRIPTION OF AMENDED CERTIFICATE:

Export Trade Certificate of Review No. 88-00012 was issued to the National Tooling & Machining Association ("NTMA") on October 18, 1988. Notice of issuance of the Certificate was published in the Federal Register on October 25, 1988 (53 Fed. Reg. 43140).

The listing of "Members" named in NTMA's Export Trade Certificate of Review has been amended to include the following changes:

1. Each company listed in Appendix A has been added as a "Member" of the Certificate. See Appendix A.

2. Each company listed in Appendix B has been deleted as a "Member" of the Certificate. See Appendix B.

Pursuant to section 304(a)(2) of the ETC Act, 15 USC section 4014(a)(2), and 15 CFR 325.7, the amended Certificate is effective from September 6, 1989, the date on which the application for an amendment was deemed submitted.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: December 8, 1989.

Douglas J. Aller,
Director, Office of Export Trading Company Affairs.

A & D Engineering	A M G Engineering & Machining, Inc.
A. T. S. Steels, Inc.	Abernathy Tool & Die, Inc.
Accurate Grinding & Mfg. Corp.	Machining Excellence, Inc.
Ace Clearwater Enterprises	Ackrit Tool
Acme Precision Products, Inc.	Acuturn Machining
Advanced Honing Company	Advantage Engineering
Aero Comm Machining	Aero Machine Company, Inc.
Aircraft Gear Corporation	Albright Tool & Manufacturing, Inc.
Allendale Machine Company, Inc.	Alloy Tool Steel, Inc.

Alltech Tool & Mold	American Grinding & Machine Company	G. H. Tool & Mold, Inc.	Gage Grinding Company
Anchor Tool & Die Company	Anglo-American Mold, Inc.	Gallard Industries	Gardner Machine Products
Aram Precision Tool & Die, Inc.	Arbiser Machine Building Company	Gear Manufacturing, Inc.	Gear Supply and Broaching, Inc.
Arden Engineering, Inc.	Arizona Gear & Mfg. Co.	Gilmore Valve Company	L K Goodwin Company Inc.
Arnett Tool, Inc.	Aro Metal Stamping Company, Inc.	Graham Tool & Machine, Inc.	Granby Mold
Arrow Fabricating Company	Associated Machine	Grand Rapids Metal Tek, Inc.	Grover Cundrilling, Inc.
Associated Toolmakers	Astro-Cut Engineering Company	H & H Dynamics	H & H Engineering, Inc.
Austin Machine Company, Inc.	Automation Devices, Inc.	H & H Machine & Tool Company	H & M Machine & Mechanical Works
B & L Machine Company	B K Tool & Manufacturing Co., Inc.	Hofley Manufacturing Company	Hartwick Metal Fabricators, Inc.
B-Y Machine Company, Inc.	Ball Glide Products	Hauck & Eller Tool & Die	Hawkins Manufacturing, Inc.
Barrett Firearms Manufacturing	Bear Machine	Hi-Ridge Manufacturing Company	Hi-Tech Tool & Cutter Sharpening
Benish Tool and Manufacturing Co.	Bernal's M.B.G.	Hood Precision Machine Products	Horizon Carbide Tool, Inc.
Bohn Engineering, Inc.	Breiner Machine Company, Inc.	Houston Boring & Machine	Hudson Hone & Machine, Inc.
Brittain Machine, Inc.	Brooks Machine & Tooling Company	Huetter Machine & Tool Co., Inc.	The Hutchinson Corporation
Burgess & Associates Manufacturing	Burn-A-Rod	Injection Transfer Compression	J & L Machining, Inc.
C & C Machine Company	C & R Grinding, Inc.	J & L Tool & Manufacturing Co., Inc.	J. E. Engineering
C M S Welding and Machining Corp.	California Mold	J P Machine	Jakobsen Tool Company, Inc.
Cam Tool Co., Inc.	Cardinal Tool Corporation	Jeri Machine, Inc.	Jet Stream Water Cutting
Cavaform, Inc.	Century Die Casting	Johnson Manufacturing Company	Joint Venture Tool & Mold
Certified Welding & Engineering	Charmilles Technologies	Jorgensen Machining Corporation	K & G Manufacturing
Clark Engineering & Manufacturing	The Cleveland Steel Tool Company	K A F Manufacturing	K M G Tool & Machine Co., Inc.
Colonial Machine & Tool Co., Inc.	Commercial Tooling, Inc.	K. M. S. Machine Works, Inc.	K-Ter Imagineering, Inc.
Component Repair Technologies, Inc.	Componex Corporation	Kaga (U.S.A.) Inc.	Kapco Tool & Engineering, Inc.
Comtech Machine Corporation	Connection Mold	Karris Machines & Tool Co., Inc.	Kedco Enterprises, Inc.
Corfu Machine Co., Inc.	Cover Engineering Company, Inc.	Kelley Industries, Inc.	Klecn Cut Tool & Engineering
Creative Machining & Manufacturing	Crenshaw Die & Manufacturing Corp.	Kleine Steel Fabrication, Inc.	Knise & Krick, Inc.
Crown Machine, Inc.	Custom Jig Grinding Company	Koch Systems, Inc.	Krav Precision Tool & Die Corp.
Cutco, Inc.	D & B Tool & Engineering	L & L Works	L & W Engineering Co., Inc.
D & D Gear, Inc.	D & T Products	L M E	L S Technologies
D C D Company	Dace & Dace, Inc.	Lakewood Precision Corporation	Langenau Manufacturing Company
Dadson Manufacturing Corporation	Danex Industries, Inc.	Lavelle Machine & Tool Co., Inc.	Leever's Grinding, Inc.
Dayton Machine Tool Company	Delta Design & Mfg. Co., Inc.	Lemco Machine, Inc.	LenSon Machine, Inc.
Dependable Machine Company, Inc.	Dexter Magnetic Materials	Leopold Machine and Tool Co., Inc.	Lindenmaier Precision Company
Diamond Tool & Engineering	Dickerson Machine and Tool, Inc.	Lindquist Machine Corporation	Little Rhody Machine & Electric
Diversamaton, Inc.	Diversified Techniques	M C M	M C Mold & Machine, Inc.
Douglas Machine & Engineering Co.	E D M of Garland, Inc.	M P Technologies, Inc.	Machine Center, Inc.
Eagle Precision Company	Eagle Tool & Manufacturing, Inc.	Machine Turning, Inc.	Maine Parts & Machine, Inc.
Eastern Rochester Manufacturing	Ecko Tool & Die, Inc.	Maness Engineering	Manufacturing Solutions, Inc.
Elba Electronics, Inc.	Engineered Machine & Tool Co., Inc.	Maris Systems Design, Inc.	Mars Manufacturing
Engineered Pump Services, Inc.	Everest Valve Company	Master Tool Company, Inc.	Mc Roberts Machine, Inc.
EWT-REF, Inc.	Exacta Tech Inc.	McFerron Tool & Machine Co., Inc.	McCough & Kilguss
Express Machine Products, Inc.	F & F Surface Grinding, Inc.	McLellan Page, Inc.	Mechanical Designs of Virginia
F M Industries	Fay & Quartermaine	Mercury Gage Company	Mercury Tool & Mold
Fayette Tool & Engineering, Inc.	Florida Machining Center	Micro Matic Tool, Inc.	Micro Precision
Forqash Precision Products Corp.	Fortville Feeders, Inc.	Mikulin Machine, Inc.	Deburring
Frog Hollow Works	Fulton Industries, Inc.		Mimco

Mires Machine Company, Inc.	Modern Innovation, Inc.	Star Precision Machine Company	State Industrial Repair, Inc.	Arrow Tool, Inc.	Associated Tool & Die, Inc.
Mold & Machine Company	Moldex Tool & Design Company	Stefan Sydor Optics, Inc.	Stellar Engineering Summit Machine Company	Ayers Gear & Machine	B & C Machine Company
Jim Monahan Company	Monark Design and Mfg., Inc.	Stevenson Machine Shop	Sun Valley Tool, Inc.	B & G Machine Products	B & H Machine, Inc.
Morison Engineering	Morsch Machine Works	Sun Coast Design Service, Inc.	Suncoast Tool & Gage Industries,	B & H Tool & Machine Corporation	B A K Precision Industries
N C Dynamics, Inc.	Nardon Acquisition Corp.	Suncoast Tool & Gage Industries,	T R B Precision Machine Corp.	B H Instrument Company, Inc.	B. T. C. Production
National Chain Company	New England Honing Specialists	T R B Precision Machine Corp.	Talso, Inc.	Ball Glide Products	Ballard Machine Tool Service
New Technology Machining, Inc.	New World Machining Inc.	Teachman-Perry, Inc.	Technical Sales, Inc.	Ballos Precision Machine	Barroncast, Inc.
Nibarger Tool Service, Inc.	Nor-Cal Machining	Thompson Industries Tool Technology, Inc.	Turbine Controls, Inc. Ugn, Inc.	Beaulieu Tool & Die Co., Inc.	Beckwith Grinding, Inc.
Omega Corporation	Owens Specialty Company, Inc.	Union Tool & Die Company	United Technical Industries, Inc.	J L Behmer Corporation	Berg Tool & Machine Company, Inc.
Parcon Technology Inc.	Parker Manufacturing	V R C, Inc.	V R C, Inc.	Bernal Rotary Systems, Inc.	Bernal's M.B.G.
Patkus Machine Company	The Pearson Manufacturing Co., Inc.	Venture Tool & Die, Inc.	W M C Grinding, Inc.	Birmingham Benders Company	Blanchard Grinding Service, Inc.
Peninsula Metal Fabrication, Inc.	Pivot Punch Corporation	Walker Spring & Stamping Corp.	Walker Spring & Stamping Corp.	Blanchard Metals Processing Company	Blanda, Incorporated
Pittsfield Machine/Tool & Welding	Precision Deburring Services	Watertown Jig Bore Welding Metallurgy, Inc.	Walworth Machine & Mfg. Co., Inc.	Blandford Machine & Tool Co., Inc.	Blitz Tool & Die
Portage Mold & Die Company	Precision Industrial Products, Inc.	Williams Machine, Inc.	Welch Machine, Inc.	Bollinger Tool & Die, Inc.	BoMar Machine
Precision Engineering	Precision Machine Co., Inc.	Wilson Greatbatch	Weltec	Boos Products	Breeze's Precision Boring Company
Precision Machine & Instrument Co.	Precision Mold & Tool Company, Inc.	Wolverine Tool & Engineering	Willyard Company, Inc.	Breiner Machine Company, Inc.	Brighton N C Machine Corporation
Precision Machine Specialist	Precision Products	Zinola Manufacturing	Winchester Industries, Inc.	Broadway Mold, Inc.	Brown Manufacturing Company, Inc.
Precision Products Performance	Precision Tooling	Attachment B	Wyatt Automatic Products	Bruce Machine & Tool Co., Inc.	Buchanan Products, Inc.
Precision Slicing Company	Production Attachment, Co., Inc.	A & H Machine & Tool Company	Cal-Disc Grinding Company	Bulgrin Mold & Machine	C & C Manufacturing Company
Premier Tool & Die, Inc.	Progressive Design & Machine	A M I Industries, Inc.	Calcortec, Inc.	C and L Custom Tooling	C. M. I. Product Development
Professional Machine & Tool, Inc.	Progressive Tool & Die Co., Inc.	A R Industries, Inc.	California Gundrilling, Inc.	Cal-Royal Aerotech	California Fineblanking Corporation
Progressive Metallizing & Machine	Proton Stamping	Accu-Prompt Manufacturing	Cambridge Special	California Fineblanking Corporation	Cam Basic
Progressive Turnings, Inc.	Quad City Engineering Company	Acrodie, Inc.	Caval Tool & Machine Company	Cambridge Special	Cavaform, Inc.
Puehler Tool Company	Quick Turn Machine Company	Advanced Machine Service	Charlotte Cutting Tool	Caval Tool & Machine Company	Century Tool & Manufacturing Co.
Quality Tool & Mold, Inc.	R W Machine, Inc.	Aim Incorporated	Charmilles Technologies	Charlotte Cutting Tool	Charlton Engineering Corporation
R. I. Technical Plating, Inc.	Ramar Engineering, Inc.	Al-Tech	Checker Machine, Inc.	Charmilles Technologies	Chase Machine Company, Inc.
Ram Tool, Inc.	Rapidie Corporation	Alco Machine Corporation	Clifford Manufacturing Company	Checker Machine, Inc.	Cleveland Punch & Die Company
Ranic Machine & Tool, Inc.	Reliable Tool & Die Corporation	Aldan, Inc.	Cloud Company	Clifford Manufacturing Company	Clifton Automatic Screw
REHCO, Inc.	Recco Tool & Machine Co., Inc.	All Mold, Inc.	Columbia Screw Co., Inc.	Cloud Company	Colmar Corporation
Reliance Machine Works, Inc.	Rhode Island Centerless, Inc.	Allegheny Tool & Manufacturing Co.	Composite Mold Corporation	Columbia Screw Co., Inc.	Component Repair Technologies, Inc.
Reynolds Manufacturing Co., Inc.	River City Machine	Alloy Machine & Tool Company, Inc.	Computerized Machining Services	Composite Mold Corporation	Compu Die, Inc.
Richland Machine & Pump Company	Rohder Machine & Tool, Inc.	Alloy Tool Steel, Inc.	Controlled Turning, Inc.	Computerized Machining Services	Contract Products
Rocky's Wire E.D.M.	S & B Machine Works, Inc.	Alpine Manufacturing, Inc.	Convex Mold, Inc.	Controlled Turning, Inc.	Converse, Inc.
Rozal Industries, Inc.	S. C. T., Inc.	American Dies, Inc.	Cook Tool & Die, Co.	Convex Mold, Inc.	J L Cook Company, Inc.
S & F Machine Company, Inc.	Samax Tool	American Engraving, Inc.	Co-Op Machine & Tool	Cook Tool & Die, Co.	Cooney Tool, Inc.
SafeWay Hydraulics, Inc.	Seminole Mold of Florida, Inc.	American Mold Corporation	Corfu Machine Co., Inc.	Co-Op Machine & Tool	Cordell Machine Corporation
Schoitz Engineering, Inc.	Service & Sales, Inc.	Amrein Machine Shop, Inc.	Cox Machine Company, Inc.	Corfu Machine Co., Inc.	Correa Machine & Tool Company, Inc.
Seneca Metal Products, Inc.	Sheets Tool & Manufacturing, Inc.	Andrews Machine Works	Cramers Precision Grinding, Inc.	Cox Machine Company, Inc.	Coy Machine Company
Service Metal Fabricators, Inc.	Sherlock Machine Company	Anro Metals Manufacturing	Cyma Tool Corporation	Cramers Precision Grinding, Inc.	Custom Etch Inc.
Shepherd Precision, Inc.	Smith Welding Works, Inc.	Apex Corporation	D C Machine Shop	Cyma Tool Corporation	D C Design, Inc.
Silver Tool, Inc.	Southern California Metals Joining	Argus Manufacturing Company	D/A Machine Products	D C Machine Shop	D M C International, Inc.
Smokey Mountain Machine, Inc.	Southwest Replacement Parts		Dap Tool & Mold Inc.	D/A Machine Products	Damen Tool & Engineering Co., Inc.
Southern Tool & Machine Company	Spun Metals, Inc.		Darotek, Inc.	Dap Tool & Mold Inc.	Dar Machine & Manufacturing, Inc.
Spring Engineers, Inc.	Standard Die Supply, Inc.		Dayton Machine Tool Company	Darotek, Inc.	Dayton Drill Bushing Company
Spur Gear, Inc.			Delto Tool Company	Dayton Machine Tool Company	Deep South Automotive, Inc.
			Demark Industries, Inc.	Delto Tool Company	Demach Industries, Inc.
				Demark Industries, Inc.	Demmer Corporation

Design Tool & Machine Company	Die Supply Corporation	The Hutchinson Corporation	Hyland Machine Company	Maurer Metalcraft, Inc.	Maxwell Bailer Corporation
Die-Tech Manufacturing, Inc.	Die-Tron-Die-Cam, Inc.	Hytool Manufacturing, Inc.	Ideal Engineering, Inc.	Mayday Manufacturing Company	Mayfield Machine Shop, Inc.
Dillon Industries, Inc.	Discovery Tool & Manufacturing	Ideal Thread & Gage Company, Inc.	Imperial Machine & Tool, Inc.	Mc Roberts Machine, Inc.	McLellan Page, Inc.
Ditool-Division of Foundary	Diversamaton, Inc.	IndTool, Inc.	Industrial Bearings & Supply, Inc.	McNeal Enterprises, Inc.	McPherson Implement, Inc.
Diversified Tool Corporation	Dot Machine & Tool Company	Industrial Engravers, Inc.	Industrial Equipment Repair Co.	Melvin Tool & Die, Inc.	Meriden Manufacturing
Double Disc Grinding of Hauppauge,	Dyko Tool Corporation	Industrial Machine Company	Industrial Molds, Inc.	Meridian Products Corporation	Merlone Metal Spinning, Inc.
Dynacorp, Inc.	Dynamic Tool and Die, Inc.	Industrial Park Rebuild Innovative Concept Engineering & Isimac Machine Company, Inc.	Industrial Tooling, Inc.	Metal Hans, Inc.	Metal-Tech Machine, Inc.
Dynamic Tool & Die Company	E F S Fabrication, Inc.	J & L Machining, Inc.	Inter-City Manufacturing, Inc.	Micro-Tech Production Machine Co.,	Mid West Mold
E K Machine Tool, Inc.	E R I Division	J & R Boring & Machine	J & B Tool	Mid-Central Manufacturing, Inc.	Midwest Machine & Manufacturing Co.
E S L Corporation	Eastford Tool & Die Co.	J C R Manufacturing Corporation	J & M Machine Products, Inc.	Mil-Tech Machine, Inc.	Minnotte Cleveland Corporation
Edel-Brown Tool & Die Company	Edgerton Machine & Gear, Inc.	J W Tool & Die Company, Inc.	J & R Machine Company	Mo-Tech Corporation	Modern Metal Manufacturing, Inc.
Edinger Manufacturing, Inc.	Electro Machine & Tool, Inc.	Jimco, Inc.	J T Machine Company	Modern Molds, Inc.	Moldex Tool & Design Company
Electro Mold Company	Electronics Tool & Die Empire Machine Shop, Inc.	Johnson Controls, Inc.	Jandi Machine & Tool	Monarch Valve Corporation	Monroe Tool & Die Company
Elgin Machine Corporation	Excel Tech Machine Repair & Fabritek Company, Inc.	Johnson's Machine & Tool, Inc.	Joel Tool Company, Inc.	Monterey Precision, Inc.	Montgomery Brothers Machine Company
Everest Valve Company	Ferrex Industries	K & K Grinding Company, Inc.	Johnson Precision Machining, Inc.	Morris Machine Company, Inc.	Morris Precision
F & M Machine Corporation	Finntech, Inc.	K & S Tool & Die, Inc.	Jomar Machining, Inc.	Morsch Machine Works Moulding Specialists, Inc.	Morton & Company, Inc.
Fabro Engineering, Inc.	Fluke Metal Products, Inc.	Karman Tool & Plastic Manufacturing	K & R Machine Company, Inc.	N C S, Inc.	Mountain Machine Services
Ferriot Inc.	Fordees Engineering	Karsten Engineering	K A F Manufacturing	Nelson Brothers & Strom Co., Inc.	Nardon Manufacturing Company, Inc.
Fischer Tool & Die Corporation	Frederick's Machine Shop	Kay's Precision Manufacturing Corp.	Karrals Machine & Tool Co., Inc.	New Age Manufacturing Co., Inc.	Nelson Engineering Company, Inc.
Flying Machines	G & C Machine Technology's Inc.	Keegan's Machine & Fabricating,	Kasco Metal Products Corporation	New Ulm Precision Tool	New England Tool Company
Formative Products	G & J Machine Shop, Inc.	KENLAB	Kays Engineering	Newport Controls, Inc.	Newington Manufacturing, Inc.
J F Fredericks Tool Company, Inc.	G & L Machining, Inc.	Kindex, Inc.	Keen Machine Company	Nicolson Cutter	Newport Tool & Die, Inc.
G & H Mechanical Laboratory, Inc.	G & R Enterprises	Knise & Krick, Inc.	Keys Machine Works, Inc.	North Coast Machining	Norris Precision Manufacturing
G & L Machine, Inc.	G & Z N/C Machining Company	Koch's Machine & Tool Company	Kinematic Corporation	Numeric Machine Products	North Star Design, Inc.
G & R Enterprises	G. H. Tool & Mold, Inc.	Kreichbaum Machine & Tool	Ko-Gar Machine Company	Numerical Productions, Inc.	Numerical Precision, Inc.
G & W Tool & Die Company, Inc.	G N R Plastic Co., Inc.	Krizman, Inc.	Koning Machine & Tool Company	Nutmeg Precision Company	NuTec Tooling Systems, Inc.
G B Tool Company	Galger Engineering & Manufacturing	L A B Quality Machining	Kremin, Inc.	Ohlinger Industries, Inc.	O - A, Inc.
G M Tool Corporation	General Machine & Tool	Lamson Products Company	L & S Corporation	Osborn Fabricators, Inc.	Olmsted Engineering Company
G P Precision Metal West	Genesee Tool & Engineering, Inc.	Lane Punch Corporation	Lakeland Tool & Engineering, Inc.	P & D Machine Company	OTMI, Inc.
General Machine Products	Global Flange & Mfg., Inc.	Laneko Precision Corporation	Landry Specialty Welding, Inc.	P & M Screw Machine Products	P & K Tool & Production Company
General Machine Works	Coguen Industries	Leblanc Grinding Company	L-B-L Corporation	Pacific Sky Supply, Inc.	P T L Manufacturing, Inc.
Geyer Precision Machining Company	Greenwell Machine & Tool, Inc.	Lewis Machine & Fabricating Company	Laser Fare, Ltd.	Palmer Custom Machinery Corp.	Pak Devices, Inc.
Coffs Industrial Aid Machining Inc.	Crimes Walker, Inc.	Lloyd Tool & Manufacturing Corp.	Leemax Mfg. Corp.	Pan-Tec, Inc.	Palmetto Fine Machining
Great Lakes Grinding, Inc.	H & H Machine	Lonner Industries, Inc.	Links Tool Die & Engineering Co.,	Parcon Technology Inc.	Paragon Machine, Inc.
Gremco Machine & Tool	H M Dunn Company, Inc.	Lorenzo's Tool & Dies, Inc.	Long-Stanton Manufacturing Company	Pegasus, Inc.	J C Parry & Sons Co., Inc.
Grind-All, Inc.	Haemer Tool & Die	M & H Precision/Christech	Look Precision, Inc.	Peraza Tool and Mold, Inc.	Pentagon Die & Manufacturing, Inc.
H & K Tool & Machine Company	Hamden Tool & Die Co., Inc.	M G W Precision Small Parts	Louisville Machine Mfg. Corporation	Perfect-A-Tec Corporation	Perfect Mold Company, Inc.
H P A S Inc.	Hammond Tool, Inc.	Mac Machine Company, Inc.	M & S Welding Company, Inc.	Perry Tool & Research Company	Performance Plastics East
Hallum Tooling, Inc.	Hammond and Barrie Harrington Machine & Tool, Inc.	Mackenzie Machine & Marine Works	Mac Law Tool & Aircraft	Phillips Bros. Tool & Die, Inc.	Petersen Precision Engineering Co.
Hammond and Barrie Harrington Machine & Tool, Inc.	Heacock Metal and Machine, Inc.	Macor, Inc.	Machine Turning, Inc.	Piedmont Tool & Mfg. Co., Inc.	Piece-Maker Company
Heise Industries, Inc.	Helac Corporation	Manda Machine Company, Inc.	Macnab Manufacturing, Inc.	Pivot Punch Corporation	Pier Tool & Die, Inc.
Helio, Inc.	Hellebusch Tool & Die, Inc.	Mardon Enterprises, Inc.	Manco, Inc.	POFCO	Pivot Punch Corporation
Herzog Tool & Die Company, Inc.	Hess Die Mold, Inc.	Marquardt Engineering, Inc.	Mar-Tech Industries, Inc.	Polyphase Machine Company, Inc.	Pol-Tek Industries, Ltd.
Hi-Tech Mold & Tool, Inc.	Hi-Tech Mold & Engineering, Inc.	Martin Machine, Inc.	Mark Concepts, Inc.	Preac Tool Company, Inc.	Practical Mechanics Inc.
Hilton Industries	Holden Machine Company, Inc.	Master Metal Engineering, Inc.	Martco, Inc.	Precise Products Company	Precise Jig Grinding, Inc.
Holland Engineering Company	Hollis Industries, Inc.				Precision Aerospace Manufacturing
Hone Lap Company, Inc.	Hopco				
R. D. Hopkin Machine Corporation	Hopwood Tool & Die				
Husky Cutter Grinding, Inc.	Roy A. Hutchins Company				

Precision Deburring Services	Precision Drilling & Tapping	Sparro Machine Products, Inc.	Spartan Carbide, Inc.	Witte Machine Products, Inc.	Y Tec Manufacturing, Inc.
Precision Electronic Metal	Precision Engineering & Mfg. Co.	Spaulding Machine Co.	Spearhead Automated Systems, Inc.	Youngwood Electric Metals West	
Precision Fabricating, Inc.	Precision Fluid Power, Inc.	Special Machine & Engineering, Inc.	St. George Machine Tool	[FR Doc. 89-29433 Filed 12-18-89; 8:45 am]	
Precision Industrial Products, Inc.	Precision Machine & Welding	St. Mary Manufacturing Corporation	Star S Manufacturing	BILLING CODE 3510-DR-M	
Precision Machine Co., Inc.	Precision Machine Specialist	Steel Products Corp Of Akron, Inc.	Stefco Precision, Inc.		
Precision Machine & Tool Co., Inc.	Precision Manufacturing Company	Jack Stewart Kellering Stines Machine	Stillion Industries	National Oceanic and Atmospheric Administration	
Precision Metalcraft	Precision Mold & Tool Company, Inc.	Stinson Manufacturing Company	Stinson Machine & Manufacturing Inc.	[Docket No. 91287-9287]	
Precision Mold Welding, Inc.	Precision Molds, Inc.	Stugart Industries, Inc.	Stuart Industries, Inc.		
Precision Products Performance	Precision Technology Corp.	Sun Up Wireforms, Inc.	Stuhr Manufacturing Company	Taking and Importing of Marine Mammals	
Precision Tubedraw & Machining,	Production Metal Cutting, Inc.	Syn-Tech Mold, Inc.	Sutco Manufacturing Company	AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.	
Progressive Die Company	Quality Circle Corporation	Talan Machine & Tool, Inc.	T M F Tool Company	ACTION: Notice of proposed determination to accept an alternative international observer program.	
Quality Die & Mold Corporation	Quality Plus, Inc.	Taylor Tool & Die Company, Inc.	Taurus Machine, Inc.		
Quality Precision Machine Works,	Quality Tool & Die Inc.	Tech Ridge, Inc.	Teachman-Perry, Inc.		
R & D Machine Corporation	R & R Machine	Terrill Motor Machine, Inc.	Tennessee Precision, Inc.	SUMMARY: The Under Secretary for Oceans and Atmosphere proposes to extend the current determination that the international observer program which is administered by the Inter-American Tropical Tuna Commission (IATTC) on behalf of Ecuador, Mexico, Panama, Vanuatu, Venezuela, and any subsequent harvesting nation which applies to NOAA for a positive finding, is acceptable at a level of 33 percent observer coverage for all fishing trips of nations with ten or more vessels, and proposes to modify the determination to require 50 percent observer coverage for all fishing trips of nations with from five to nine vessels. This level of observer coverage will provide sufficiently reliable documentary evidence of the average dolphin mortality rate for each participating harvesting nation. The notice also requests comments on two methods that can be used to determine whether the estimated dolphin mortality rates for foreign nations are comparable to U.S. rates. This finding will apply to the foreign observer program during 1990 only and may be modified during the year by further notice.	
R & R Tool & Machine, Inc.	R and R Machine Company	Tex-Tool Company	Teston Machine Corporation		
R. L. Barry, Inc./Amic Division	Ralee Engineering Company	Three D Manufacturing Corporation	Thompson Industries		
Rams Rockford Products, Inc.	Ramsay Welding Research Co., Inc.	Tiburzi Machine & Tool Company	Thurm-A-Matic		
Ran-Bro Tool Company	Randolph Machine Company	Tiger Industries, Inc.	Tiger Enterprises, Inc.		
Raybon Manufacturing Co, Inc.	Rayco Machine Company	Tomco Die & Kellering Company	Tiller Tool & Die, Inc.		
Red Line Base, Inc.	Rehrig Pacific Company	Tool Tech, Inc.	Tool & Die Specialties, Inc.		
Reid Industries, Inc.	Reidville Tool & Manufacturing Co.,	Toolox Manufacturing Corporation	Toolcraft, Inc.		
Reliable E D M Company	Reliable Sharpening Service, Inc.	Tri-State Tool & Saw, Inc.	Tri City Tool & Die Company		
Reliable Tool & Die Corporation	Reliable Tool & Die, Inc.	Tricon Machine & Tool, Inc.	Tri-Wire, Inc.		
Reliance Machine Works, Inc.	Reliance Mold & Tool, Inc.	Trisan Manufacturing, Inc.	Trimetric Specialties, Inc.		
Riggins Engineering, Inc.	Ripley Machine Company, Inc.	True Precision, Inc.	Trowbridge Machine		
Ritchie Brothers Research & Ritsema Grinding Company	Rite-Way Tool & Engineering Company	Twoson Tool Mfg. Company, Inc.	Trueline Tool & Machine, Inc.		
River City Machine	Rival Precision, Inc.	U F E Incorporated	TYMAR Machining		
Riverside Tool & Die, Inc.	Riverpoint Tool Company, Inc.	U S Die & Mold Company, Inc.	U. S. Axle, Inc.		
Rockford Engineered Products Co.	Rochester Precision, Inc.	The Ultimate Tool & Gage Company	Ultimate Precision, Inc.		
Rodak Plastics Company, Inc.	Rocon Manufacturing Corporation	Ultra Engraving & Machining	Ultra Cut, Inc.		
Roson Plastics, Inc.	Carl Rogers	Universal Machine Rebuilders, Inc.	Union Machine		
Royal Manufacturing Company	Royal Industries, Inc.	Vanguard Technology Corporation	Universal Machine Products		
S & F Machine Company, Inc.	J Ryall Machine Works	Variety Tool & Die, Inc.	Variety Stamping Corporation		
Samson Manufacturing Company	Saginaw Tool & Die & Precision	Versa-Mil, Inc.	Variospace Division		
Schafer Gear Works, Inc.	Satellite Tool & Machine Co., Inc.	Victory Machine Tools	Vi-Tec Manufacturing		
Sharp Grinding Company, Inc.	Schucker-Deco Machine, Inc.	Voss Manufacturing, Inc.	Voshage Machine, Inc.		
Sibo Tool & Die Company	Shell Die Mold, Inc.	Wacker Development, Inc.	W B Tool & Die		
Skyline Manufacturing Corporation	Sidney Machine Service, Inc.	Walbrun Tool, Inc.	Waggoner Brighton, Inc.		
Skyway Precision Inc.	Skylock Industries, Inc.	Washington Scientific Industries	Waltz Brothers, Inc.		
Slantco Machine & Tool	Slankers, Inc.	Weld Lab	Weaver Machine & Tool Company, Inc.		
Smith-West Space Craft Manufacturing Co., Inc.	Smith Welding Works, Inc.	Weldments of Florida	Welding Metallurgy, Inc.		
Spalding & Day Tool & Die Company	Southern Numerics, Inc.	West Georgia Tool & Die, Inc.	Wells Machine Company, Inc.		
	Spaceonics Industries	West Warwick Machine Company, Inc.	West Point Foundry and Machine		
	Spark Technologies, Inc.	Western Machine & Manufacturing	Westco Manufacturing Co., Inc.		
		Wesval, Inc.	Westwood Precision, Inc.		
		Whip's Tool & Cutter Crinding	Wetmore Cutting Tools		
		Whitehead Tool & Die, Inc.	Whitco Manufacturing		
		Will-Mor Engineering Company, Inc.	The Will-Burt Company		
			Williams Machine Company, Inc.		

National Oceanic and Atmospheric Administration

[Docket No. 91287-9287]

Taking and Importing of Marine Mammals

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

ACTION: Notice of proposed determination to accept an alternative international observer program.

SUMMARY: The Under Secretary for Oceans and Atmosphere proposes to extend the current determination that the international observer program which is administered by the Inter-American Tropical Tuna Commission (IATTC) on behalf of Ecuador, Mexico, Panama, Vanuatu, Venezuela, and any subsequent harvesting nation which applies to NOAA for a positive finding, is acceptable at a level of 33 percent observer coverage for all fishing trips of nations with ten or more vessels, and proposes to modify the determination to require 50 percent observer coverage for all fishing trips of nations with from five to nine vessels. This level of observer coverage will provide sufficiently reliable documentary evidence of the average dolphin mortality rate for each participating harvesting nation. The notice also requests comments on two methods that can be used to determine whether the estimated dolphin mortality rates for foreign nations are comparable to U.S. rates. This finding will apply to the foreign observer program during 1990 only and may be modified during the year by further notice.

DATE: Comments on this proposed determination are invited and must be postmarked on or before January 18, 1990. After comments have been considered, a final determination will be published.

ADDRESS: Comments may be mailed to E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Room 2005, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, or J. Gary Smith, Deputy Regional Director, Southwest Region, NMFS, at (213) 514-6196.

SUPPLEMENTARY INFORMATION: In the 1988 reauthorization of the Marine

Mammal Protection Act (MMPA), the U.S. Congress amended the Act to add new import requirements for nations exporting yellowfin tuna to the United States that were caught with purse seine nets in the eastern tropical Pacific Ocean (ETP). Among other things, Congress required that the average rate of incidental marine mammal mortality by vessels of harvesting nations be no more than 2.0 times that of the U.S. vessels during the same time period by the end of 1989 and no more than 1.25 times that of the United States during subsequent years.

Congress further required that the rate of incidental mortality be monitored by observers under the IATTC dolphin program or an equivalent international program in which the United States participates and which achieves an observer coverage rate equal to that achieved by the U.S. fleet. Congress, however, provided that the Secretary may approve an alternative observer program 60 days after publishing the alternative proposal in the Federal Register along with the reasons it will provide sufficiently reliable documentary evidence of the average marine mammal mortality rate by each harvesting nation.

On May 10, 1989, NMFS published (54 FR 20171) a proposed determination that, for the 1989 fishing year, 33 percent coverage of a harvesting nation's purse seine fleet's fishing trips during the year by IATTC observers would provide sufficiently reliable estimates of the average dolphin mortality rates of those fleets. That notice described fully the domestic and international observer programs. The proposed determination became effective on July 10, 1989. NMFS accepted 33 percent observer coverage for 1989 because in general that level produced a mortality rate estimate with a coefficient of variation (a measure of the precision of the estimate) that is similar to that of the U.S. dolphin mortality rate estimate during recent years. Currently, the level of observer coverage maintained by harvesting nations in the IATTC program remains at or above the 33 percent level (Table 1.)

TABLE 1.—PERCENT OBSERVER COVERAGE BY NATION, 1986-1989

[Source: NMFS]

Nation	Percent of vessel trips observed			
	1986	1987	1988	1989 ¹
Ecuador	7.9	9.5	35.9	32.6
Mexico.....	26.1	27.0	38.2	37.2
Panama.....	42.8	13.3	30.0	44.4
Vanuatu.....	31.6	34.5	30.0	34.5

TABLE 1.—PERCENT OBSERVER COVERAGE BY NATION, 1986-1989—Continued

[Source: NMFS]

Nation	Percent of vessel trips observed			
	1986	1987	1988	1989 ¹
Venezuela.....	21.7	21.5	31.0	37.0

¹ Preliminary data from IATTC as of 9/30/89.

In a legal challenge to the May 10, 1989 approval of an alternative foreign observer program with less than 100 percent coverage for 1989, the Federal District Court for the Northern District of California ruled that the Secretary of Commerce has the discretion to accept an alternative observer program as long as the program provides sufficiently reliable documentary evidence of the average rate of the incidental taking of dolphin.

Following further review of observer data and considering the more stringent mortality rate standard of 1.25 times the U.S. rate to be applied to the observer data collected on foreign fleets in 1990 and beyond, NMFS statisticians have reexamined the foreign observer coverage requirements and the statistical methods used in the 1989 determination to determine comparability of mortality rates.

Acceptable Level of Observer Coverage

The Under Secretary for Oceans and Atmosphere proposes to extend the present determination approved for 1989 (54 FR 20171-20174) which accepted a level of foreign observer coverage of 33 percent for Mexico and Venezuela which have fleets of 10 vessels or greater and to modify the determination to require 50 percent observer coverage for Ecuador, Panama, and Vanuatu which have fleets of five to nine vessels. The determination is based on a finding by NMFS statisticians that at these levels of observer coverage sufficiently reliable documentary evidence of the average rate of incidental taking by a harvesting nation can be obtained within a relative measure of variability, coefficient of variation (CV), that does not exceed 20 percent. While the NMFS does not have a direct responsibility to estimate the total mortality of the international fleet, the NMFS considers it necessary to continue to monitor total dolphin mortality on a stock by stock basis to ensure that any stock is not adversely affected by the incidental taking by all fleets. As a matter of policy, the NMFS has used a CV of 20 percent or less as the acceptable level of precision for establishing the observer sample size necessary to estimate the

total U.S. dolphin mortality on an annual basis since 1979. A CV of 20 percent also is the acceptable level of precision used by the NMFS to estimate the size of individual dolphin stocks.

This determination of acceptable observer coverage is made in the absence of a quantifiable means of accounting for any "observer effect", if one exists, and is based on the assumption that the unobserved mortality rate is the same as the mortality rate from observed vessels. However, there is concern that the mortality on observed vessels is less than that on unobserved vessels.

Although observer coverage of 33 percent and 50 percent are statistically acceptable to determine comparability of average mortality rates, there are several benefits from 100 percent coverage that make a higher level of coverage more desirable. First, the larger observer coverage improves the accuracy of the overall estimates of the mortality rates by reducing the uncertainty due to any "observer effect". Observer coverage at the 100 percent level also provides the most accurate basis to determine whether or not no more than 15 percent eastern spinner or no more than 2 percent of coastal spotted dolphin are taken annually as required by the MMPA. It also makes more data available to foreign governments and industry that is desirable for the most effective implementation of their vessel operator performance system and enforcement programs that were required in the 1988 amendments to obtain import findings under the MMPA.

A 100 percent foreign observer program will require time to implement and resources that are not presently available. The IATTC estimates that an additional \$1.23 million will be necessary to implement a 100 percent observer program. It also estimates that it would take about 8 months to establish a 100 percent observer program as formal agreements must be made with member and non-member governments to establish a program and to recruit, train, and place qualified observers aboard the nation's vessels. Presently, sources of funding have not been determined to initiate an expanded program as Panama and the United States are the only IATTC member nations which purse seine tuna in the ETP; other member nations, France, Japan, and Nicaragua do not purse seine for tuna in the ETP. The other harvesting nations which purse seine for tuna in the ETP, Ecuador, Mexico, Vanuatu, and Venezuela, are not members of the

IATTC but participate in the IATTC observer program voluntarily.

In the absence of an institutional arrangement to expand the foreign observer program at this time, NMFS is proposing to accept an alternative foreign observer program with less than 100 percent observer coverage while continuing to pursue an institutional arrangement which will provide for an expanded program. The proposed determination to accept an alternative foreign observer program will extend to the end of 1990 or to such earlier time as arrangements can be made to expand the level of observer coverage.

Mortality Rate Measure

Since the May 10, 1989, determination was made accepting an alternate foreign observer program for 1989, NMFS statisticians have continued to examine the best methods for comparing foreign and domestic dolphin mortality rates. Further analysis indicates that the best criterion for comparing U.S. and foreign mortality rates is the number of dolphins killed-per-set rather than the number of dolphins killed-per-ton of tuna caught on dolphin that was used in the 1989 determination. They found that either kill-per-ton or kill-per-set are statistically valid measures of a fleet mortality rate. In the past, NMFS used kill-per-ton as a measure of the cost of incidental taking of dolphin associated with tuna. Under the 1988 amendments to the MMPA, new provisions were added that require the measurement of the performance of skippers in both the domestic and foreign fleets according to their proficiency in reducing dolphin mortality. A kill-per-set standard more appropriately measures the success of a skipper in reducing dolphin mortality and does not require an observer to correctly estimate the tons of tuna taken in a set. Therefore, kill-per-set will be the standard for measuring the comparability of mortality rates.

Determination of Comparability

The primary purpose of this notice is to propose the alternative international observer program as discussed above. However, an important adjunct to this proposal is how the estimated mortality rates will be used to compare the U.S. rate to the rates of foreign fleets. The method used for mortality rate comparisons is important because the results determine whether a harvesting nation will continue to have its yellowfin tuna enter the United States. If a harvesting nation fails the comparability test and is embargoed, it may determine that its fleet no longer has a commitment to reduce dolphin mortality according to U.S. standards. In

addition, any intermediary nation that trades in yellowfin tuna with an embargoed nation must itself embargo further trade in yellowfin tuna from that harvesting nation within 60 days or be embargoed from exporting yellowfin tuna to U.S. markets. Both harvesting nations and intermediary nations which are embargoed and fail to correct negative findings after six months are subject to certification under provisions of the Pelly Amendment which could lead to embargoes of all their fish and fish products.

Two methods for determining comparability of foreign and U.S. dolphin mortality rates, each with potentially different results, have been examined. Although it is not necessary to decide which of the two methods should be adopted at this time, NMFS considers it prudent to seek comments on which method seems most consistent with the purposes and policies of the MMPA. For this reason, a description and discussion of the benefits and limitations of both methods are presented for public comment.

Direct Method to Determine Comparability

The direct method uses the actual point estimates calculated from observer data and applies them directly to the tests in the 1988 amendments to the MMPA (i.e., no more than 1.25 times, 15 percent and 2 percent, etc.). Under this method, the dolphin mortality rates of harvesting nations are compared to the U.S. rate, regardless of fleet size. If the average rate of dolphin mortality is more than 1.25 times the weighted average rate of the U.S. fleet for the same time period or the annual mortality limitations for either eastern spinner or coastal spotted dolphin exceeds 15 or 2 percent, respectively, the harvesting nation is embargoed.

(a) Mortality Rate of Comparison—This is the simplest approach because it only involves a determination of the average observed mortality rate for a nation's fleet and a mathematical calculation as to whether that rate exceeds 1.25 times the U.S. weighted rate. This approach guarantees that no nation whose observed dolphin mortality rate in 1990 is greater than the statutory limits in the MMPA would be found comparable to the U.S. rates.

As an example of how this method would be applied, if a foreign fleet had an observed kill-per-set of 6.0 dolphins and if the weighted average kill-per-set of the U.S. fleet (See 54 FR 9438, March 7, 1989) were 4.0 dolphins, the foreign nation would fail the comparability test because 6.0 is greater than 1.25×4.0 (5.0).

In this case, the kill-per-set of the foreign fleet would have to be less than or equal to 5.0 dolphins to be found comparable.

The direct method, however, fails to take into account Type I and Type II statistical errors in making a determination. A Type I statistical error is made in this instance with a fleet's dolphin mortality rate is rejected when it was actually equal to or less than the U.S. rate; a Type II error is made when a fleet's mortality rate is accepted when it actually was greater than the U.S. rate. Based on an analysis of data from the U.S. fleet in 1987, if 1.25 times the U.S. weighted average mortality rate is used as the threshold for passing the comparability test, a fleet with 10 vessels at 33 percent observer coverage and a mortality rate from the same underlying distribution as the observed U.S. fleet would fail the comparability test by *chance alone*, 18 percent of the time. If the same fleet had kill rates that were from a distribution with mean of 1.25 times and 1.5 times the weighted U.S. rate, it would be found comparable (i.e., a Type II error would be made), 56 percent of the time and 33 percent of the time, respectively. Error rates of this magnitude in making comparisons between fleets of different sizes are generally considered unacceptable in the management of marine resources.

(b) Species Composition Comparisons—This comparison under the direct method also involves a simple mathematical calculation to determine whether the percentage of the actual observed mortality of eastern spinner and coastal spotted dolphins is 15 percent and 2 percent respectively of the total take of dolphins by a fleet in a given year. As with the comparison of mortality rates, using the direct method for determining species composition does not take into account statistical variations due to differences in fleet size. For example, a nation with a small fleet whose annual mortality of dolphins is 1,000 animals may take no more than 150 eastern spinner and 20 coastal spotted dolphin in order to comply with the 15 and 2 percent test. A single problem set by a small fleet involving either stock of dolphin could likely cause that fleet's nation to fail the test and lead to the embargo of its tuna products. However, a nation with a larger fleet which has an annual mortality of 30,000 dolphin may take up to 4,500 eastern spinner and 600 coastal spotted dolphin thereby avoiding the possibility of being embargoed based on a single problem set.

For both of these comparisons, the

problems of statistical variation in comparing fleets of different sizes can be reduced somewhat by increasing observer coverage, but even with a 100 percent observer coverage the probability of rejecting a nation on chance alone remains.

Statistical Method to Determine Comparability

The statistical method recognizes the variation that exists for estimates of mortality rates and other parameters that are based on data from sampling schemes having less than 100 percent observer coverage or variation among estimates due to differences in fleet size. While differences in fleet sizes were explicitly recognized in the legislative history of previous MMPA amendments, the current legislative history provides no guidance on how to treat the variation known to exist from comparisons made between dissimilar fleet sizes. This is of particular concern when comparing the U.S. fleet with the smaller fleets currently purse seining in the ETP (i.e., the fleets of Ecuador, Panama, and Vanuatu which are about one third the size of the U.S. fleet (Table 2.)).

TABLE 2.—NUMBER OF TUNA PURSE SEINE VESSELS (CAPACITY>400 TONS) OPERATING IN THE ETP BY NATION, 1986-1989

[Source: NMFS]

Flag	Number of vessels, by year			
	1986	1987	1988	1989
Large Fleets				
Mexico.....	41	50	48	51
United States.....	34	34	34	27
Venezuela.....	15	25	22	26
Subtotal.....	90	109	104	104
Percent.....	89.1	87.9	87.4	84.6
Small Fleets				
Ecuador.....	4	4	4	8
Panama.....	3	5	5	6
Vanuatu.....	3	5	5	5
Subtotal.....	11	15	15	19
Percent.....	10.9	12.1	12.6	15.4
Total Vessels.....	101	124	119	123

To adopt the statistical method approach, NMFS would have to assume that, in comparing rates of mortality, Congress intended that any inequities created by variation in fleet sizes could be addressed through the discretionary authority of the Secretary of Commerce in adopting appropriate and reliable statistical methodology consistent with the purpose and policies of the MMPA. Two statistical approaches are examined for comparing the rates of

large fleet sizes with small fleet sizes: the coefficient of variation and probability of error methods.

Coefficient of Variation

The coefficient of variation (CV) of dolphin mortality is the relative measure of variability that was initially used to establish 33 percent as the acceptable level of foreign observer coverage in 1989. It describes the precision of the estimated mortality rates for different fleet sizes and different observer coverage levels. As a matter of policy, the NMFS has used a CV of 20 percent or less as the acceptable level of precision for establishing the U.S. observer sample size necessary to estimate the total U.S. dolphin mortality on an annual basis since 1979.

(a) Mortality Rate Comparison—In using the CV approach to compare mortality rates, it is necessary to assume that the distribution of the mean kill-per-set for a foreign fleet approximates a normal distribution and that the variance of the weighted average kill-per-set of the U.S. fleet is negligible. As an example of how this method would be applied, if a foreign fleet had a kill-per-set of 6.0 dolphins per set and an estimated CV of 20 percent (based on data provided by the foreign nation), a 90 percent confidence interval would be estimated by taking $6.0 \pm 1.64 \cdot .20 \cdot 6.0$ (90 percent confidence interval: 4.0-8.0). In this case, if the U.S. weighted average kill-per-set were 4.0 dolphins per set, the foreign nation would pass the comparability test because the 90 percent confidence interval includes $1.25 \cdot 4.0 (=5.0)$. If the foreign fleet had a mortality rate that was distributed equal to the U.S. fleet, under a 33 percent rate of observer coverage, the foreign fleet would be expected to fail the comparability test by chance alone, 10 percent of the time.

(b) Species Composition Comparisons—The underlying variability referred to in the section above on mortality rate comparisons also exists when determining whether a nation's take of eastern spinner and coastal spotted dolphin exceeds 15 and 2 percent, respectively, of the fleets' total annual mortality. As discussed above under the direct method, this is particularly important for nations having small fleets whose lower annual observed mortality is much more sensitive to changes in the absolute number of coastal spotted dolphin killed compared to larger fleets which are allowed a mortality several times that amount because their total kill is much larger.

NMFS statisticians have only had a preliminary look at the problem of determining whether a fleet's annual mortality of eastern spinner dolphins and coastal spotted dolphins is significantly greater than 15 percent and 2 percent of their total mortality (Table 3).

TABLE 3.—PERCENT OF EASTERN SPINNER DOLPHIN (ES) AND COASTAL SPOTTED DOLPHIN (CS) IN TOTAL ANNUAL MORTALITY OF ETP NATIONS, 1986-1988

[Source: NMFS]

Country	1986		1987		1988	
	ES	CS	ES	CS	ES	CS
United States.....	7	0	19	0	14	0
Ecuador.....	2	*	0	*	4	*
Mexico.....	19	*	13	*	32	*
Panama.....	2	*	19	*	1	*
Vanuatu.....	0	*	1	*	1	*
Venezuela.....	3	*	5	*	10	*

*=No data available as coastal spotted dolphin were not reported as a separate stock prior to 1989.

As there are so few coastal spotted dolphin reportedly taken by the U.S. fleet, there is no way of determining what the distribution around the percentage of coastal spotted dolphin in the total mortality would be. The NMFS is considering the merit of calculating a confidence interval around the percent kill of eastern spinner and coastal spotted dolphin in the incidental take based on the CV of the percent kill of these two stocks. However, the calculations will require that the following data be provided by nations to the United States for each trip observed: (1) Number of eastern spinner dolphin killed, (2) number of coastal spotted dolphin killed, and (3) total number of dolphins killed.

Probability of Error

The probability of error method addresses the variability of fleet size in another way. There are two basic approaches to apply the probability of error method: (a) The Multiplier option, and (b) the direct comparison option.

(a) Multiplier Option—This approach evaluates the probability of obtaining a value as large or larger than the observed kill-per-set of the foreign fleet from a normal distribution with a mean based on a 1.25 multiplier of the weighted average kill-per-set of the U.S. fleet giving equal consideration to the Type I and Type II statistical errors. This 1.25 multiplier is

based on the comparability standard set forth in the 1988 MMPA amendments. The variance of the distribution is estimated by the variance of the distribution of a simulated U.S. fleet of equal size at 100 percent observer coverage. Using this approach it is necessary to assume that: (1) The variance of the distribution of the foreign fleet's kill-per-set can be approximated by the estimated variance of a simulated distribution of the U.S. fleet, and (2) the variability of the weighted average kill-per-set of the U.S. fleet due to observer coverage of slightly less than 100 percent is negligible. It is generally believed that the variance between sets for a foreign fleet will be greater than the variance between sets for the U.S. fleet (i.e., the percentage of sets where more than 15 dolphins are killed is greater for a foreign fleet than for the U.S. fleet). If this assumption is true, there is impetus for the foreign nation whose fleet has a mortality rate similar to the U.S. fleet to increase its observer coverage because of the increased probability of failing the comparability test by chance alone.

The NMFS is aware that the underlying variability in the distribution of kill-per-set may change as the species composition of the kill changes. The NMFS is considering the merit of using the variability from simulated distributions of the U.S. fleet at 100 percent observer coverage to represent the variability of a foreign fleet of different size that may fish in different areas than the U.S. fleet and is likely to have observer coverage less than 100 percent. If the proposed approach is considered inadequate, the only other option for estimating this variability would be to require foreign nations to submit all data collected by observers to the United States for analysis. NMFS is requesting the data to perform this analysis. NMFS is aware that the distribution of the kill-per-set statistic for small fleets may not be normally distributed. The NMFS is requesting comments on the merit of using a nonparametric approach to assess comparability in mortality rates between the U.S. fleet and a foreign fleet.

Because making a Type I error (i.e., rejecting a fleet's mortality rate when it should be accepted) could be construed as disadvantaging a foreign fleet, and while making a Type II error (i.e., accepting a fleet's mortality rate when it should be rejected) could be construed as disadvantaging dolphin stocks, it is recommended in applying this approach that the Type I and II errors be made equal and fixed for all fleet sizes. It is

also recommended that the Type I and II error rates be set at 0.1. This is the same error rate that was used in the experimental design of the NMFS dolphin monitoring program. In determining an appropriate error level, it should be kept in mind that as the specified level of making a Type I statistical error is reduced (given they are set equal), it will require a greater difference between the mortality rates of the U.S. and foreign fleet to be detectable at a specified error rate.

As an example of how this method could be applied, if the U.S. fleet had a weighted average mortality rate of 4.0 dolphins per set and a foreign fleet consisted of 10 vessels, the mortality rate of the foreign fleet would have to be greater than or equal to 6.0 dolphins per set to fail the comparability test. Given the same kill rate and a fleet size of 45 vessels, the mortality rate of the foreign fleet would have to be greater than 5.45 to fail the comparability test. In the above examples, there is a chance (albeit 10 percent or less, or one time in 10 years as determinations are made annually) that mortality rates for 10 vessel fleets that are normally distributed with a mean mortality rate that is 1.9 times the U.S. weighted mortality rate (7.6 dolphins per set in the example) would be found comparable. Similarly, for 45 vessel fleets or greater, there is a 10 percent chance that mortality rates that are normally distributed with a mean mortality rate of 1.5 times the weighted U.S. rate (6.0 dolphins per set in the example) would be found comparable under this approach.

The probability of making a Type II error can be reduced somewhat by using the smaller error margin of 0.05. Doing this gives greater consideration toward the probability of appropriately rejecting a foreign fleet. It thus attempts to err more on the side of conservation (i.e., in the face of uncertainty, errors in management should favor the marine mammal population).

For example, if the Type II error is set at 0.05 (one chance in 20 that a fleet's mortality would be accepted when it should have been rejected), and if the U.S. weighted mortality rate was 4.0 dolphins per set and if the Type I error were set at 0.10 (one chance in 10 of rejecting a fleet's mortality when it should have not been rejected), a 10 vessel fleet with a mortality rate that was normally distributed with mean 2.0 times the weighted U.S. mortality rate would be appropriately rejected 95 percent of the time. If the Type I error rate were increased to 0.4, a 10 vessel fleet with a mortality rate that was

normally distributed with a mean of 1.7 times the weighted U.S. mortality rate would be appropriately rejected 95 percent of the time. For a 45 vessel fleet with normally distributed mortality rates of 1.56 times and 1.45 times the U.S. weighted mortality rate, the Type II error would be 0.05, given a Type I error of 0.1 and 0.4, respectively.

(b) Direct Comparison Option—The direct comparison option uses an estimate of the probability of obtaining a value as large or larger than the observed foreign mortality rate from a normal distribution with a mean equal to (1.0 times) the U.S. weighted average mortality rate rather than 1.25 times the U.S. weighted rate.

Based on 1987 U.S. data, if the direct comparison approach were used for a 45 vessel fleet or greater, a mortality rate that was from a normal distribution with mean of 1.25 times the U.S. weighted mortality rate would be appropriately rejected 90 percent of the time (Table 4.). For a 10 vessel fleet, a mortality rate from a normal distribution with mean of 1.6 times the U.S. weighted mortality rate would be appropriately rejected 90 percent of the time. Operationally, this approach would cause a fleet of 10 or more vessels to fail the comparability test if its mortality rate were greater than 5.0 dolphins-per-set, given the U.S. weighted mortality rate was 4.0 dolphins-per-set. For a five vessel fleet, a kill-per-set of 5.4 or greater, given the same weighted mortality rate for the U.S. fleet, would fail the comparability test.

TABLE 4.—APPROXIMATE MORTALITY THRESHOLDS FOR DIFFERENT FLEET SIZES USING DIRECT COMPARISON METHOD WITH MULTIPLIER = 1.0 AND TYPE I ERROR AND TYPE II ERROR = 0.10.¹

Size of fleet	Type I error threshold	Type II error threshold
1-9.....	1.35	1.90
10-19.....	1.25	1.60
20-44.....	1.20	1.40
45 or more.....	1.15	1.25

¹ Thresholds are based on a U.S. weighted average mortality rate of 3.4 dolphins per set.

The multiplier option determines whether the mortality rate of a foreign fleet is significantly different from 1.25 times the weighted mortality rate of the U.S. fleet. While this option accounts for Type I and Type II errors, it may potentially create an unacceptably high probability of allowing a nation to pass the comparability test when in fact it does not. This is an unavoidable result

of the effects of the variability in kill-per-set and setting the Type I and Type II errors at 0.1 and using the 1.25 times the weighted average mortality rate as the mid-point of the range of acceptable mortality rates. Unfortunately, increasing the rate of coverage does very little to improve this situation. While NMFS believes that the multiplier option may be statistically more defensible than the direct method to determine comparability between fleets of different sizes, it may be biased in the direction of large Type II errors, which may be perceived to be to the disadvantage of dolphin stocks.

The direct comparison test, on the other hand, is based on the statistical significance between the actual mortality rates from a foreign fleet and the U.S. fleet. The NMFS believes that this approach avoids an unfair bias in applying the comparability test against small vessel fleets, while still rejecting most of the fleets with mortality rates actually above 1.25 times the weighted mortality rate of the U.S. fleet.

The probability of error method is not considered appropriate to determine whether a fleet's annual mortality of eastern spinner is significantly greater than 15 percent of their total mortality because the percent of eastern spinner dolphins in the total mortality of a fleet is symmetrically distributed around the mean. Therefore, a simpler, yet, statistically reliable comparison can be made based on the CV method. Data for coastal spotted dolphin are presently not available for the U.S. fleet due to no observed mortalities; reporting of coastal spotted dolphin by foreign fleet was not required prior to 1989. Further application of this method to eastern spinner dolphin and coastal spotted dolphin will be considered pending the availability of additional data from foreign fleets.

Therefore, if the statistical method is adopted, NMFS would recommend the Probability of Error, Direct Comparison Option in comparing the kill-per-set data of the U.S. fleet with a foreign fleet to determine the average overall rate of incidental taking in conducting the comparability test specified in the MMPA. In addition, NMFS would recommend the Coefficient of Variation option in comparing the percentage of eastern spinner and coastal spotted dolphins taken to the legislatively mandated levels of 15 percent and 2 percent. To perform these analyses a foreign fleet will have to provide the following data during each observed trip for a given calendar year: (1) Number of sets made on dolphins in each of three areas and for two species groupings, (2)

number of eastern spinner dolphin killed, (3) number of coastal spotted dolphin killed, and (4) total number of dolphins killed.

Proposed Determination

The Under Secretary for Oceans and Atmosphere, NOAA, proposes to extend the current determination effective January 1, 1990 that the international observer program of the IATTC will provide sufficiently reliable documentary evidence of the average mortality rate of marine mammals by an individual harvesting nation if the observer coverage for a nation with ten or more vessels operating in the ETP is no less than 33 percent of the fishing trips during the year or 50 percent of the trips for a nation with from five to nine vessels operating in the ETP. An alternative observer program for a nation with fewer than five vessels is not proposed to be found acceptable under this determination.

This proposed determination is for 1990 unless modified by another notice.

Dated: December 11, 1989.

James E. Douglas, Jr.,
Acting Assistant Administrator for Fisheries.
[FR Doc. 89-29403 Filed 12-18-89; 8:45 am]
BILLING CODE 3510-22-M

National Fish and Seafood Promotional Council; Public Meeting

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

Time and Date: The meeting will convene at 9:00 a.m. on Wednesday, January 10, and adjourn approximately 5:30 p.m. on Thursday, January 11, 1990.

Place: Iikai Hotel, 1777 Alan Moana Boulevard, Honolulu, Hawaii 96815.

Status: NOAA announces a meeting of the National Fish and Seafood Promotional Council (NFSPC). The NFSPC, consisting of 15 industry members and the Secretary of Commerce as a non-voting member, was established by the Fish and Seafood Promotion Act of 1986 to carry out programs to promote the consumption of fish and seafood and to improve the competitiveness of the U.S. fishing industry.

The NFSPC is required to submit an annual marketing plan and budget to the Secretary of Commerce for his approval that describes the marketing the promotion activities the NFSPC intends to carry out.

Funding for NFSPC activities is provided through Congressional appropriations.

Matters To Be Considered

Portion Opened to the Public

January 10, 1990

9:00 a.m.—12 noon—Briefing on the HACCP program and status of legislation for mandatory seafood inspection, briefing by the State of Hawaii on fisheries programs; and update and decision on the Council's participation in the omnibus seafood consumption study. 12:30 p.m.—1:30 p.m.—Lunch. 1:30 p.m.—5:30 p.m.—Update on trade and export marketing; American Seafood Challenge; Long-range planning committee report; and general business including the International Seafood Conference, Astoria, Oregon project and upcoming meetings.

Portion Closed to the Public: None.

FOR FURTHER INFORMATION CONTACT: Jeanne M. Grasso, Program Manager, National Fish and Seafood Promotional Council, 1825 Connecticut Avenue NW., Room 620, Washington, DC 20235. Telephone: (202) 673-5237.

Dated: December 12, 1989.

James E. Douglas, Jr.,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.
[FR Doc. 89-29455 Filed 12-18-89; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public hearings and provide a comment period to solicit public input into proposed Amendment 1 to the Atlantic Swordfish Fishery Management Plan (FMP).

DATES: Written comments will be accepted until February 9, 1990. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations of the hearings.

ADDRESS: Written comments should be sent to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Carrie R.F. Knight, Public Information Officer, South Atlantic Fishery Management Council, 803-571-4366.

SUPPLEMENTARY INFORMATION: Amendment 1 to the FMP was prepared

by the Council, in consultation with the New England, Mid-Atlantic, Caribbean, and Gulf of Mexico Fishery Management Councils, and affects fishermen in the Atlantic Ocean, including the Caribbean and Gulf of Mexico. The western North Atlantic stock of swordfish is considered to be severely overfished. The most recent stock assessment indicates that the adult spawning stock biomass in 1987 was about 40 percent of the 1978 level and has continued to decline. The Councils determined that the principal management measure of Amendment 1 would be an overall quota to be determined by an acceptable biological catch (ABC) based on the spawning stock biomass.

Amendment 1 to the FMP will address the following measures: (1) ABC in the initial year (1991) will be 3.83 million pounds dressed weight stock-wide; (2) total allowable catch (TAC) for the U.S. fishery is 1.85 million pounds dressed weight for the initial year (1991); (3) directed fishing for swordfish is prohibited until the TAC for the upcoming year exceeds the projected bycatch potential by at least 10 percent; (4) use of artificial lights and/or lightsticks on longlines is prohibited until the directed fishery is re-opened; (5) the TAC will be allocated entirely to the bycatch fishery in the initial year using a two-tiered bycatch allocation system (The initial bycatch allocation will be 6 swordfish per trip. If the vessel carries and pays for an observer, all dead swordfish may be retained if the observer certifies that they were a legitimate bycatch of directed tuna fishing.); (6) nighttime longlining would be prohibited after the quota (TAC) is reached (this regulation is to apply to both foreign and domestic longline fisheries inside the exclusive economic zone); (7) imports of swordfish from the same stock will be prohibited after the quota is taken and the U.S. fishery is closed; (8) recreational fishing allocation will be 110 fish subject to the following restrictions: (a) Sale is prohibited; (b) minimum size of 150 lb. whole weight (no minimum size and 75 lb. minimum size is also being considered); (c) rod and reel only; (d) a permit or stamp may be issued to track the quota; (9) a control date of August 18, 1989, is established as a benchmark for possible limited entry; and (10) drift entanglement gill net fishing is prohibited in the swordfish fishery.

The hearings are scheduled as follows:

1. January 3, 1990, 7:00 p.m.—Freeport Community House, 1300 W. 2nd Street, Freeport, Texas.

2. January 4, 1990, 7:00 p.m.—Port Isabel Community Center, Corner of Yturria and Maxan, Port Isabel, Texas.

3. January 8, 1990, 7:00 p.m.—NMFS Panama City Lab, 3500 Delwood Beach Road, Panama City, Florida.

4. January 9, 1990, 7:00 p.m.—Palm Aire Hotel Spa, 2501 Palm Aire Drive North, Pompano Beach, Florida.

5. January 10, 1990, 7:00 p.m.—Madiera Beach City Auditorium, 300 Municipal Drive, Madiera Beach, Florida.

6. January 10, 1990, 7:00 p.m.—Howard Johnson Hotel, 8401 Veterans Boulevard, Metairie, Louisiana.

7. January 16, 1990, 7:00 p.m., N.C. Division of Marine Fisheries, 3411 Arendell Street, Morehead City, North Carolina.

8. January 17, 1990, 7:00 p.m.—S.C. Wildlife & Marine Resources Center, Fort Johnson Road, Charleston, South Carolina.

9. January 22, 1990, 7:00 p.m.—Quality Inn—Lake Wright, 6280 N. Hampton Boulevard, Norfolk, Virginia.

10. January 23, 1990, 7:00 p.m.—Sheraton Inn, Route 13, Salisbury, Maryland.

11. January 23, 1990, 2:00 p.m.—Colegio de Ingenieros, Antolin Nin and Skerret Street, Roosevelt Dev., Hato Rey, Puerto Rico.

12. January 24, 1990, 7:00 p.m.—South Wall Township Fire Company, West Atlantic Avenue (Route 34), Wall, New Jersey.

13. January 24, 1990, 2:00 p.m.—Mayaguez Hilton Hotel, Salon Hostos, Mayaguez, Puerto Rico.

14. January 25, 1990, 7:30 p.m.—Holiday Inn, Ronkonkoma, 3845 Veterans Memorial Highway, Long Island, New York.

15. January 25, 1990, 7:30 p.m.—Legislature Building, Conference Room, Charlotte Amalie, St. Thomas, United States Virgin Islands.

16. January 30, 1990, 7:00 p.m.—Holiday Inn, 88 Spring Street, Portland, Maine.

17. January 31, 1990, 7:00 p.m.—Skipper's Inn, 10010 Middle Street, Fair Haven, Massachusetts.

18. February 1, 1990, 7:00 p.m.—Dutch Inn, Great Island Road, Galilee, Rhode Island.

Dated: December 12, 1989.

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

[FR Doc. 89-29460 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

December 5, 1989.

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 and copies of patent applications bearing serial numbers with prefix E may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All other patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 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,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 7-7-189,979

(4,842,884) Formulated Milk Concentrate and Beverage

SN 7-192,085

(4,837,399) Naphthoquinone Antibiotics for *Fusarium solani*

SN 7-289,907

Novel Pyrrolizidine Alkaloid

SN 7-359,172

Attractants for the Roae Chafer *Macrodactylus subspinosus* (F.)

SN 7-359,174

Green Leaf Volatiles as Synergists for Insect Pheromones

SN 7-366,702

System for Producing Core/Wrap Yarn

SN 7-366,844

Trichinella Spiralis Antigens for Use As Immunodiagnostic Regents or Vaccines

SN 7-366,983

Campylobacter jejuni Colonization Factor

SN 7-369,587

Enzymatic Deamidation of Food Proteins for Improved Food Use

SN 7-369,975

Genetically Engineered Microorganisms Containing a Gene Segment Coding for a Lipase from *Rhizopus delemar*

SN 7-371,879

- Organic Nitriles as Insect Antifeedants
SN 7-371,881
Automated Excision of Undesirable Material and Production of Starting Material for Restriction Meat
SN 7-373,545
System for Producing Yarn
SN 7-373,977
More Virulent Biotype Isolated from Wild-Type Virus
SN 7-373,978
Oat Soluble Dietary Fiber Compositions
SN 7-376,479
Cross dyeable Cotton Fabrics With Removable Warp Size
SN 7-385,518
Stable Crystalline Cellulose III Polymorphs
SN 7-385,752
Hybridomas and Monoclonal Antibodies Therefrom Having Specific Reactivity Toward Heavy Chain Immunoglobulin from Catfish
SN 7-389,090
Adherent, Autoencapsulating Spray Formulations of Biocontrol Agents
SN 7-389,194
Adventitious Citrus Juice Vesicles from Pre-Existing Juice Vesicles
SN 7-393,604
Production of Fructan(Levan) Polyfructose Polymers Using Bacillus polymyxa
- Department of Commerce**
SN 7-063,558
(4,838,145) Multiple Actuator Hydraulic System and Rotary Control Valve Therefore
- Department of Health and Human Services**
SN 7-377,967
Human Liver Epithelial Cell Line and Culture Media Therefor
SN 7-376,687
Rapid, Versatile and Simple System For Expressing Genes In Eukaryotic Cells
SN 7-019,185
(4,836,206) Method and Device for Determining Viability of Intact Teeth
SN 7-064,631
(4,837,311) Anti-Retroviral Compounds
SN 7-126,995
Arabinosyl-5-Azacytosine as an Antitumor Agent
SN 7-234,092
Thin Film Environmental Monitor
SN 7-258,417
Inhibitors for Replication of Viruses
SN 7-288,652
Acid Stable Purine Dideoxynucleosides Active Against The Cytopathic Effects of Human Immunodeficiency Virus
SN 7-305,286
Breath Sampler
SN 7-311,048
Purification and Characterization of a Novel Monocyte Chemotactic and Activating Factor Produced by a Human Myelomonocytic Cell Line
SN 7-313,058
Acid Stable Pyrimidine Dideoxynucleosides Active Against the Cytopathic Effects of Human Immunodeficiency Virus
SN 7-315,911
Method for the Treatment of Cancer by Use of the Cooper Complex of S-(Methylthio)-DL-Homocysteine
- SN 7-318,590
Method of Synthesis of Hydroxy-Substituted-4-Alkoxyphenylacetic Acids
SN 7-330,435
Hydrolysis of Proteins, Peptides and Carbohydrates in a Hermetically Sealed Microcapillary Tube or Similar Container Having a Small Cross-Sectional Area About One of its Axis
SN 7-330,435
Automated or Manual Hydrolysis of Proteins, Peptides and Carbohydrates in a Hermetically Sealed Microcapillary Tube or Similar Container Having a Small Cross-Sectional Area About One of its Axis
SN 7-349,187
5-Aminocarbonyl-5H-Dibenzo[a,d]Cyclohept-5, 10-Imines for Treatment of Epilepsy and Cocaine Addition
SN 7-350,895
Treatment of HIV Infection with Immunotoxin and Immunotoxin for Use Therein
SN 7-351,042
Avidin & Streptavidin Modified Water-Soluble Polymers Such As Polacrylamide, and the Use Thereof in the Construction of Soluble Multivalent Macromolecular Conjugates
SN 7-358,073
New Class of Compounds Having a Variable Spectrum of Activities for Capsaicin-Like Responses, Compositions and Uses Thereof
SN 7-361,850
A Sensitive Diagnostic Test for Lyme Disease
SN 7-365,715
Neutralizing Monoclonal Antibody to Human Platelet Derived Growth Factor Hetero- and Homo-Dimers
SN 7-365,735
Evaluative Means for Detecting Inflammatory Reactivity
SN 7-365,772
Monoclonal Antibody Against Complement Regulatory Protein
SN 7-368,270
Diagnostic Test for Pineal Cell Tumors
SN 7-370,619
Efficient Method For Identifiable Expression of Non-Selectable Genes
SN 7-372,607
Use of Calcium Channel Blocker to Prevent Cocaine Induced Craving and Reinforcement
SN 7-372,815
Method for Protecting Bone Marrow Against Chemotherapeutic Drugs and Radiation Therapy Using Transforming Growth Factor Beta 1
SN 7-373,863
D-Propranolol as a Selective Adenosine Antagonist
SN 7-375,535
Reagents for Detecting SIV and HIV-2
SN 7-388,095
Antigen-Specific Composition and in Vivo Methods for Detecting and Localizing an Antigenic Site and for Radiotherapy
SN 7-388,114
Method Preventing Graft Rejection in Solid Organ Transplantation
SN 7-387,038
- Generic Microcomputer Interface to Walters Interlink Communications Network
SN 7-390,745
Partial Agonists of the Strychnine Insensitive Glycine Modulatory Site of the N-Methyl-D-Aspartate Receptor Complex as Neuropsychopharmacological Agents
SN 7-393,780
Antiviral Compositions Containing Sulfoquinovosyl Glycerol Derivatives and Analogues Thereof and Methods for Using the Same
SN 7-396,528
Tumor Infiltrating Lymphocytes as a Treatment Modality for Human Cancer
SN 7-398,458
Automated Peptide Design and Synthesis
SN 7-398,564
Grooming and/or Foraging Apparatus for Reduction of Stress in Caged Animals
SN 7-399,079
Human T Cell Line Chronically Infected with HIV
SN 7-400,870
Cell Attachment Peptides Derived from Amyloid P Component
SN 7-401,141
A Method for the Treatment of Dopaminergic Neurodegenerative Disorders
SN 7-401,412
Immunotoxins for Treatment of Intracranial Lesions and as Adjunct to Chemotherapy
SN 7-407,317
Antigen and Immunoassay for Human Immunodeficiency Virus Type 2 (HIV-2)
SN 7-408,815
Molecular Clones of Bovine Immunodeficiency-Like Virus and Applications Thereof
SN 7-409,552
Anti-Hypertensive Compositions of Secondary Amine-Nitric Oxide Adducts and Use Thereof
SN 7-409,557
Phenylcycloalkylamine Compounds as Anantiepileptics
SN 7-412,802
Human Esophageal Epithelial Cell Lines
SN 7-415,710
Method for the Sulfurization of Phosphorous Groups in Compounds
SN 7-425,887
Type I Transglutaminase DNA
- Department of the Interior**
SN 7-358,049
Method of Detecting Oil Spills at Sea Using a Shipborne Navigational Radar
SN 7-367,646
High Strength Particulate Ceramics
SN 7-375,549
Method of Locating Underground Mine Fires
SN 7-383,111
Method of Effecting Expanding Chemical Anchor/Seals for Rock Cavities
SN 7-401,390
Radial Arm Strike Rail
SN 7-408,586
Method of Extracting Coal from a Coal Refuse Pile

Department of the Army

- SN 7-374,122
High Power Solid State RF Pulse Generators
- SN 7-355,582
Method of Using a Ferromagnetic Material Having a High Permeability and Saturation Magnetization at Low Temperatures
- SN 7-355,582
Method of Using a Ferromagnetic Material Having a High Permeability and Saturation Magnetization at Low Temperatures
- SN 7-367,901
Saw Grating-Waveguide for Reduced Filter Diffraction
- SN 7-367,901
Saw Grating-Waveguide for Reduced Filter Diffraction
- SN 7-373,537
Saw Slanted Array Correlator (SAC) With Separate Amplitude Compensation
- SN 7-373,537
Saw Slanted Array Correlator (SAC) With Separate Amplitude Compensation
- SN 7-374,122
High Power, Solid State RF Pulse Generators
- SN 7-374,125
Method of Modifying the Dielectric Properties of an Organic Polymer Film
- SN 7-374,125
Method of Modifying the Dielectric Properties of an Organic Polymer Film
- SN 7-375,218
Periodic Permanent Magnet Structures
- SN 7-375,218
Periodic Permanent Magnet Structures
- SN 7-379,031
Single Fiber Optical Telephone Set
- SN 7-379,031
Single Fiber Optical Telephone Set
- SN 7-379,033
High Energy Product Radially Oriented Toroidal Magnet and Method of Making
- SN 7-379,033
High Energy Product Radially Oriented Toroidal Magnet and Method of Making
- SN 7-393,610
Null Offset Voltage Compensator for Operational Amplifier
- SN 7-393,610
Null Offset Voltage Compensator for Operational Amplifier
- SN 7-401,202
Method of Making a Cathode from Tungsten and Iridium Powders Using a Reaction Product from Reacting Barium Peroxide with an Excess of Tungsten as the Impregnant
- SN 7-405,822
Method of Preparing of Quartz Surface for Sweeping
- SN 7-406,930
Method of Identifying the Composition of a Material Sample
- SN 7-406,933
Method of Making a Resonator from a Boule of Lithium Tetraborate and Resonator so Made
- SN 7-411,752
High Resolution, Wide Bank Chirp-Z Signal Analyzer
- SN 7-412,054
Saw Transducer with Improved Bus-Bar Design

Environmental Protection Agency

- SN 7-158,968
(4,842,748) Methods for Removing Volatile Substances from Water Using Flash Vaporization

[FR Doc. 89-29423 Filed 12-18-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Deduction of Charges Made to Certain Man-Made Fiber Textile Products Produced or Manufactured in Thailand

December 14, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs deducting charges and re-opening a limit.

EFFECTIVE DATE: December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to deduct 195,955 kilograms from the charges made to Category 607pt. for 1989. As a result, the limit for Categories 301pt./607pt., which is currently filled, will re-open. The current limit for Categories 310pt./607pt., remains the same (see 54 FR 20912, published on May 15, 1989).

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988).

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 14, 1989.

Commissioner of Customs, Department of the Treasury, Washington, DC 20229.

Dear Commissioner: On May 10, 1989, a directive was issued to you by the Chairman, Committee for the Implementation of Textile

Agreements, establishing a limit for cotton/polyester yarn in Categories 301pt./607pt.,¹ produced or manufactured in Thailand and exported during the period January 30, 1989 through January 29, 1990.

To facilitate implementation of the textile and apparel import restraint program, I request that, effective on December 21, 1989, you deduct 195,955 kilograms from the charges made to Category 607pt.

This letter will be published in the Federal Register.

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-29557 Filed 12-15-89; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 90-C0002]

ETNA Products Co., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR part 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with ETNA Products Co., a corporation.

DATE: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 3, 1990.

ADDRESS: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Jr., Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION:

¹ In Categories 301pt./607pt., only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000 in Category 301pt.; and 5509.53.030 and 5509.53.060 in Category 607pt.

Dated: December 12, 1989.

Sheldon D. Butts,
Deputy Secretary.

Settlement Agreement and Order

In the matter of ETNA Products Co., Inc. a Corporation.

1. This Settlement Agreement and Order is made by and between Etna Products Co., Inc. (hereinafter, "Etna") and the Staff of the Consumer Product Safety Commission (hereinafter, "Staff") to resolve the Staff's allegations described herein.

2. The provisions of the Agreement and Order shall apply to Etna and to each of its successors and assigns.

I. The Parties

3. Etna is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 53 W. 23rd Street, New York, N.Y. 10010.

4. The "Staff" is the Staff of the Consumer Product Safety Commission, an independent regulatory Commission of the United States of America (hereinafter, "Commission") created pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2053.

II. Statement of Facts

5. From 1985 through 1987, Etna imported and sold in the United States approximately 24,000 electric mouse traps (hereinafter, "Products"). Etna sold the Products primarily to its customer, Hanover House, under catalogue number G597823.

6. On November 19, 1987, the Wisconsin Department of Agriculture, Trade and Consumer Protection commenced an action against Hanover House by service of a complaint and other papers seeking to enjoin the sale of the Products in the State of Wisconsin, alleging that the Products presented a risk of electrocution or fire. Such papers further summarily banned all sales and distribution of the Product by Hanover House in the State of Wisconsin, subject to Hanover House's right to a hearing. On November 30, 1987, Hanover House filed an answer in which it denied all material allegations of the Department's petition and raised various affirmative defenses.

7. On November 19, 1987, having been informed of the fact of the commencement of the Wisconsin proceeding, Staff conducted an on-site inspection of Hanover House for the purpose of obtaining a sample Product.

8. On January 19, 1988, Hanover House, without admitting the product safety allegations of the Wisconsin Department of Agriculture, Trade and

Consumer Protection, voluntarily agreed to institute a recall program for the Products in the State of Wisconsin in full and final settlement of the action commenced against Hanover House. Thereafter, Hanover House sent safety notices to known Wisconsin consumers of the Products, warning them of potential product dangers and suggesting they immediately unplug the Product and return the Product to Hanover House for a full refund.

9. Etna, through Hanover House, was aware of the proceedings instituted in the States of Wisconsin, the allegations made therein with respect to the Products, and the foregoing recall program. Etna was further aware, through Hanover House, that as of November 19, 1987, the Commission was conducting its own safety investigation of the products.

10. Etna did not report pursuant to 15(b) of the CPSA, any of the information it had received about the State of Wisconsin recall, or about the potential hazard posed by the electric mouse traps, to the U.S. Consumer Product Safety Commission.

III. Allegations of the Staff

11. Staff alleges that the Products imported by Etna contained a design defect(s) which could create a substantial risk of injury and/or electrocution upon removal of the bait container.

12. The Staff further alleges that Etna possessed sufficient information by November 18, 1987, to reasonably support the conclusion that the Products contained a defect which could create a substantial product hazard but failed to report that information to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

IV. Allegations of Etna

13. Etna denies Staff's allegation that the Products contained a design defect which could create a substantial risk of injury. Etna is without knowledge of a single incident in the sale of the Products where a consumer ever received a shock or any injury as the result of use of the Products.

14. Etna denies that it was ever required to report information to the Commission regarding possible product hazards involving use of the Products. Etna contends that (a) until November 19, 1987, and to this day, it has not been informed of any injury or accident arising out of the use of the Products, (b) as of the day of commencement of the Wisconsin proceeding, Etna was actually aware that the Commission was adequately informed of allegations

made in such proceeding that the Products contained a defect which could create a substantial product hazard, which awareness, under section 15(b) of the CPSA, 15 U.S.A. 2064(b), relieved Etna of any reporting requirement to the Commission, and (c) the allegations made in the Wisconsin proceeding were contested, and to this day remain unproven.

V. Agreement of The Parties

15. Etna and the Staff agree that the Commission has jurisdiction in this matter over Etna and the Products.

16. Etna agrees to pay the Commission a civil penalty in the amount of \$5,000.00 within 30 days of final acceptance of this Settlement Agreement by the Commission and service of the Commission's Order on Etna. This payment is made in full and final settlement of allegations by the Staff, based on information presently held by the Staff, that Etna violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to the Products described in paragraph 5 of this Settlement Agreement, supra. Etna makes no admission of any fault or liability with respect to such allegations and expressly denies any fault or liability.

17. Upon final acceptance of this Settlement Agreement by the Commission, Etna knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission whether a violation has occurred, and (4) to a statement of the findings of fact and conclusions of law.

Provided, however, that if the Staff should initiate a new action, based on new information obtained independently of this proceeding, seeking the assessment of an additional civil penalty in this matter, Etna shall not be bound by the waiver in this paragraph in its defense of the new action.

18. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued and the Agreement and Order will be made available to the public.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be published in the Federal Register in accordance with the procedure set forth in 16 CFR 1115.20(b) and 1118.20(e). If the Commission does not receive any

written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the Federal Register, in accordance with 16 CFR 1118.20(f).

20. This Settlement Agreement is binding upon the Staff and Etna and, with the exception of Etna's successors and assigns, does not bind or limit others not party to this Settlement Agreement.

21. The parties further agrees that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Etna to appropriate legal action.

22. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Consented to by: Etna Products Company, Inc. Dated: February 6, 1989. By Jeffrey Snyder, *President*.

Consented to by: David Schmeltzer, *Associate Executive Director, Directorate for Compliance and Administrative Litigation. Alan H. Schoem, Director, Division of Administrative Litigation. William J. Moore, Jr., Trial Attorney, Division of Administrative Litigation.*

Order

Upon consideration of the Settlement Agreement of the parties, dated February 20, 1989, it is hereby

Ordered that Etna Products Company, Inc. shall pay, within 30 days of final acceptance of this Consent Agreement and service of this Order, a civil penalty in the sum of \$5,000.00 to the Consumer Product Safety Commission.

Provisionally accepted on the 12th day of December 1989.

By Order of the Commission

Sadye E. Dunn,

Consumer Product Safety Commission.

[FR Doc. 89-29368 Filed 12-18-89; 8:45 am]

BILLING CODE-6355-01-M

[CPSA Docket No. 90-C0003]

K mart Corporation, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which

it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR part 1118.20(e).

Published below is a provisionally-accepted Settlement Agreement with K mart Corporation, Inc., a corporation.

DATE: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 3, 1990.

ADDRESS: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301)492-6626.

SUPPLEMENTARY INFORMATION:

Dated: December 12, 1989.

Sheldon D. Butts,
Deputy Secretary.

In the matter of K mart Corporation, a corporation.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between K mart Corporation, a corporation (hereinafter, "K mart"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. K mart is a corporation organized and existing under the laws of the State of Michigan with its principal corporate offices located at 3100 West Big Beaver Road, Troy, Michigan 48084.

3. The "Staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "(CPSA)", 15 U.S.C. 2053.

II. Jurisdiction

4. K mart imported certain School Days Scissors Desk Sets identified further in paragraphs 6 and 7 below (hereinafter, "desk sets"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence.

These desk sets are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. K mart imported and sold these desk sets at its stores throughout the United States. K mart, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), 94) and (11).

III. The Product

6. In July, 1988, K mart imported nationwide approximately 48,000 desk sets.

7. The Subject desk sets contain three components, a scissors, a pencil sharpener and a razor blade cutting knife.

IV. Staff Allegations Concerning Desk Sets and of a Failure by K mart to Comply With the Reporting Requirements of Section 15(b) of the CPSA.

8. The defect in the desk sets is the inclusion of the razor blade cutting knife component. This sharp retractable cutting knife is inappropriate for children under ten years of age because youngsters do not possess the requisite physical dexterity to use this tool in a safe manner.

9. The reference cutting knife presents a severe laceration hazard to young children. In addition, since the packaging of the desk set neither indicates that the set includes a razor blade cutting knife nor provides a cautionary warning as to the appropriate age of the intended user, it is unlikely that an unsuspecting purchaser would realize that a razor like blade is included and that it presents a danger to young children.

10. K mart first became aware of the alleged defect on July 5, 1988, when the Area Merchandise and Marketing Coordinator of K mart's Southwestern Regional Office informed one of K mart's buyers that the produce in question could pose a potential safety problem.

11. On July 7, 1988, after reviewing the potential safety problem, K mart instructed all stores to remove the subject product from sale. A similar notice was sent out on August 5, 1988. The general public, however, was not advised of the corrective action undertaken by K mart.

12. On or about July 13, 1988, K mart received a complaint from a consumer who indicated that her three year old grandson was given the desk set as a present. The customer informed the company of the inappropriateness of

including the razor blade component in a children's desk set.

13. On or about August 1, 1988, K mart was advised of an incident in which siblings, ages seven and ten, each lacerated a finger while using the razor blade cutter of the desk set.

14. K mart knew or should have known by July 7, 1988, that the inclusion of razor blade cutting knives in the desk sets could result in children sustaining severe lacerations.

15. K mart had received sufficient information by July 7, 1988, to reasonably support the conclusion that the stationery sets described in paragraphs 6 and 7 thereof, contained a defect which could create a substantial product hazard, but the company failed to report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), until September 23, 1988. Section 15(b) requires a manufacturer of consumer products who obtains information that reasonably supports the conclusion that its product contains a defect which could create a substantial product hazard to immediately inform the Commission of the defect.

V. Response of K mart

16. K mart denies that its desk sets contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further specifically denies an obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b) with respect to these desk sets.

VI. Agreement of the Parties

17. K mart and the Staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

18. K mart agrees to pay the Commission a civil penalty in the amount of sixty thousand dollars (\$60,000), payable within ten (10) days after service of the Final Order of the Commission accepting this Settlement Agreement.

19. K mart expressly denies any fault, liability or statutory violation in this matter.

20. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued.

21. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the Federal Register in accordance

with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the Federal Register, in accordance with 16 CFR 1118.20(f).

22. Upon final acceptance of this Settlement Agreement by the Commission, K mart knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

23. Upon final acceptance of this Settlement Agreement and Order by the Commission and payment of the sixty thousand dollars (\$60,000) settlement amount by K mart, the Commission agrees to waive its right to pursue any penalty proceeding for a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), relating to the matters encompassed by this Settlement Agreement and Order.

24. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject K mart to appropriate legal action.

25. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

K mart Corporation.

Dated: April 22, 1989.

By:

Joseph E. Antonini,
Chairman of the Board, President and Chief Executive Officer, K mart Corporation.

The Consumer Product Safety Commission.
David Schmeltzer,
Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Dated: May 4, 1989.

Ronald G. Yelenik,
Trial Attorney, Division of Administrative Litigation, Counsel for the Commission Staff.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered that K mart Corporation shall pay within ten (10) days of final acceptance of this Settlement Agreement and service of this Order, a civil penalty in the sum of sixty thousand dollars (\$60,000) to the Consumer Product Safety Commission.

Previously accepted on the 12th day of December 1989.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89-29369 Filed 12-18-89; 8:45 am]

BILLING CODE 6355-01-M

[CPSA Docket No. 90-C0001]

Toys "R" Us, Inc., a corporation; Provisional acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Toys "R" Us, Inc., a corporation.

DATE: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 3, 1990.

ADDRESS: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Ronald G. Yelenik, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: (attached)

Dated: December 12, 1989.

Sheldon D. Butts,
Deputy Secretary.

Settlement Agreement and Order

In the matter of Toys "R" Us, Inc., a corporation.

[CPSC Docket No. 90-C0001]

1. This Settlement Agreement and Order, entered into between Toys "R" Us, Inc., a corporation (hereinafter, "Toys 'R' Us"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. Toys "R" Us is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located at 461 From Road, Paramus, New Jersey 07652.

3. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

II. Jurisdiction

4. Toys "R" Us imported certain Submarine Stationery Sets identified further in paragraphs 6 and 7 below (hereinafter, "stationery sets"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence. These stationery sets are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.A. 2052(a)(1).

5. Toys "R" Us imported and sold these stationery sets at its stores throughout the United States. Toys "R" Us, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (4) and (11).

III. The Product

6. Between October and November, 1987, Toys "R" Us imported nationwide approximately 9,600 stationery sets.

7. The subject stationery sets are constructed of plastic in the shape of a submarine, measuring seven inches long and four inches wide. They contain drawers and attachments which house a tape dispenser, pencil sharpener, scissors and razor blade cutting knife.

IV. Staff Allegations Concerning Stationery Sets and of a Failure by Toys "R" Us To Comply With the Reporting Requirements of Section 15(b) of the CPSA

8. The defect in the stationery sets, which are labeled for children five and

up, is the inclusion of the razor blade cutting knife component. This sharp retractable cutting knife is inappropriate for children under ten years of age because such youngsters do not possess the requisite physical dexterity to use this tool in a safe manner.

9. The referenced cutting knife presents a severe laceration hazard to young children. In addition, since it is unusual to include a cutting knife in a children's product of this kind, an unwary purchaser is not likely to realize that a razor-like blade is contained therein and that it presents a danger.

10. Toys "R" Us first became aware of the alleged defect on December 4, 1987, when store personnel advised corporate headquarters that the stationery sets could pose a potential safety hazard.

11. On December 14, 1987, after reviewing the potential safety problem, Toys "R" Us engaged in a stop sale and recall program at the retail level. At that time, however, the general public was not advised of the corrective action undertaken by Toys "R" Us. (A public recall program was subsequently approved by the Commission and implemented by Toys "R" Us.)

2. On or about January 8, 1988, Toys "R" Us received a complaint from a consumer who indicated that her children had used the razor blade cutting knives from several stationery sets to destroy furniture and other property in her home.

13. Toys "R" Us knew or should have known by December 14, 1987, that the inclusion of razor blade cutting knives in the stationery sets could result in children sustaining severe lacerations.

14. Toys "R" Us had received sufficient information by December 14, 1987, to reasonably support the conclusion that the stationery sets described in paragraphs 6 and 7 thereof, contained a defect which could create a substantial product hazard, but the company failed to report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). Section 15(b) requires a manufacturer of consumer products who obtains information that reasonably supports the conclusion that its product contains a defect which could create a substantial product hazard to immediately inform the Commission of the defect.

V. Response of Toys "R" Us

15. Toys "R" Us denies that its stationery sets contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further specifically denies an obligation to report

information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b) with respect to these stationery sets.

VI. Agreement of the Parties

16. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had been issued.

17. Toys "R" Us and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

18. Toys "R" Us makes no admission of any fault, liability or statutory violation and expressly denies any fault, liability or statutory violation. The Commission does not make any determination that the stationery sets contain a defect which could create a substantial product hazard or that a violation of the CPSA has occurred.

19. To avoid costly litigation and to otherwise effect a compromise resolution of this matter, Toys "R" Us agrees to pay the Commission a civil penalty in the amount of sixty thousand dollars (\$60,000), payable within ten (10) days after service of the Final Order of the Commission accepting this Settlement Agreement.

20. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

21. Upon final acceptance of this Settlement Agreement by the Commission, Toys "R" Us knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

22. Upon final acceptance of this Settlement Agreement and Order by the Commission and payment of the sixty thousand dollars (\$60,000) settlement amount by Toys "R" Us, the Commission knowingly, voluntarily and completely waives its right to pursue any penalty proceeding for a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), relating to the matters encompassed by this Settlement Agreement and Order.

23. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Toys "R" Us to appropriate legal action.

24. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Toys "R" Us, Inc.

Dated: February 2, 1989.

Michael Goldstein,

Vice Chairman—Chief Financial and Administrative Officer.

The Consumer Product Safety Commission
David Schmeltzer,

Associate Executive Director Directorate for Compliance and Administrative Litigation.

Dated: February 6, 1987.

Ronald C. Yelenik,

Tribal Attorney, Division of Administrative Litigation—Counsel for the Commission Staff.

Order

Upon consideration of the Settlement Agreement of the parties it is hereby

Ordered that Toys "R" Us, Inc. shall pay within ten (10) days of final acceptance of this Settlement Agreement and service of this Order, a civil penalty in the sum of sixty thousand dollars (\$60,000) to the Consumer Product Safety Commission.

Provisionally accepted on the 12th day of December, 1989.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89-29367 Filed 12-18-89; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed

information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 18, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT:

George P. Sotos, (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: December 12, 1989.

Carlos Rice,

Director for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Revision.
Title: Application for Institutional Eligibility and Certification.

Frequency: On occasion.

Affected Public: Businesses or other for-profit; non-profit institutions.

Reporting Burden: Responses: 4,370
Burden Hours: 13,110

Recordkeeping Burden:

Recordkeepers: 0 Burden Hours: 0

Abstract: This form will be used by the postsecondary institutions to apply for funding under the Higher Education Act of 1965, as amended. The Department uses the information to determine the eligibility and the administrative and financial capability of the institution for certification.

[FR Doc. 89-29395 Filed 12-18-89; 8:45 am]

BILLING CODE 4000-01-M

Direct Grant Programs and Fellowship Programs; Notice Inviting Applications for New Awards for Fiscal Year 1990.

ACTION: Notice; correction.

On September 15, 1989, the Secretary published in the Federal Register at 54 FR 38324 a notice inviting applications for new awards for fiscal year 1990 for certain direct grant programs and fellowship programs. In Chart 3 on page 38329 of that notice, the dates in the column labeled "Deadline for Intergovernmental Review" were incorrectly stated for the New State Facilitator Project (for Palau only) and New Developer Demonstrator Projects under the National Diffusion Network. Therefore, the following changes are made: (1) The deadline date of 2/15/90 for Intergovernmental Review for the New State Facilitator Project (for Palau only) is removed and replaced with "NA"; and (2) The deadline date of 2/12/90 for Intergovernmental Review for New Developer Demonstrator Projects is changed to 4/17/90.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Evans, Program Officer, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 510, Washington, DC 20208-5645. Telephone: (202) 357-6134.

Dated: December 11, 1989.

Christopher T. Cross,

Assistant Secretary, Educational Research and Improvement.

[FR Doc. 89-29396 Filed 12-18-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award to the State of Washington Department of Community Development

AGENCY: U.S. Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The DOE, Richland Operations Office, Safety and Environment Division in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to award a noncompetitive grant to the State of Washington Department of Community Development (DCD) and Department of Health (DOH). Under the terms of the award, the DCD will conduct an emergency preparedness program and the DOH will conduct an environmental monitoring program in support of DOE's activities at the Hanford Site. This award will implement certain elements of an Agreement in Principle dated February 27, 1989, between the State of Washington and DOE, Richland Washington Operations Office, regarding remedial work at the site.

DOE has determined that award on a noncompetitive basis is appropriate because the recipient is a unit of government and the activities to be supported are related to the performance of governmental functions within the jurisdiction of that unit, thereby precluding DOE provision of support to another entity. DOE and the State of Washington shall negotiate as to the final amount of the grant, which shall not exceed \$500,000.

FOR FURTHER INFORMATION CONTACT: Marcia N. Roske, U.S. Department of Energy, Richland Operation Office, P.O. Box 550, Richland, WA 99352. Telephone: (509) 376-7265.

Dated: December 18, 1989.

P.E. Rasmussen,

*Contracting Officer, Procurement Division,
Richland Operations Office.*

[FR Doc. 89-29467 Filed 12-18-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. JD9002199T]

Designation of Tight Formation Campbell County, TN

Issued December 7, 1989.

Take notice that on November 27, 1989, the Tennessee State Oil and Gas Board (Tennessee) submitted to the Commission its determination that the Mississippian Monteagle Formation, located in Campbell County, Tennessee, qualifies as a tight formation under section 107(c)(5) of the Natural Gas Policy Act of 1978. The application includes the State Oil and Gas Policy Act of 1978. The application includes the

State Oil and Gas Board's order issued November 8, 1989, finding that the proposed addition meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

Any person desiring to be heard or to protest Tennessee's determination should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214 (1987)). All such comments should be filed within 20 days after publication of this notice in the Federal Register. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29384 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-169-047]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 11, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on December 5, 1989, pursuant to section 4 of the Natural Gas Act, and the Commission's May 2, 1989 and October 10, 1989, orders in this proceeding filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

Fourth Substitute Thirteenth Revised Sheet No. 31

The filing is proposed to become effective on November 1, 1989, and would implement the Commission's decision on GSS issues prospectively.

CNG states that the cost of service and throughput quantities that support this filing are the same as those contained in CNG's limited general rate increase application which was conditionally accepted for filing in Docket No. RP90-27-000 *et al.* by order issued November 29, 1989.

Copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR §§ 385.214 and 385.211. All motions or protests should be filed on or before December 18, 1989. Protests will be

considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29385 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-47-000]

Colorado Interstate Gas Co.; Request for Waiver

December 8, 1989.

Take notice that on November 28, 1989, Colorado Interstate Gas Company (CIG) filed a request of the provisions of section 27.5 of the General Terms and Conditions of CIG's Tariff which require that within 30 days of the end of a specific customer's amortization period for payment of allocated buyout and buydown costs, CIG is to submit a final "true-up" adjustment filing to define any residual amounts due and payable from or refundable to the affected customer.

CIG states that without this waiver it would be required to make three adjustment filings within a two to three-month period for the same customers. Since each affected customer will be entitled to any indicated refunds, plus interest, CIG submits that no customer will be harmed by granting this waiver.

And person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214, 385.211 (1989)). All such motions or protests should be filed on or before December 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29383 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-2-21-001]

**Columbia Gas Transmission Corp.;
Proposed Changes in FERC Gas Tariff**

December 11, 1989.

Take notice that on November 30, 1989, Columbia Gas Transmission Corporation (Columbia Transmission) tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

One hundred and forty-third Revised Sheet No. 16

Thirty-first Revised Sheet No. 16A2

The foregoing revised tariff sheets bear an issue date of November 30, 1989 and a proposed effective date of December 1, 1989.

The filing incorporates the changes reflected in the tariff rate sheets in Columbia's November 20, 1989 compliance filing, as well as incorporates the change to the Order No. 500 Volumetric Surcharge Adjustment to reflect the rate of 4.80¢ per Dth filed October 31, 1989 to become effective December 1, 1989.

Copies of the filing were served by the company upon each of its wholesale customers, interested state commissions and to each of the parties set forth on the Official Service List in the consolidated proceedings.

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, Union Center Plaza Building, 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 December 18, 1989. 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. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Transmission's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29386 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-21-002]

**Columbia Gas Transmission Corp.;
Correction to Previously Filed
Proposed Changes in Rates**

December 11, 1989.

Take notice that on November 30, 1989, Columbia Gas Corporation (Columbia Transmission) submitted for

filing Second Substitute 139th Revised Sheet No. 16.1, Second Substitute 139th Revised Sheet No. 16.2, Second Substitute 139th Revised Sheet No. 16.3 and Second Substitute 27th Revised Sheet No. 16A2 to its FERC Gas Tariff, Original Volume No. 1, with a proposed effective date of November 1, 1989.

Columbia states that the tariff sheets are filed to administratively correct certain clerical errors in the compliance filing made on November 20, 1989, in Docket No. TQ90-1-21-001. Columbia also states that the fuel retainage percentage, shown as 2.70 percent on the previously filed sheet, is corrected to 2.63 percent.

Columbia states that copies of this filing are also being mailed to each of Columbia's jurisdictional customers, interested state commissions and to each of the parties set forth on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before December 18, 1989. 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. 89-29387 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-167-014]

Columbia Gulf Transmission Co.; Filing

December 11, 1989.

Take notice that on December 4, 1989, Columbia Gulf Transmission Company (Columbia Gulf) filed Substitute Original Sheet No. 169C to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1989.

Columbia Gulf states that this tariff sheet is filed in accordance with the provisions of Article XVII of the Stipulation and Agreement contained in the Offer of Settlement filed on June 29, 1989, and which was approved by Commission order of October 19, 1989. Columbia Gulf states that this tariff sheet corrects previously filed Original Sheet No. 169C which inadvertently

omitted the word "survive" from Paragraph 17(h).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before December 18, 1989. 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. 89-29388 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-587-008]

**Distrigas of Massachusetts Corp.;
Filing of Compliance Tariff Sheets**

December 11, 1989.

Take notice that on November 22, 1989, Distrigas of Massachusetts Corporation ("DOMAC"), 200 State Street, Boston, Massachusetts 02109, filed, pursuant to the Commission's November 7, 1989 Letter Order in this docket, compliance tariff sheets to implement a rate of \$0.125 per MMBtu for storage service currently rendered to Boston Gas Company ("Boston Gas") under DOMAC's Rate Schedule SS.

Specifically, DOMAC has filed as compliance tariff sheets new Original Sheet No. 132 and Original Sheet No. 133. These tariff sheets reflect an amendment to the Storage Service Agreement between DOMAC and Boston Gas. The Amendatory Agreement replaces the rate of \$0.16 per MMBtu agreed to by DOMAC and Boston Gas in the Storage Service Agreement with the rate of \$0.125 per MMBtu imposed by the Commission. DOMAC represents that the \$0.125 per MMBtu rate provided for in the Amendatory Agreement will remain in effect until the Commission authorizes use of the originally agreed-to \$0.16 per MMBtu rate.

DOMAC states that a copy of this filing has been mailed to each party on the official service list in Docket No. CP88-587.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before December 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29392 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-193-009]

North Penn Gas Co.; Compliance Filing Regarding Refund Report

December 11, 1989.

Take notice that on December 4, 1989, North Penn Gas Company (North Penn) filed supplemental information to comply with the Commission's November 17, 1989 Order On Appeal From Staff Action in Docket No. RP85-193-008. The supplemental information pertains to North Penn's refund obligation to Corning Natural Gas Corporation, as filed in an August 4, 1988 refund report in Docket No. RP85-193-007.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before December 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29393 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-38-000]

Ringwood Gathering Co.; Tariff Filing

December 11, 1989.

Take notice that on December 1, 1989, Ringwood Gathering Company

(Ringwood), submitted for filing Substitute Fifty-Second Sheet Quarterly PGA-1 to its FERC Gas Tariff, Original Volume 1 with the effective date of January 1, 1990. Ringwood states that Fifty-Second Sheet Quarterly PGA-1 and the accompanying explanatory schedules constitute its quarterly PGA filing submitted in accordance with the Commission's purchased gas adjustments regulations.

Ringwood states that copies of the filing have been mailed to Williams Natural Gas Company, Oklahoma Natural Gas Company, and interested state regulatory agencies.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1989)). All such motions to protests should be filed on or before December 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29389 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-52-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 11, 1989.

Take notice that on December 1, 1989, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the certain revised tariff sheets to its FERC Gas Tariffs, Original Volume Nos. 1, 2-A, 2, and 3.

The revised tariff sheets are being filed pursuant to Section 4 of the Natural Gas Act and the "Order Rejecting Tariff Sheets" issued in Docket No. RP89-228 issued September 29, 1989, in order to effect a change in rates associated solely with changes in the level of Texas Gas's Account 858 costs.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29390 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-183-004]

Williams Natural Gas Co.; Changes in FERC Gas Tariff

December 11, 1989.

Take notice that on November 30, 1989, Williams Natural Gas Company (WNG) filed revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2. A list of revised tariff sheets is included in Appendix A, attached to the filing. The revised tariff sheets are proposed to be effective December 1, 1989.

WNG states that this filing is being made in compliance with the Commission order issued June 30, 1989 in Docket No. RP89-183.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be mailed on or before December 18, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-29391 Filed 12-18-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy**[FE Docket No. 89-65-NG]****Amoco Energy Trading Corp.; Order Granting Blanket Authorization To Export Natural Gas to Canada****AGENCY:** Office of Fossil Energy, DOE.**ACTION:** Notice of order granting blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amoco Energy Trading Corporation (AETC) blanket authorization in FE Docket No. 89-65-NG to export up to 146 Bcf of natural gas from the United States to Canada over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 12, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-29468 Filed 12-18-89; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-57-NG]**Enron Gas Marketing, Inc.; Order Amending and Extending Blanket Authorization To Import and Export Natural Gas****AGENCY:** Office of Fossil Energy, DOE.**ACTION:** Notice of order amending and extending blanket authorization to import natural gas from Canada and to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Enron Gas Marketing Inc. (EGM) blanket authorization in FE Docket No. 89-57-NG to import up to 300 Bcf of Canadian natural gas and to export to Mexico up to 300 Bcf of domestically produced natural gas over a two-year period beginning January 1, 1990, through December 31, 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478.

The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 12, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-29469 Filed 12-18-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY**[OPTS-59279; FRL-3685-6]****Certain Chemical; Approval of a Test Marketing Exemption****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME 90-1. The marketing conditions are described below.

EFFECTIVE DATES: December 7, 1989. Written comments will be received until May 3, 1990.

ADDRESS: Written comments, identified by the document control number '[OPTS-59279]' and the specific TME number '[TME-90-1]' should be sent to:

Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Darlene Jones, New Chemicals Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-2279.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant

doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-90-1. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently, notice of receipt of the application was not published upon receipt of the TME application. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME-90-1. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substances produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

*TME-90-1.**Date of Receipt:* October 19, 1989.*Applicant:* Confidential.*Chemical:* (G) Alkylated Naphtalenes.*Use:* (G) Additive package.*Production Volume:* (Confidential).*Number of Customers:* (Confidential).

Test Marketing Period: Six months, commencing on first day of manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the market substance will not

present an unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: December 7, 1989.

John W. Melone,
Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89-29487, Filed 12-18-89; 8:45am]

BILLING CODE 6580-50-D

Science Advisory Board

[FRL-3698-5]

Under Public Law 92-463, notice is hereby given that the Executive Committee of the Science Advisory Board will hold a meeting on January 8 from 8:30 a.m. to 5:00 p.m. and on January 9 from 8:30 a.m. to 1:00 p.m. at the Holiday Inn, 550 C Street SW., Washington, DC 20024. The purpose of the meeting is to enable the Executive Committee to act on reports from its subcommittees and standing committees that have been completed since the last meeting and receive status reports from each of the committees. Some action items include: the Environmental Engineering Committee's Saturated Zone Model report and the Municipal Ash Solidification/Stabilization Research report; the Environmental Health Committee's letter report on Modifying Factors in Deriving Reference Doses (RfD); the Ecological Processes and Effects Committee's Report on the Equilibrium Partitioning Approach to Estimating Sediment Criteria; and the Global Climate Research Subcommittee's report prepared by a subcommittee of the Executive Committee.

The Relative Risk Reduction Strategies Committee will meet on January 10 from 9:00 a.m. to 5:00 p.m. and January 11 from 8:30 until 1:00 p.m. at the Holiday Inn, 550 C Street SW., Washington, DC. The Committee will meet to discuss the progress of the three Subcommittees: Environmental Risk; Relative Risk; and Health Risk. For further information concerning this project, please refer to the notices contained in 54 FR 38282, September 15, 1989.

The meetings are open to the public. Any member of the public wishing to

attend or submit written comments should notify Joanna Foellmer or Dr. Donald G. Barnes, Director, Science Advisory Board, at 202-382-4126, by January 3, 1989.

Dated: December 7, 1989.

Donald G. Barnes,
Director, Science Advisory Board.
[FR Doc. 89-29445 Filed 12-18-89; 8:45 am]
BILLING CODE 6580-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Extension of 3087-0090.

Title: Emergency Management Assistance Staffing Profile.

Abstract: The Federal Emergency Management Agency's (FEMA's) Emergency Management Assistance (EMA) Program provides funds to States, and through the States to local governments, for personnel, travel, and other administrative expenses. The funds are distributed annually through FEMA's Comprehensive Cooperative Agreement (CCA). The financial contributions are authorized by the Federal Civil Defense Act of 1950, as amended, and provides 50-50 matching funds to the States for necessary and essential State and local civil defense personnel and administrative expenses. FEMA Form 85-17 is used by the States to provide information on each individual personnel position funded under the EMA Program.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 918.

Number of Respondents: 2,750.

Estimated Average Burden Hours Per Response: .333 Hour.

Frequency of Response: Annually.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including

suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: December 4, 1989.

Gail L. Kercheval,
Acting Director, Office of Administrative Support.

[FR Doc. 89-29427 Filed 12-18-89; 8:45 am]

BILLING CODE 6718-01-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 parties 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.: 207-009973-014.

Title: Johnson ScanStar Joint Service Agreement.

Parties:

Blue Star Line Limited
The East Asiatic Company Ltd. A/S
Johnson Line AKtiebolag

Synopsis: The proposed modification implements the withdrawal of Johnson Line AB from the joint service and makes compensating adjustments in the responsibilities of the remaining parties. The parties have requested a shortened review period.

Agreement No.: 203-011038-002.

Title: Southeastern Caribbean Discussion Agreement.

Parties:

United States Atlantic and Gulf/
Southeastern Caribbean Conference
Trailer Marine Transport Corporation
Tecmarine Lines, Inc.

Synopsis: The proposed amendment would add Bernuth Lines as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 212-011213-013.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.

Nordana Line A/S

Sea-Land Service, Inc.

Synopsis: The proposed modification corrects the Pool Period dates filed in Article 5.F.4(d)—Authority of the Agreement. The parties have requested a shortened review period.

Agreement No.: 203-011232-002.

Title: USA—South African Discussion Agreement.

Parties:

South Africa Group of the U.S. South and East Africa Conference
South and East Africa/U.S.A. Conference

Mediterranean Shipping Company SA
P&O Containers Ltd.

Synopsis: The proposed amendment would add Nedlloyd Lines as an independent carrier party to the Agreement.

By Order of the Federal Maritime Commission.

Dated December 14, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 29480 Filed 12-18-89; 8:45 am]

BILLING CODE 6730-01-M

Title: The Cruise Lines International Association Agreement.

Parties:

Admiral Cruises

American Hawaii Cruises

Bermuda Star Line

Carnival Cruise Lines

Chandris Fantasy Cruises

Clipper Cruise Line

Commodore Cruise Line, Ltd.

Costa Cruises

Crown Cruise Line

Crystal Cruises

Cunard Line, Ltd.

Cunard/Norwegian American Cruises

Cunard Sea Goddess

Delta Queen Steamboat Co.

Dolphin Cruise Line

Dolphin Hellas Cruises

Epirotiki Lines, Inc.

Holland America Line

Norwegian Cruise Line

Ocean Quest International

Oceanic Cruises

Ocean Cruise Lines, Inc.

Pearl Cruises of Scandinavia, Inc.

Premier Cruise Lines

Princess Cruises/(Sitmar Cruises)

Regency Cruises

Royal Caribbean Cruise Line, Inc.

Royal Cruise Line

Royal Viking Line

Seabourn Cruise Line

Society Expeditions Cruises

Sun Line Cruises

Windstar Sail Cruises

World Explorer Cruises

Synopsis: The proposed amendment would adjust the manner in which costs for the Agreement's operating budget are allocated and assessed and would change certain provisions concerning the administration and Management of the Agreement. It would also make changes in the Agreement's membership options and voting provisions.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 2600 Virginia Avenue, NW., Suite 1000, Washington, DC 20037-1905.

By Order of the Federal Maritime Commission.

Dated: December 14, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-29481 Filed 12-18-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Interstate Bancorp, Los Angeles, CA; Application To Provide Asset Management, Loan Portfolio Management, Asset Valuation and Cash Flow Modeling, and Marketing of Loans and Foreclosed Property

First Interstate Bancorp, Los Angeles, California ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage *de novo* through a subsidiary in providing asset management, loan portfolio management, asset valuation and cash flow modeling, and marketing of loans and foreclosed property, for the accounts of third-party clients and for affiliates of Applicant on a nationwide basis. A significant portion of the portfolio that will be managed by Applicant may consist of substandard assets acquired from insolvent financial institutions by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation. The Board has approved a similar proposal to provide certain management and consulting services to failed savings and loan associations under the Federal Home Loan Bank Board's management consignment program. *First Florida Banks, Inc.*, 74 Federal Reserve Bulletin 771 (1988).

Applicant defines asset management to include analysis of appraisals and of the capacity of local markets to absorb assets of the types under management and other market conditions; review and implementation of leasing programs related to managed assets; providing advice regarding alternatives for a managed asset's best use; preparation of manage asset budgets; and formulation and implementation of business and marketing plans for managed assets. Applicant will not participate as an equity investor or lender with respect to the assets under management.

Applicant defines loan portfolio management to include rendering advice to depository institutions regarding loan quality grading categories and establishment of specific reserves for individual loans, and adequate total reserves for loan portfolios; formulation and implementation of business plans related to managed loans including loan restructuring proposals and loan collection efforts; supervision of the foreclosure process, when applicable; management of bankruptcy and other proceedings involving managed assets;

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or 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 and protests are found in § 560.7 and/or 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.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 003-010071-008.

and administration of participated loans.

Applicant defines asset valuation and cash flow modeling to include cash flow valuation for possible asset acquisition or disposition by third-party clients; analysis of the impact of a loan/property portfolio on a company's portfolio; analysis of an institution's loan/OREO loss reserve adequacy; and estimation of the overall "cost to carry" on a cash-flow basis for both performing and non-performing assets.

Applicant also proposes to engage through a subsidiary in providing data processing services, arranging third-party equity financing, and providing tax planning advice. Data processing, equity financing, and tax planning are permissible activities for bank holding companies under Regulation Y, 12 CFR 225.25(b)(7), (14), and (21).

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity that the Board has determined to be "so closely related to banking or managing 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 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 forum. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). 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."

As proposed by Applicant, the combination of activities for which approval is requested has not previously been approved by the Board.

Application maintains that the asset management activities described above include traditional asset management activities of the type conducted by a bank's trust department, management loan department, or special assets department, and as such are permissible for bank holding companies pursuant to § 225.25(b)(3) of Regulation Y (12 CFR 225.25(b)(3)). Applicant also maintains that such activities are similar to loan servicing activities, encompass providing investment and financial advice, and include providing management consulting advice, all of which are permissible pursuant to Regulation Y, 12 CFR 225.25(b)(1), (4), and (11). The Board also has by order previously approved asset management activities similar to those proposed by Applicant. First Florida Banks, Inc., 74 Federal Reserve Bulletin 771 (1988).

Applicant contends that the loan portfolio management activities described above include traditional depository management consulting advice and traditional asset management activities of the type conducted by a bank's trust department or special assets department, and as such are permissible for bank holding companies pursuant to § 225.25(b)(3). Additionally, Applicant states that the loan portfolio management activities are permissible because a significant portion of these activities would include collection agency functions which are permissible for bank holding companies pursuant to § 225.25(b)(23).

Applicant believes that the asset valuation and cash flow modeling activities described above fit within real estate and personal property appraisal services, and such services are permissible for bank holding companies pursuant to § 225.25(b)(13).

Finally, Applicant maintains that the marketing of loans and foreclosed property activities described above include traditional asset management activities of the type conducted by a bank's trust department or special assets department, and are thus permissible for a bank holding company pursuant to § 225.25(b)(3).

Any views or requests for 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 January 12, 1990. Any request for a hearing must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by 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, summarizing the

evidence that would be presented at a hearing, and indicating how that party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, December 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29404 Filed 12-18-89; 8:45 am]

BILLING CODE 6210-01-M

The Yasuda Trust & Banking Company, Ltd., Tokyo Japan, Application to Provide Certain Financial Advisory Services

The Yasuda Trust & Banking Company, Limited, Tokyo, Japan ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to acquire a 50 percent interest in MASI, Ltd., Deerfield, Illinois, a *de novo* company ("Company"), and thereby establish a joint venture with Thomas J. Smith of Deerfield, Illinois and S. Jack Campbell of Barrington, Illinois, and to engage through Company in the following activities:

- (i) Providing advice in connection with mergers, acquisitions and divestitures for financial and nonfinancial institutions;
- (ii) Providing financial feasibility studies for specific projects of private corporations, including an evaluation of economic conditions, sales and earning statements, balance statements and cash flow data;
- (iii) Providing advice in connection with financing transactions, including public and private financings, loan syndications, and general financial matters;
- (iv) Providing valuations for financial and nonfinancial institutions; and
- (v) Providing fairness opinions in connection with mergers, acquisitions and similar transactions for financial and nonfinancial institutions.

Applicant contends that the Board has previously determined by Order that all of the activities listed above are permissible under the Act.¹

¹ *Canadian Imperial Bank of Commerce*, 74 Federal Reserve Bulletin 571 (1988); *The Bank of Montreal*, 74 Federal Reserve Bulletin 500 (1988); *SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 258 (1988); *The Bank of Nova Scotia*, 74 Federal Reserve Bulletin 249 (1988); *Sovran Financial*

Section 4(c)(8) of the 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 managing 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, 1237 (DC Cir. 1975). 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 interests, or unsound banking practices."

Applicant agrees to conduct its activities in accordance with certain limitations imposed by the Board in the Orders cited above, and accordingly makes the following commitments:

(a) Company's financial advisory activities will not encompass the performance of routine tasks or operations for a client on a daily or continuous basis;

(b) Disclosure will be made to each potential client of Company that Company is an affiliate of Applicant;

(c) advice rendered by Company on an explicit fee basis will be without regard to correspondent balances maintained by a client of Company at Applicant or any of Applicant's depository subsidiaries;

(d) Company will not make available to Applicant or any of Applicant's subsidiaries

Corporation, 73 Federal Reserve Bulletin 744 (1987); *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987); *Security Pacific*, 71 Federal Reserve Bulletin 118 (1985).

confidential information received from Company's clients, except with the client's consent; and

(e) Applicant will inform its clients that they are not obligated to engage the Company to provide financial advisory services, and the Company will inform its clients that they are not obligated to accept any services offered by Applicant.

Interested persons are requested to express their views in writing on 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 interest, or unsound banking practices.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the 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 standards of the Act.

Any views 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 January 18, 1990. Any request for a hearing 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 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 offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, December 13, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-29405 Filed 12-18-89; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Docket No. 9159]

The B.F. Goodrich Company et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modified final order.

SUMMARY: This modified final order, issued pursuant to a Stipulation between the Commission and B.F. Goodrich and a joint motion granted in the court of appeals, requires Goodrich to divest its Calvert City, Ky. facility, for the production of vinyl chloride monomer (VCM) and ethylene dichloride, instead of the LaPorte VCM plant.

DATES: Final Order issued March 15, 1988. Modified Final Order issued July 18, 1989.¹

FOR FURTHER INFORMATION CONTACT: Rhett Krulla, FTC/S-3302, Washington, DC (202) 326-2808.

SUPPLEMENTARY INFORMATION: In the Matter of The B.F. Goodrich Company, et al. The prohibited trade practices and/or corrective actions, as set forth at 53 FR 12379, remain unchanged.

(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, 16)

Modified Final Order

Commissioners: Daniel Oliver, Chairman, Terry Calvani, Mary L. Azcuenaga, Andrew J. Strenio, Jr., Margot E. Machol.

In the matter of the B.F. Goodrich Company, a corporation, Diamond Shamrock Chemicals Company, a corporation, and Diamond Shamrock Plastics Corporation, a corporation.

The Commission issued a Final Order in this proceeding on March 15, 1988, and respondent, The B.F. Goodrich Company ("Goodrich"), subsequently filed a petition for review of that Order in the United States Court of Appeals for the Second Circuit. On April 5, 1989, the Commission and Goodrich filed a joint motion asking that court to modify the Commission's Final Order pursuant to a Stipulation between the Commission and Goodrich. The parties expressly agreed that entering into the Stipulation did not "constitute an admission of any liability or of any issue of law or fact." Commissioner Azcuenaga issued the attached dissent to the Commission's entry into the Stipulation, later joined by Commissioner Strenio. On April 25, 1989, the court of appeals granted the parties' joint motion and entered its order modifying the Commission's Final Order of March 15, 1988.

Now therefore, it is hereby ordered that the aforesaid "Final Order" be, and hereby is, modified in accordance with the order of the Court of Appeals to read as follows:

¹ Copies of the Complaint, Initial Decision, Final Order, etc. are available from the Commission's Public Reference Branch, H-130, 6th & Pa. Ave. NW., Washington, DC 20580.

Final Order

I.

Definitions

It is ordered that for purposes of this Order the following definitions shall apply:

A. "Goodrich" means The B.F. Goodrich Company, a corporation organized under the laws of New York with its principal place of business in Akron, Ohio, and its directors, officers, agents, and employees, and its subsidiaries, divisions, affiliates, successors, and assigns.

B. "Calvert City VCM Plant" means the manufacturing facility for the production of VCM and ethylene dichloride ("EDC") owned by Goodrich and located at Calvert City, Kentucky, and all of the VCM and EDC assets, titles, properties, interests, rights and privileges, tangible and intangible, located at this facility.

C. "VCM" means vinyl chloride monomer, a gaseous, reactive, acyclic intermediate chemical, with chemical identity $\text{CH}_2=\text{CHCl}$, also called chloroethylene or monochloroethylene.

II.

It is ordered that within twelve (12) months from the date this Order becomes final, Goodrich shall divest, absolutely and in good faith, at no minimum price, the Calvert City VCM Plant. At the option of the acquirer Goodrich shall also divest to the acquirer, at an appraised fair market value, up to 58 acres of land adjacent to the Calvert City VCM Plant, as well as all necessary or appropriate easements and rights-of-way. The purpose of the divestiture is to establish the Calvert City VCM Plant as a viable competitor in VCM, by insuring its continuation as an ongoing, viable enterprise in the VCM industry; and to remedy the lessening of competition resulting from the acquisition of certain VCM assets by Goodrich. The divestiture shall be made only to an acquirer or acquirers, and only in a manner, that receives the prior approval of the Federal Trade Commission.

Pending divestiture, Goodrich shall take all measures necessary to maintain the Calvert City VCM Plant in its present condition and to prevent any deterioration, except for normal wear and tear, of any part of the Calvert City VCM Plant, so as not to impair the Calvert City VCM Plant's present operating viability or market value.

III.

It is further ordered that at the time of the divestiture required by this Order,

Goodrich shall provide to the acquirer of the Calvert City VCM Plant, on a nonexclusive basis, all VCM technology (including patent licenses and know-how) used by Goodrich, or developed by Goodrich for use, in the Calvert City VCM Plant; and

For a period of one (1) year following the divestiture required by this Order, Goodrich shall provide the acquirer of the Calvert City VCM Plant, if the acquirer so requests, such additional know-how as may reasonably be required to enable such acquirer to manufacture and sell VCM. Goodrich shall charge the acquirer no more than its own costs for providing such additional know-how.

IV.

It is further ordered that at the time of the divestiture required by this Order, Goodrich shall assign to the acquirer of the Calvert City VCM Plant all VCM supply, sales, toll, or exchange agreements pertaining to the Calvert City VCM Plant, except for those agreements describing Goodrich's VCM supply arrangements with Occidental Chemical Corporation; and Goodrich shall make available to the acquirer all customer records and files (other than those describing its VCM supply arrangements with Occidental Chemical Corporation) relating to merchant sales of VCM (at any time since January 1, 1985) from the Calvert City VCM Plant, and Goodrich shall deliver to the acquirer such of those records and files as the acquirer may request.

V.

It is further ordered that if Goodrich has not divested the Calvert City VCM Plant within the twelve-month period provided in Paragraph II of this Order, the Federal Trade Commission may appoint a trustee to effect the divestiture. The trustee shall be a person with experience and expertise in acquisitions and divestitures. Neither the appointment of a trustee nor a Commission decision not to appoint a trustee under this Paragraph V of the Order shall preclude the Commission from seeking civil penalties and other relief available to it, including a court-appointed trustee, for any failure by Goodrich to comply with this Order.

Any trustee appointed by the Commission pursuant to this Paragraph V shall have the following powers, authority, duties, and responsibilities:

A. The trustee shall have the exclusive power and authority, subject to the prior approval of the Commission, to divest the Calvert City VCM Plant. The trustee shall have twelve (12) months from the date of appointment to

accomplish the divestiture. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission.

B. The trustee shall have full and complete access to the personnel, books, records and facilities of the Calvert City VCM Plant, and Goodrich shall develop such financial or other information relevant to the Calvert City VCM Plant as the trustee may reasonably request. Goodrich shall cooperate with the trustee, and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Goodrich shall extend the time for divestiture under this Paragraph V in an amount equal to the delay, as determined by the Commission.

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 and unconditional obligation to divest at no minimum price, and with the purposes of the divestiture as stated in Paragraph II of this Order, subject to the prior approval of the Commission.

D. The trustee shall serve, without bond or other security, at the cost and expense of Goodrich on such reasonable and customary terms and conditions as the Commission may set. The trustee shall have authority to retain, at the cost and expense of Goodrich, 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 divestiture and for all expenses incurred. After approval by the Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to Goodrich, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting the Calvert City VCM Plant.

E. Goodrich shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this Order, unless the 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.

F. Promptly upon appointment of the trustee and subject to the approval of the Federal Trade Commission, Goodrich shall, subject to the Federal Trade Commission's prior approval and consistent with provisions of this Order, transfer to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this Order.

G. If the trustee ceases to act or fails to act diligently, the Commission may appoint a substitute trustee.

H. The Commission may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

I. The trustee shall have no obligation or authority to operate or maintain the Calvert City VCM Plant.

J. The trustee shall report in writing to Goodrich and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

VI.

It is further ordered that for a period of ten (10) years from the date the Calvert City VCM Plant is divested, Goodrich shall, at the acquirer's request, contract with the acquirer to provide to the Calvert City VCM Plant such utilities and services as are necessary for the operation of the Calvert City VCM Plant and such commercially reasonable quantities of ethylene and chlorine as the acquirer desires, up to the average 1986-1988 practical production capacity of Goodrich's ethylene and chlorine production facilities located at, or near, Calvert City. The price, terms, and conditions Goodrich shall offer the acquirer of the Calvert City VCM Plant for ethylene and chlorine shall be not greater than the prevailing market price, terms, and conditions for comparable domestic sales of chlorine and ethylene to Gulf Coast EDC/VCM producers, adjusted for a freight differential to Calvert City (such freight differential for chlorine shall be no greater than the lowest available price for transportation of chlorine by barge from a mid-point location on the Gulf Coast; such per pound freight differential for ethylene shall be no greater than the then current average actual per pound cost which Goodrich incurs for the transportation of propane to Calvert City). The prices, terms, and conditions Goodrich shall offer the acquirer of the Calvert City VCM Plant for utilities and services shall not be greater than an amount that would be sufficient to allow Goodrich to recover its fully allocated costs, including a fair return on its investment. In the event of any dispute between

Goodrich and the acquirer over the price, terms, and conditions at which Goodrich shall offer such utilities and services to the Calvert City VCM Plant, Goodrich shall submit to binding arbitration to resolve the dispute. Goodrich shall also supply to the acquirer, f.o.b. Gulf Coast manufacturing location, until November 30, 1991, at Goodrich's acquisition cost, such quantities of EDC as requested by the acquirer for use in the Calvert City VCM Plant.

VII.

It is further ordered that, at the acquirer's request, and on fourteen (14) months' notice prior to the expiration of Goodrich's then current supply contract(s) for ethylene and/or chlorine for use in VCM manufacture at its La Porte, Texas plant, Goodrich shall exchange with the acquirer on a pound-for-pound basis with no differential payment by either party, such quantities as the acquirer may designate (not to exceed the amount under the contract then expiring and in total not to exceed the average 1986-1988 practical production capacity of Goodrich's ethylene and/or chlorine (as applicable) production facilities located at, or near, Calvert City) of ethylene, chlorine or both, by delivery by Goodrich to the Calvert City VCM Plant in exchange for delivery by the acquirer, or by such person(s) as the acquirer may designate, to Goodrich's La Porte VCM Plant. The length of such exchange shall be commercially reasonable, but in any event no less than the length of the common practice in the industry and shall not extend more than ten (10) years from the date of divestiture without Goodrich's consent. Goodrich shall notify the acquirer of the termination date(s) and quantities of each of its ethylene and chlorine supply contracts, subject to, in all instances, appropriate confidentiality agreements negotiated between Goodrich and the acquirer. In the case of an ethylene or chlorine supply contract that by its term requires Goodrich to give notice in order for the contract to terminate, the acquirer may give the notice required by this paragraph six (6) months prior to any date such notice by Goodrich may be given. Goodrich's obligation to effect an exchange pursuant to such notice by the acquirer shall commence on the date the underlying contract would expire if Goodrich gave timely notice of cancellation to its supplier.

VIII.

It is further ordered that Goodrich shall take all reasonable measures necessary to maintain in good operating

condition the ethylene, chlorine, utilities, and service facilities that it owns and that are located at, or near, the Calvert City VCM Plant so long as Goodrich has any supply obligations pursuant to Paragraphs VI or VII of this Order; provided, however, Goodrich shall have no obligation to maintain in good operating condition the particular facilities used to provide ethylene, chlorine, utilities, and services if the acquirer permits the utilities contract(s), service contract(s), supply contract(s) or exchange agreement(s) pertaining to that particular utility, service, or feedstock to lapse without requesting renewal or if the acquirer does not, at the time of the divestiture, enter into utilities contract(s), service contract(s), supply contract(s), or exchange agreement(s) pertaining to that particular utility, service, or feedstock. Goodrich shall give the acquirer a right of first refusal on the purchase of the aforesaid ethylene facilities, chlorine facilities, utilities and service facilities located at or near the Calvert City VCM Plant; and Goodrich shall take no action that may unreasonably interfere with any plan, or attempt, by the acquirer to build or acquire ethylene, chlorine, utilities, service, or any other facility related to the production, sale, or distribution of VCM at or near the Calvert City VCM Plant.

IX.

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, Goodrich shall not directly or indirectly acquire—other than the acquisition of manufactured product in the ordinary course of business—all or any part of the stock or assets of, or any interest in, any producer of VCM located in the United States without the prior approval of the Federal Trade Commission.

X.

It is further ordered that Goodrich shall, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until it has fully complied with the provisions of Paragraph II of this Order, submit in writing to the Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with that provision. Such compliance reports shall include, among other things that may be required from time to time, a full description of all contacts and negotiations relating to the divestiture of the Calvert City VCM Plant, including the name and address of all parties contacted, copies of all written

communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture; and

Goodrich shall submit such further written reports of its compliance as the staff of the Commission may from time to time request in writing.

XI.

It is further ordered that Goodrich, upon written request and on reasonable notice, for the purpose of securing compliance with this Order, and subject to any legally recognized privilege, shall permit duly authorized representatives of the Commission or of the Director of the Bureau of Competition:

A. Reasonable access during the office hours of Goodrich, which may have counsel present, to inspect and copy books, ledgers, accounts, correspondence, memoranda, reports, and other records and documents in the possession or control of Goodrich that relate to any matter contained in this Order; and

B. Subject to the reasonable convenience of Goodrich, an opportunity to interview officers or employees of Goodrich, who may have counsel present, regarding such matters.

XII.

It is further ordered that Goodrich shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed corporate change, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation, which may affect compliance with the obligations arising out of this Order."

By the Commission.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Azcuenaga in the B.F. Goodrich Co.

The Commission now joins, by a vote of 3 to 2, in a settlement to resolve the appeal of The B.F. Goodrich Co. from the Commission's order in this matter, which required a divestiture to restore competition in the vinyl chloride monomer ("VCM") market. Under the settlement, B.F. Goodrich will divest its Calvert City, Kentucky, VCM plant instead of divesting the LaPorte, Texas, VCM plant, as required by the Commission's order. I dissent.

With this settlement, the Commission relinquishes a procompetitive divestiture for a substantially less efficacious remedy. Indeed, the Calvert City plant is unlikely to be an

independent competitive force in the industry for the long term, primarily because Goodrich will control essential raw materials. In agreeing to this settlement, the Commission also casts aside a substantial investment of time and resources, both public and private, in litigating and adjudicating this case, for no compelling reason and in haste.

This settlement perversely secures the worst of two worlds. On one hand, the settlement is insufficient to eliminate the competitive concerns at the heart of this case. On the other hand, the settlement, which requires detailed Commission review of complex pricing decisions for an extended time, is highly regulatory and usually would be rejected on that ground alone. The settlement establishes the Commission as a kind of "Office of Price Administration," intrusively monitoring and policing pricing decisions for years.

What is the rationale for this extraordinary "compromise"? Nothing has changed since the Commission issued its opinion and final order except that the case has been briefed and argued before the court. Does the Commission have second thoughts about its opinion and order? (One of the three commissioners who now supports the relief imposed by the settlement found no violation of law on which to predicate any relief whatsoever when the Commission issued its opinion and order.¹ Presumably, this commissioner now believes that Goodrich has indeed violated the law.) If we made a mistake in fact or in law, vacating the order would be the appropriate remedy. If we continue to believe that we have applied the law correctly, then prosecution of the appeal, rather than evisceration of the order, would seem to be consistent with the public interest.

I believe that the Commission's original opinion and order with respect to the VCM market are correct. Acceptance of this settlement with its inadequate remedy and regulatory format most assuredly is not in the public interest.²

[FR Doc. 89-29472 Filed 12-18-89; 8:45 am]
BILLING CODE 6750-01-M

[Docket No. C-3254]

Ujena, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

¹ See Separate Statement of Chairman Daniel Oliver in The B.F. Goodrich Co., FTC Docket No. 9159.

² I also dissent from the decision to file the settlement under seal.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Mountain View, Ca. corporation from misrepresenting the terms and conditions of a money-back guarantee, from failing to provide a full refund of the amount stated in the money-back guarantee within the time specified in the offer, and from failing to transmit a credit statement to the consumer's credit card issuer within seven business days of accepting the return of merchandise.

DATE: Complaint and Order issued June 14, 1989.¹

FOR FURTHER INFORMATION CONTACT:

Jerome M. Steiner, Jr., San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, Ca. 94103. (415) 995-5220.

SUPPLEMENTARY INFORMATION: On

Tuesday, March 28, 1989, there was published in the Federal Register, 54 FR 12648, a proposed consent agreement with analysis in the Matter of Ujena, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

Donald S. Clark,
Secretary.

[FR Doc. 29473 Filed 12-18-89; 8:45 am]
BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
Johnson & Johnson Cororation, Great Lakes Chemical Corporation, GLI, Inc.....	90-0063	11/27/89
The Equitable Life Assurance Society of the U.S., GTECH Corporation, GTECH Corporation.....	90-0203	11/27/89
Brierley Investments Limited, Russ Togs, Inc., Russ Togs, Inc.....	90-0223	11/27/89
James A. Daley, John Hancock Mutual Life Insurance Company, John Hancock Life Insurance Company.....	90-0337	11/27/89
HCA-Hospital Corporation of America, Total Health Systems, Inc. Total Health Systems, Inc.....	90-0338	11/27/89
The President and Fellows of Harvard College, John Hancock Mutual Life Insurance Company, John Hancock Mutual Life Insurance Company.....	90-0340	11/27/89
Burlington Resources, Inc., Mobil Corporation, Mobil Producing Texas & New Mexico Inc.....	90-0357	11/27/89
Mr. David J. Stone and Mrs. Sara G. Stone, Primerica Corporation, PennCorp Financial, Inc.....	90-0378	11/27/89
Stoneridge Resources Inc., Acceptance Insurance Holdings, Inc, Acceptance Insurance Holdings, Inc.....	90-0383	11/27/89
Society Corporation, Bank South Corporation, Bank South, N.A.....	90-0392	11/27/89
Jose Liberman, George G. Beasley, Beasley Broadcast Group.....	90-0394	11/27/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
E-L Financial Corporation Limited, New England Mutual Life Insurance Company, GRENEL Financial Corporation.....	90-0404	11/27/89
CoreStates Financial Corp. Itel Corporation, Signal Capital Corp.....	90-0409	11/27/89
Corporate Capital Limited, Catherines Holding Corp., Catherines Holding Corp.....	90-0411	11/27/89
TWC Corporation, Control Data Corporation, Ticketron Sports & Entertainment.....	90-0412	11/27/89
Mellon Bank Corporation, Security Pacific Corporation, Security Pacific Automotive Financial Services Corp.....	90-0423	11/27/89
Telenova, Inc., Memorex Telex N.V., Memorex Telex Corporation.....	90-0425	11/27/89
Nippon Oil Company, Limited, USX Corporation, Pan Ocean Oil Corporation.....	90-0426	11/27/89
Corroon & Black Corporation, Kendall Insurance, Inc., Kendall Insurance, Inc.....	90-0439	11/27/89
Bessemer Securities Corporation, Dallas Corporation, Dallas Corporation.....	90-0450	11/27/89
Philip Morris Companies Inc., Fassetts Bakery, Inc., Fassetts Bakery, Inc.....	90-0393	11/28/89
Vickers Plc, Ross Catherall Group Plc, Ross Catherall Group Plc.....	90-0221	11/29/89
CEA Industries, Canberra Industries, Inc.....	90-0224	11/29/89
Canberra Industries, Inc. N.V. Phillips, A&M Records, Inc., A&M Records, Inc.....	90-0228	11/29/89
Werner Holding Co. (PA), Inc., National Intergroup, Inc., National Aluminum Corporation.....	90-0256	11/29/89
FPI Limited, J.H. Hollingsworth, Clouston Foods Canada Limited.....	90-0308	11/29/89
Intermark, Inc., Triton Group Ltd., Triton Group Ltd.....	90-0323	11/29/89
Charles H. and Margaret M. Dyson, United Technologies Corporation, Hamilton Standard Controls, Inc., Spectrol Reliance Ltd.....	90-0325	11/29/89
FAI Insurances Limited, Foremost Corporation of America, Foremost Corporation of America.....	90-0382	11/29/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
William J. Yung, Del Webb Corporation, Del Webb Corporation.....	90-0436	11/29/89
Loews Corporation, The Travelers Corporation, The Travelers Insurance Company.....	90-0443	11/29/89
American Distributors PLC, Alpert Bros., Inc., Alpert Bros., Inc.....	90-0300	11/30/89
The Kassar Family Trust, The Vista Organization Partnership, L.P., The Vista Organization Partnership, L.P.....	90-0336	11/30/89
Novo-Nordisk Foundation, Bristol-Myers Squibb Company, Bristol-Myers Squibb Company.....	90-0363	11/30/89
Cain & Bultman, Inc., United Technologies Corporation, Florida Air Conditioners, Inc.....	90-0424	12/01/89
Compagnie Financiere Ehrbar, Rothmans International PCS, Rothmans International PLC.....	90-0460	12/01/89
Wells Fargo & Company, Imperial Corporation of America, Imperial Savings Association.....	90-0310	12/04/89
The Equitable Life Assurance Society of the U.S., Total Health Systems, Inc., Total Health Systems, Inc.....	90-0339	12/04/89
Norwest Corporation, Lincoln Financial Corporation, 11 Lincoln Subsidiary Banks.....	90-0366	12/04/89
Contrin Holding A.G., TOL Acquisition Corporation, TOL Acquisition Corporation.....	90-0369	12/04/89
ERLY Industries Inc., American Rice, Inc., American Rice, Inc.....	90-0370	12/04/89
QP Corporation, Henningsen Foods, Inc., Henningsen Foods, Inc.....	90-0391	12/04/89
The British Petroleum Company p.l.c., The Louisiana Land and Exploration Company, The Louisiana Land and Exploration Company.....	90-0400	12/04/89
John Hancock Mutual Life Insurance Company, Crown Pacific, Ltd., Crown Pacific, Ltd.....	90-0402	12/04/89
PepsiCo, Inc., Anthony J. Nickert, Pizza Huts of Cincinnati, Inc.....	90-0437	12/04/89
The Atlantic Foundation.....	90-0440	12/04/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
John T. Melin Western Athletic Clubs, Inc./ Western Athletic Properties.....		
First Chicago Corporation, The Goldman Sachs Group, L.P. Skyhigh Corporation.....	90-0441	12/04/89
E-L Financial Corporation Limited, Guardian Royal Exchange plc, GRENEL Financial Corporation.....	90-0444	12/04/89
Harcourt Brace Jovanovich, Inc., American Pioneer, Inc., American Pioneer Life Insurance Company and American.....	90-0448	12/04/89
Norwest Corporation, Barclays PLC, Barclays Bank of Delaware, National Association.....	90-0457	12/04/89
PepsiCo, Inc., Alan W. Lee, Tri-L Pizza Huts, Inc.....	90-0458	12/04/89
E. I. du Pont de Nemours and Company, Freeport-McMoRan Inc., FMP Operating Company, a Limited Partnership.....	90-0467	12/04/89
18th Street Associates, Sears, Roebuck and Co., Sears Catalog Distribution Center.....	90-0468	12/04/89
Leonard S. Mandor, c/o Concord Assets Group, Inc., Milestone Properties, Inc., Milestone Properties, Inc.....	90-0470	12/04/89
PepsiCo, Inc., Peter C. Toigo, Winchell's Donut House Operating Company, L.P.....	90-0472	12/04/89
Charterhouse Equity Partners, L.P., Torstar Corporation, Miles Kimball Company.....	90-0473	12/04/89
All Nippon Airways Co., Ltd., Aoki Corporation, The Westin Hotel, Washington, D.C.....	90-0484	12/04/89
Sonat, Inc., Carille and Howell, Inc., Carille and Howell, Inc.....	90-0485	12/04/89
International Business Machines Corporation, Dayton Partners (Ohio Partnership) Dayton & Associates Partnerships.....	90-0488	12/04/89
George Macomber, Sears, Roebuck and Co., Sears Catalog Distribution Center.....	90-0491	12/04/89
Dow Jones & Company, Inc., American Telephone and Telegraph Company, AT&T Development Corporation.....	90-0511	12/04/89
VAALCO Energy Inc., The Australian Gas Light Company, TMOC Petroleum Inc., c/o Corporation Trust Company.....	90-0513	12/04/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
Nacolah Holding Corporation, Amoco Corporation, Amoco Life Insurance Company.....	90-0518	12/04/89
Richard Fanslow, Greenbrier Acquisition, Inc., Greenbrier Acquisition, Inc.....	90-0520	12/04/89
Comdisco, Inc., Centel Corporation, Centel Credit Corporation.....	90-0539	12/04/89
Comdisco, Inc., North American Computer Equipment, Inc., North American Computer Equipment, Inc.....	90-0540	12/04/89
PacifiCorp, UtiliCorp United Inc, PSI, Inc.....	90-0542	12/04/89
PacifiCorp William T. Bright, Land Use Corporation, Bright Coal Corporation.....	90-0367	12/04/89
Ashland Oil Inc., Olin Corporation, Olin Corporation.....	90-0396	12/05/89
Hyperion Partners, L.P., The Travelers Corporation, Travelers Mortgage Services, Inc.....	90-0398	12/05/89
The Louisiana Land and Exploration Company, The British Petroleum Company p.l.c., BP Exploration Inc.....	90-0401	12/05/89
Merrill Lynch & Co., Inc., Bitrix N.V., Pangborn Holdings, Inc.....	90-0420	12/05/89
Merrill Lynch & Co., Inc., Daniel J. Sullivan, Pangborn Holdings, Inc.....	90-0421	12/05/89
Brierley Investments Limited, La Quinta Motor Inns, Inc., La Quinta Motor Inns, Inc.....	90-0438	12/05/89
Sumitomo Realty & Development Co., Ltd., Liberty/Manhattan Beach Limited Partnership, The Residence Inn By Marriott.....	90-0453	12/05/89
Mr. Yoshiyuki Nakayama, Liberty/Manhattan Beach Limited Partnership, The Residence Inn by Marriott, Inc.....	90-0454	12/05/89
Canyon Resources Corporation, Addington Resources, Inc., Addwest Gold, Inc.....	90-0482	12/05/89
Sunshine Mining Company, Montana Reserves Company, Montana Reserves Company.....	90-0483	12/05/89
Sony Corporation, Time Warner Inc., Lot, Inc.....	90-0492	12/05/89
Center for Independent Living, Beverly Enterprises, Inc., Beverly Enterprises-Massachusetts, Inc.....	90-0347	12/06/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/27/89 AND 12/08/89—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN number	Date terminated
J. B. Poindexter, Elton E. Mountz, Morgan Trailer Mfg. Co.....	90-0431	12/06/89
Toyota Motor Corporation, Robert J. Bodine, Bodine Aluminum Inc., Lucile Investment Company, Inc.....	90-0474	12/06/89
TriMas Corporation, Charles O. Hiler & Son, Inc., Charles O. Hiler & Son, Inc.....	90-0493	12/06/89
TriMas Corporation, Accurate Castings, Inc., Accurate Castings, Inc.....	90-0507	12/06/89
Syntrex Incorporated, Harris Corporation, Lanier Business System Division.....	90-0564	12/06/89
Burnham Pacific Properties, Inc., Pan Pacific Development Corporation, Pan Pacific Development (California), Inc.....	90-0660	12/06/89
The 1964 Simmons Trust, Lockheed Corporation, Lockheed Corporation.....	90-0489	12/07/89
Societe de Diffusion Internationale Agro-Alimentaire, Borden, Inc., Meadow Gold Dairies, Inc.....	90-0489	12/07/89
Cardinal Communications, Inc., Donald G. Jones, Star Midwest Indiana Group.....	90-0523	12/07/89

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-29471 Filed 12-18-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0519]

Drug Export; Antihemophilic Factor (Human), Liquid Heat Treated

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Armour Pharmaceutical Co. has filed an application requesting approval for the export of the biological product Antihemophilic Factor (Human), Liquid Heat Treated to Belgium, Denmark, The Federal Republic of Germany, France, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1988 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Inspections and Surveillance Staff (HFB-120), Center for Biologies Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Armour Pharmaceutical Co., Suite 200, 920A Harvest Dr., Blue Bell, PA, 19422, has filed an application requesting approval for the export of the biological product Antihemophilic Factor (Human), Liquid Heat Treated, to Belgium, Denmark, The Federal Republic of Germany, France, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain, and The United Kingdom. Antihemophilic Factor (Human), Liquid Heat Treated is indicated for treatment of classical hemophilia (Hemophilia A). The application was received and filed in the Center for Biologies Evaluation and Research on November 27, 1989,

which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by December 29, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologies Evaluation and Research (21 CFR 5.44).

Dated: December 4, 1989.

Thomas S. Bozzo,
Director, Office of Compliance Center for Biologies Evaluation and Research.
[FR Doc. 89-29442 Filed 12-18-89; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 89C-0480]

CIBA Vision Corp.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Vision Corp. has filed a petition proposing that the color additive regulations be amended to provide for the safe use of six vinyl sulfone reactive dyes to color contact lenses prepared from a copolymer that is the reaction product of the dye and a polyvinyl alcohol/methyl methacrylate copolymer. The dyes are as follows;

(1) C.I. Reactive Black 5 (2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis((4-((2-(sulfooxy)ethyl)sulfonyl)-phenyl)azo)-, tetrasodium salt, CAS Reg. No. 17095-24-8);

(2) C.I. Reactive Blue 21 (cooper, (29*H*,31*H*-phthalocyanina(2-)-*N*²⁹, *N*³⁰, *N*³¹, *N*³²)-, sulfo((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)sulfonyl derivatives, CAS Reg. No. 73049-92-0);

(3) C.I. Reactive Orange 78 (2-naphthalenesulfonic acid, 7-(acetylamino)-4-hydroxy-3-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)azo)-, CAS Reg. No. 68189-39-9);

(4) C.I. Reactive Yellow 15 (benzenesulfonic acid, 4-(4,5-dihydro-4-((2-methoxy-5-methyl-4-((2-(sulfooxy)ethyl)sulfonyl)azo)-3-methyl-5-oxo-1*H*-pyrazol-1-yl)-, CAS Reg. No. 60958-41-0);

(5) C.I. Reactive Blue No. 19 (2-anthracenesulfonic acid, 1-amino-9,10-dihydro-9,10-dioxo-4-((3-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)-, disodium salt, CAS Reg. No. 2580-78-1);

(6) C.I. Reactive Red 180 (5-(benzoylamino)-4-hydroxy-3-((1-sulfo-6-((2-sulfooxy)ethyl)sulfonyl)-2-naphthalenyl)azo)-2,7-naphthalenedisulfonic acid, tetrasodium salt, CAS Reg. No. 98114-32-0).

FOR FURTHER INFORMATION CONTACT: Sandra L. Varner, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1) (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 9C0217) has been filed by Ciba Vision Corp., P.O. Box 105089, Atlanta, GA 30348, proposing that 21 CFR Part 73 of the color additive regulations be amended to provide for the safe use of six vinyl sulfone reactive dyes to color contact lenses prepared from a copolymer that is the reaction product of the dye and a polyvinyl alcohol/methyl methacrylate copolymer. The dyes are as follows:

(1) C.I. Reactive Black 5 (2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis((4-((2-(sulfooxy)ethyl)sulfonyl)-phenyl)azo)-, tetrasodium salt, CAS Reg. No. 17095-24-8);

(2) C.I. Reactive Blue 21 (cooper, (29*H*,31*H*-phthalocyaninato(2-)-*N*²⁹, *N*³⁰, *N*³¹, *N*³²)-, sulfo((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)sulfonyl derivatives, CAS Reg. No. 73049-92-0);

(3) C.I. Reactive Orange 78 (2-naphthalenesulfonic acid, 7-(acetylamino)-4-hydroxy-3-((4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)azo)-, CAS Reg. No. 68189-39-9);

(4) C.I. Reactive Yellow 15 (benzenesulfonic acid, 4-(4,5-dihydro-4-((2-methoxy-5-methyl-4-((2-(sulfooxy)ethyl)sulfonyl)azo)-3-methyl-5-oxo-1*H*-pyrazol-1-yl)-, CAS Reg. No. 60958-41-0);

(5) C.I. Reactive Blue No. 19 (2-anthracenesulfonic acid, 1-amino-9,10-

dihydro-9,10-dioxo-4-((3-((2-(sulfooxy)ethyl)sulfonyl)phenyl)amino)-, disodium salt, CAS Reg. No. 2580-78-1); and

(6) C.I. Reactive Red 180 (5-(benzoylamino)-4-hydroxy-3-((1-sulfo-6-((2-(sulfooxy)sulfonyl)-2-naphthalenyl)azo-2,7-naphthalenedisulfonic acid, tetrasodium salt, CAS Reg. No. 98114-32-0).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 4, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-29372 Filed 12-18-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0453]

PPG Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that PPG Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a *N, N, N', N', N'', N''*-hexakis(methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl alcohol, α -octadecenyl- Ω -hydroxypoly(oxy-1,2-ethanediyl) and alkyl ($C_{20}+$) alcohols as a component of paper and paperboard in contact with aqueous food.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4172) has been filed by PPG Industries, Inc., Pittsburgh, PA 15146, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of a *N, N, N', N', N'', N''*-hexakis(methoxymethyl)-1,3,5-triazine-2,4,6-triamine polymer with stearyl

alcohol, α -octadecenyl- Ω -hydroxypoly(oxy-1,2-ethanediyl) and alkyl ($C_{20}+$) alcohols as a component of paper and paperboard in contact with aqueous food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 11, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-29443 Filed 12-18-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0518]

Drug Export: HTLV-1 Elisa Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cellular Products, Inc., has filed an application requesting approval for the export of the biological product HTLV-1 Elisa Test Kits to Italy.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Inspections and Surveillance Staff (HFB-120), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether

the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Cellular Products, Inc., 688 Main St., Buffalo, NY, 14202, has filed an application requesting approval for the export of the biological products HTLV-1 Elisa Test Kits to Italy. HTLV-1 Elisa Test Kit is an enzyme linked immunosorbent assay for the detection of antibodies to Human T-Cell Lymphotropic Virus Type 1 (HTLV-1) in human plasma or serum. The application was received and filed in the Center for Biologics Evaluation and Research on November 6, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by December 28, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: December 4, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-29373 Filed 12-18-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

National Vaccine Injury Compensation Program List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place, NW., Washington, DC 20005, (202) 633-7257. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, Parklawn Building, 5600 Fishers Lane, Room 7-90, Rockville, MD 20857, (301) 433-6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa-10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters to take evidence, conduct hearings as appropriate, and to submit to the Court findings of fact and conclusions of law.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa-12(b)(2), requires that the

Secretary publish in the Federal Register a notice of each petition filed. Set forth below is a list of petitions received by PHS from November 1 through December 8, 1989. Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to the table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Acting Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8-05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of Title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Clarence and Lanita Anderson on behalf of Mary Jane Anderson, Los Angeles, California, Claims Court Number 89-106 V
2. First Commercial Bank, Guardian of the Estate of Carla Hardcastle, Little Rock, Arkansas, Claims Court Number 89-107 V

3. Joseph and Juanita Stotts on behalf of Benjamin Stotts, Orange, California, Claims Court Number 89-108 V
4. Sharon and Donald Schumacher, Sr. on behalf of Donald Schumacher, Jr., Leominster, Massachusetts, Claims Court Number 89-109 V
5. Carla Wilson-Alford on behalf of Jeremy Alford, Wichita, Kansas, Claims Court Number 89-110 V
6. John Baker and Elynn Bautz on behalf of Christopher Brown, Milwaukee, Wisconsin, Claims Court Number 89-111 V
7. Paul and Stefania Crum on behalf of Elyse Crum, Philadelphia, Pennsylvania, Claims Court Number 89-112 V
8. Raymond and Rebecca Skidmore on behalf of Isaiah Skidmore, Boca Raton, Florida, Claims Court Number 89-113 V
9. Philip Sartore, Evansville, Indiana, Claims Court Number 89-114 V
10. James King, Jr. on behalf of Benjamin A. King, Tuscaloosa, Alabama, Claims Court Number 89-115 V
11. Stephen Cheek, Houston, Texas, Claims Court Number 89-116 V
12. Ronald Harmon on behalf of Sarah Elizabeth Harmon, Deceased, Philadelphia, Pennsylvania, Claims Court Number 89-117 V
13. Ruthie Robbins on behalf of Amanda Robbins, Albuquerque, New Mexico, Claims Court Number 89-118 V
14. Juan Hernandez on behalf of Geraldo Hernandez, Minneapolis, Minnesota, Claims Court Number 89-119 V
15. Susan Devore on behalf of Michael Devore, Greenville, South Carolina, Claims Court Number 89-120 V
16. Beverly Perry, Kenmore, New York, Claims Court Number 89-121 V
17. Lenita and Mark Schafer on behalf of Melissa Schafer, Scituate, Massachusetts, Claims Court Number 89-122 V

Dated: December 12, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-29444 Filed 12-18-89; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Family Violence Prevention and Services

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Notice of the availability of FY 1990 funds for State and Indian Tribal grants for family violence prevention and services.

SUMMARY: FY 1990 funds will be available for grants to States (including Territories and Insular Areas) and Indian Tribes and Tribal organizations to assist in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. This Notice sets forth the application process and requirements for these grants.

DATE: Applications must be received by February 20, 1990.

ADDRESS: Address applications to: Office of Human Development Services, Office of Policy, Planning and Legislation, Attn: William D. Riley, Room 312-F, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: William D. Riley, (202) 245-2892.

SUPPLEMENTARY INFORMATION:

A. Background

Title III of the Child Abuse Amendments of 1984 (Pub. L. 98-457, 42 U.S.C. 10401 et seq.) is entitled the "Family Violence Prevention and Services Act" (the Act). It was first implemented in FY 1986 and was reauthorized by Congress in April 1988 by Pub. L. 100-294.

The purposes of this legislation are to assist States in their efforts to prevent family violence and provide immediate shelter and related assistance for victims of family violence and their dependents; and to carry out coordination, research, training, technical assistance, documentation, and evaluation activities. Also, the Secretary may make demonstration grants directly to Indian Tribes and Tribal organizations to prevent family violence and provide immediate shelter and related assistance.

During FY 1989, 121 grants under the Act were made to States and Indian Tribes. Grants to the States are based on population, with a minimum of \$50,000 specified in the Act. In FY 1989, State grants ranged from \$50,000 to \$736,000. Grants to eligible Indian Tribes are based on tribal population and were either \$5,497 or \$14,194, with the exception of the Navajo Nation which received \$48,029.

Both State and Indian Tribal grantees are required to use not less than 60 percent of these funds for immediate shelter and related assistance (section 303(g)). States and Indian Tribes have met this requirement with the majority of the States and Tribes exceeding the 60 percent requirement.

A major new activity supported by States during FY 1989 was the establishment of transitional housing services. Because of the limited amount of time a family or individual may remain in an emergency shelter, a small number of States are supporting transitional housing for family violence victims and their dependents.

The Department also funds the operation of the National Clearinghouse on Family Violence; supports research efforts, documentation projects, and regionally based training and technical assistance for State and local law enforcement personnel through the Department of Justice; and made grants for technical assistance and training for State and local agencies administering this program.

B. Reporting Requirements

Program Reports

States and Indian Tribes are reminded that annual program activity reports are due December 29, 1989.

Fiscal Reports

A Financial Status Report, Standard Form 269 (SF-269), is due on an annual basis for each fiscal year award. The SF-269 must be submitted within 90 days after the end of each fiscal year. Thus, SF-269s are due on December 29, 1989.

C. Expenditure Period

We want to call to your attention the extended expenditure period beginning with FY 1990 funds. Grantees must expend these funds not later than September 30, 1992. Previous to FY 1990, States and Indian Tribes had 2 years to expend these funds.

D. Funds Available

Depending on Congressional action, we estimate that approximately \$8.219 million may be available for distribution in FY 1990. Of this amount, the Department will make 85 percent of total funds available for grants to States (section 310(b) of the Act). Estimates of States allocations are listed at the end of this Notice and have been computed based on the formula in section 304.

We estimate that approximately \$600,000 may be available for direct grants to Indian Tribes or Tribal organizations. These estimates, however, are subject to change based on Congressional appropriations.

The remaining funds will be used to carry out the research, evaluation, coordination, training, clearinghouse, and documentation activities required by the Act.

E. Eligibility: States

"States" as defined in section 309(6) of the Act are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the remaining eligible entity previously a part of the Trust Territory of the Pacific Islands—the Republic of Palau. In the past, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands have applied for family violence funds as a part of their Consolidated Grant under the Social Services Block Grant.

F. Eligibility: Indian Tribes and Tribal Organizations

In FY 1986, the first year of this program, Indian tribal eligibility was limited to those Federally recognized Tribes that had established social services program as evidenced by receipt of "638" contracts for social services with the Bureau of Indian Affairs (BIA).

In FY 1987 we expanded eligibility to include Indian Tribes and Tribal organizations which had received FY 1986 grants under the Indian Child Welfare Act from the BIA.

We limited Indian tribal eligibility in FY 1988 to those Indian Tribes and Tribal organizations which had received FY 1987 family violence grants. We again limited eligibility in FY 1989, because of funding limitations, to those Indian Tribes and Tribal organizations who received grants in FY 1987.

For FY 1990, we are expanding eligibility to solicit applications from those Indian Tribes and Tribal organizations which are FY 1989 grantees under Title IV-B of the Social Security Act, as well as the Indian Tribes and Tribal organizations who received family violence prevention grants in FY 1987. We believe that we can accommodate this expansion with the limited funds we have available. The Title IV-B tribal grantees were included because their recent grant awards indicate an operational social services infrastructure and delivery system. Should additional funds become available, a supplemental announcement will be published. As in previous years, Indian Tribes may apply singly or as a consortium. A list of the eligible Indian Tribes and Tribal organizations is found at the end of this Notice.

Because section 304(a) specifies a minimum base amount for State

allocations, we have set likewise a base amount for Indian Tribal allotments since FY 1986. We have found, over the last four years, that the establishment of such a minimum allocation, based on population, has facilitated our efforts to make a fair and equitable distribution of limited grant funds.

Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population is less than 3,000 will receive a minimum of \$3,000; Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population exceeds 3,000 will receive a minimum of \$8,000, except for the Navajo Tribe which will receive a minimum of \$24,000 because of its population. We have used these population and grant award figures since the beginning of the program.

In computing Indian Tribal allocations, we will use the best available population figures from the Census Bureau. Where Census Bureau data are unavailable, we will use figures from the BIA Indian Population and Labor Force Report.

If not all eligible Tribes apply, the available funds will be divided proportionally among the Tribes which apply and meet the requirements.

G. Matching Requirements

States and Indian Tribes and Tribal organizations are not required to furnish matching funds, but sub-State grantees must meet the requirements in section 303(f) as follows:

In the first year, the required match for a sub-State grantee is 35 percent of the funds received under this Act. If the same sub-State grantee receives a second year grant, the required match is 55 percent of the funds received under this Act. In the third and subsequent years, if the same sub-State grantee receives a grant, the required match will be 65 percent of the funds received under the Act.

If a different sub-State grantee receives funds for the first or second time under the Act, then the match is computed at 35 or 55 percent, respectively. The required match, in any case, should not be computed against total project funds or any amount other than the amount of funds received by the sub-State grantee under this Act.

H. Change in the Law Regarding Funding of Sub-State Grantees

Public Law 100-294 amended the Act to allow sub-State grantees to receive funds for more than three years but limited to \$150,000, the total amount of grant funds that may be awarded to any sub-State grantee.

I. State Application Requirements

The application requirements for these grants do not go beyond the requirements in the statute. We have cited each requirement to the specific section of the law.

Please note the new assurance in paragraph (3)(e) below that limits the funds an entity may receive from the State in any one fiscal year to \$50,000 and provides that no entity will receive more than a total of \$150,000 under this Act (section 303(c)).

Please note also that in order to apply for these FY 1990 funds, a State must have or have under consideration a procedure for the eviction of an abusing spouse from a shared residence. (See the assurance in paragraph (3)(l) below.)

The Secretary will approve any application that meets the requirements of the Act and this Notice, and will not disapprove an application unless the State has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

All applications must meet the following requirements:

The State's application must be signed by the Chief Executive of the State or the Chief Program Official designated as responsible for the administration of the Act.

The application must contain the following information

(1) The name of the State agency and the Chief Program Official designated as responsible for the administration of State programs and activities related to family violence carried out under the Act and for the coordination of related State programs, and the name of a contact person if different from the Chief Program Official (section 303(a)(2)(D)).

(2) The procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (section 303(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include but are not limited to: State Advisory Committees on Family Violence, law enforcement officials, or Coalitions of Directors of Family Violence Shelters.)

(3) The application must contain the following assurances:

(a) That funds under the Act will be distributed as demonstration grants to local public agencies and non-profit private organizations for programs and projects within the State to prevent

incidents of family violence and to provide immediate shelter and related assistance for victims and their dependents (section 303(a)(2)(A)).

(b) That not less than 60 percent of the funds distributed shall be used for immediate shelter and related assistance (section 303(g)).

(c) That not more than 5 percent of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(d) That in distributing the funds, the States will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by non-profit private organizations (particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents) and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims (section 303(a)(2)(B)(ii)).

(e) That no entity funded by the State will receive more than \$50,000 in any one fiscal year, and no entity will receive more than a total of \$150,000 under this Act (section 303(c)).

(f) That demonstration grants funded by the State will meet the matching requirements in section 303(f), i.e., 35 percent of the total funds provided under this title in the first year, 55 percent in the second year, and 65 percent in the third or subsequent year(s); that except in the case of a public entity, not less than 50 percent of the local matching share shall be raised from private sources; that the local share may be cash or in-kind; and that the local share may not include any Federal funds provided under any authority other than this title (section 303(f)).

(g) That demonstration grants funded by the State may not be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(h) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(i) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(j) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(k) That all demonstration grants made by the State under the Act must prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(l) That the State has, or has under consideration, a procedure for the eviction of an abusing spouse from a shared residence (section 303(a)(2)(F)).

(m) That States will comply with Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR part 92.

J. Indian Tribe and Tribal Organization Application Requirements

The application requirements for these grants do not go beyond the requirements in the statute. We have cited each requirement to the specific section of the law.

The Secretary will approve any application that meets the requirements of the Act and this Notice, and will not disapprove an application unless the Indian Tribe or Tribal organization has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

The application from the Indian Tribe or Tribal organization must be signed by the Chief Executive Officer of the Indian Tribe or Tribal organization and must contain the following information:

(1) The name of the organization or agency designated as responsible for the administration of this program (section 303(a)(D)), and the name of a contact person in the designated organization or agency.

(2) A copy of a current resolution stating that the designated organization or agency has the authority to submit an application on behalf of the Indian individuals in the Tribe(s) (section 303(a)(2)(G)).

(3) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 303(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include: Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, State Coalitions Against Domestic Violence, and Directors of Family Violence Shelters.)

(4) A brief description of how the Indian Tribe or Tribal organization plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(2)(G)).

(5) Each application must contain the following assurances:

(a) That not less than 60 percent of the funds shall be used for immediate shelter and related assistance (section 303(g)).

(b) That no funds under the Act will be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(c) That no income eligibility standard will be applied to individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(d) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(e) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(f) That Indian grantees will comply with Departmental recordkeeping and reporting requirements and general grant administration requirements of 45 CFR part 92.

K. Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally recognized Indian Tribes are exempt from all provisions and requirements of E.O. 12372.

L. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980-0175.

(Catalog of Federal Domestic Assistance number 13.671, Family Violence Prevention and Services)

Dated: December 13, 1989.

Mary Sheila Gall,
Assistant Secretary for Human Development Services.

FAMILY VIOLENCE AND PREVENTION SERVICES 1990 STATE AND TERRITORY ALLOTMENTS

AL	Alabama.....	\$107,933
AK	Alaska.....	50,000

FAMILY VIOLENCE AND PREVENTION SERVICES 1990 STATE AND TERRITORY ALLOTMENTS—Continued

AS	American Samoa.....	8,732
AZ	Arizona.....	92,813
AR	Arkansas.....	62,889
CA	California.....	735,662
CO	Colorado.....	87,782
CT	Connecticut.....	84,769
DE	Delaware.....	50,000
DC	District of Columbia.....	50,000
FL	Florida.....	320,970
GA	Georgia.....	167,285
GU	Guam.....	8,732
HI	Hawaii.....	50,000
ID	Idaho.....	50,000
IL	Illinois.....	303,544
IN	Indiana.....	144,933
IA	Iowa.....	73,449
KS	Kansas.....	64,906
KY	Kentucky.....	97,949
LA	Louisiana.....	118,100
ME	Maine.....	50,000
MD	Maryland.....	120,511
MA	Massachusetts.....	153,265
MI	Michigan.....	241,887
MN	Minnesota.....	111,916
MS	Mississippi.....	69,728
MO	Missouri.....	134,477
MT	Montana.....	50,000
NE	Nebraska.....	50,000
NV	Nevada.....	50,000
NH	New Hampshire.....	50,000
NJ	New Jersey.....	203,236
NM	New Mexico.....	50,000
NY	New York.....	465,248
NC	North Carolina.....	170,639
ND	North Dakota.....	50,000
MP	Northern Mariana Islands.....	8,732
OH	Ohio.....	282,450
OK	Oklahoma.....	86,158
OR	Oregon.....	71,614
PA	Pennsylvania.....	310,776
PR	Puerto Rico.....	86,262
RI	Rhode Island.....	50,000
SC	South Carolina.....	90,769
SD	South Dakota.....	50,000
TN	Tennessee.....	128,162
TX	Texas.....	450,495
TT	Trust Territories of the Northern Pacific.....	8,732
UT	Utah.....	50,000
VT	Vermont.....	50,000
VI	Virgin Islands.....	8,732
VA	Virginia.....	156,620
WA	Washington.....	119,594
WV	West Virginia.....	50,000
WI	Wisconsin.....	125,699
WY	Wyoming.....	50,000
	Total.....	\$6,986,150

Indian Tribal Eligibility

Below is the list of Indian Tribes which are eligible for fiscal year 1990 Family Violence Prevention and Services grants. Tribes are listed by BIA Area Office based on Census Bureau population data or, where that is not available, BIA data.

Tribes Under 3,000 Population

Eastern Area Office

Miccosukee Tribe of Indians of Florida

Aberdeen Area Office

Cheyenne River Sioux tribe of the Cheyenne River Reservation, South Dakota
 Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
 Devil's Lake Sioux Tribe of the Devil's Lake Sioux Reservation, North Dakota
 Yankton Sioux tribe of South Dakota
 Winnebago Reservation of Nebraska

Minneapolis Area Office

Grand Traverse Band of Ottawa and Chippewa Indians of Michigan
 Menominee Indian Tribe of Wisconsin
 Michigan Inter-Tribal Council on behalf of: Keweenaw Bay Indian Community
 Saginaw Chippewa Indian Tribe of Isabella Reservation, Michigan
 Sault Saint Marie Tribe of Chippewa Indians of Michigan
 Lac du Flambeau Reservation of Wisconsin
 Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
 Bad River Tribal Council, Wisconsin
 Minnesota Chippewa:
 Nett Lake Reservation (Bois Fort)
 Fond du Lac Reservation
 Grand Portage Reservation
 Mille Lac Reservation

Anadarko Area Office

Apache Tribe of Oklahoma
 Cheyenne-Arapaho Tribes of Oklahoma
 Comanche Indian Tribe of Oklahoma
 Kiowa Indian Tribe of Oklahoma
 Four Tribes of Kansas
 Kickapoo Tribe of Kansas
 Otoe-Missouria Tribes Oklahoma
 Wichita Indian Tribe of Oklahoma

Billings Area Office

Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
 Fort Belknap Indian Tribe of Montana

Phoenix Area Office

Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
 Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
 Elko Band Council
 Ft. McDermitt Paiute and Shoshone Tribes of the Ft. McDermitt Indian Reservation, Nevada
 Ft. McDowell Mohave-Apache Indian Community, Arizona
 Hualapai Tribe of the Hualapai Reservation, Arizona
 Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
 Pasqua—Yaqui Tribe of Arizona
 Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada

Reno-Sparks Indian Colony, Nevada
 Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
 Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada
 Havasupai Tribe of Arizona
 Yavapai-Prescott Tribe, Arizona
 Ute Indian Tribe of the Uintah and Ouray Reservation, Utah
 Walker River Paiute Tribe of the Walker River Reservation, Nevada
 Washoe Tribe of Nevada and California

Albuquerque Area Office

Pueblo of Acoma, New Mexico
 Pueblo of Isleta, New Mexico
 Pueblo of Santo Domingo, New Mexico
 Ramah Navajo Community
 Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado
 Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah

Portland Area Office

Confederated Tribes of the Warm Springs Reservation, Oregon
 Confederated Tribes of the Grand Ronde, Oregon
 Nez Perce Tribe of Idaho
 Nisqually Tribe of Washington
 Upper Skagit Indian Tribes of Washington
 Skokomish Tribe of Washington
 Muckleshoot Tribe of Washington
 Puyallup Tribe of Washington
 Squaxin Island Tribe of Washington

Juneau Area Office

Ketchikan Indian Corporation, Alaska
 United Crow Band, Alaska
 Northern Pacific Rim Association, Alaska

Sacramento Area Office

Big Lagoon Rancheria, California
 Coastal Indian Community of the Resighina Rancheria
 Trinidad Rancheria
 La Jolla Indian Band of Mission Indians

Tribes Over 3,000 Population**Eastern Area Office**

Eastern Band of Cherokee Indians of North Carolina
 Mississippi Band of Choctaw Indians, Mississippi

Aberdeen Area Office

Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
 Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota

Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota

Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
 Turtle Mountain Band of Chippewa Indians, Turtle Mountain Indian Reservation, North Dakota

Billings Area Office

North Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana

Shoshone-Arapahoe Tribes of Wyoming (Wind River Reservation)

Phoenix Area Office

Gila River Pima-Maricopa Indian Community of the Gila River Reservation, Arizona
 Hopi Tribe of Arizona
 San Carlos Apache Tribe of the San Carlos Reservation, Arizona
 Tohono O'Odham Nation, Arizona
 White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona

Navajo Area Office

Navajo Tribe of Arizona, New Mexico and Utah

Albuquerque Area Office

Pueblo of Laguna, New Mexico
 Zuni Tribe of the Zuni Reservation, New Mexico

Portland Area Office

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
 Confederated Tribes of the Colville Reservation, Washington

Juneau Area Office

Association of Village Council Presidents, Alaska
 Central Council of the Tlingit and Haida Indians of Alaska
 Tanana Chiefs Conference, Alaska
 Sitka Community Association, Alaska
 Bristol Bay Native Association of Alaska
 Fairbanks Native Association, Alaska

Muskogee Area Office

Cherokee Nation of Oklahoma
 Choctaw Nation of Oklahoma
 Mustogee Creek Nation of Oklahoma

Minneapolis Area Office

Minnesota Chippewa:
 Leech Lake Reservation

[FR Doc. 89-29438 Filed 12-18-89; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health**National Institute of Neurological Disorders and Stroke; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the Committees of the National Institute of Neurological Disorders and Stroke.

These meetings will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Advisory Neurological Disorders and Stroke Council and Its Planning Subcommittee

Date: January 31, 1990 (Planning Subcommittee)

Place: National Institutes of Health, Building 31, Conference Room 8A28, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: 1 p.m.-3 p.m.

Closed: 3 p.m.-5 p.m.

Dates: February 1-2, 1990 (Council)

Place: National Institutes of Health, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892

Open: February 1, 9 a.m.-1 p.m.

Closed: February 1, 1 p.m.-recess;
February 2, 8:30 a.m.-adjournment

Executive Secretary: John C. Dalton, Ph.D., Associate Director for Extramural Activities, NINDS, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9248

Name of Committee: Neurological Disorders Program Project Review A Committee

Dates: February 20-22, 1990

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814

Open: February 20, 8 a.m.-8:30 a.m.

Closed: February 20, 8:30 a.m.-recess;

February 21, 8 a.m.-recess; February 22, 8 a.m.-adjournment

Executive Secretary: Dr. Herbert Yellin, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223

Name of Committee: Neurological Disorders Program Project Review B Committee

Dates: February 28-March 3, 1990

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20892

Open: February 28, 8 a.m.-8:30 a.m.

Closed: February 28, 8:30 a.m.-recess;

March 1, 8 a.m.-recess; March 2, 8 a.m.-recess; March 3, 8 a.m.-adjournment

Executive Secretary: Dr. A. Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20814, Telephone: 301/496-9223

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: December 6, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-29397 Filed 12-18-89; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Notice of Meeting of the Literature Selection Technical Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on February 1-2, 1990, convening at 9 a.m. on February 1 and at 8:30 a.m. on February 2 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on February 1 will be open to the public from 9 a.m. to 10 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(9)(B), Title 5, U.S.C., Pub. L. 92-463, the meeting will be closed on February 1 from approximately 10 a.m. to 5 p.m. and on February 2 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and

open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Executive Secretary of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301-496-6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: December 6, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 29398 Filed 12-18-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Notice of Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 25 and 26, 1990, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on January 25, in Building 31, Conference Room 10, from 8:30 a.m. to 11 a.m. for open remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 25 from 11 a.m. to 6 p.m., and on January 26 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

In addition to the regular meeting of the National Advisory General Medical Sciences Council, the Council will be meeting on January 25, 1990, at the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland, from 8:30 p.m. to 10 p.m., in a closed session for the review, discussion, and evaluation of individual grant applications for the National Center for Human Genome Research.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: (301) 496-7301 will provide a summary of the meeting and roster of council members. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 953, Bethesda, Maryland 20892, Telephone: (301) 496-7061 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13-821, Biophysics and Physiological Sciences; 13-859, Pharmacological Sciences; 14-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; 13-880, Minority Access Research Careers [MARC]; and 13-375; Minority Biomedical Research Support [MBRS]).

Dated: December 6, 1989.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 89-29399 Filed 12-18-89; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Dental Research; Notice of the Meeting of National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held January 22-23, 1990, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to recess on January 22 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 23 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Preston A. Littleton, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland

20892, Telephone: (301) 496-9469 will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institute of Health)

Dated: December 6, 1989.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 89-29400 Filed 12-18-89; 8:45 am]
BILLING CODE 4140-01-M

National Library of Medicine; Notice of Meetings of the Board of Regents and Subcommittees

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on January 18-19, 1990, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Subcommittees will meet on January 17 as follows:

Research and Development and Planning Subcommittees, 7th-floor Conference Room, Building 38A, 3:30 p.m. to approximately 4:30 p.m.; and the Extramural Programs Subcommittee, 5th-floor Conference Room, Building 38A, 2 p.m. to 3:30 p.m. All, but the Extramural Programs Subcommittee, will be open to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 4:30 p.m. on January 18 and from 9 a.m. to approximately 12:00 noon on January 19 for administrative reports and program discussions. Attendance will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on January 17 will be closed to the public, and the regular Board meeting on January 18 will be closed from approximately 4:30 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: December 6, 1989.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 89-29401 Filed 12-18-89; 8:45 am]
BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-940-00-4214-11; Nev-013347, N-36588]

Order Providing for Opening of Lands in Nevada

December 7, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order will open 263.12 acres of public land to the operation of the public land laws, including the mining laws, the mining leasing laws, and material sale laws. The land was reconveyed to the United States through two private exchanges.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702-328-6326.

SUPPLEMENTARY INFORMATION:

1. The following described lands were reconveyed to the United States on March 30, 1944, through an exchange with the Church of Jesus Christ of Latter-day Saints:

Mount Diablo Meridian

T. 1 N., R. 67 E.,
Sec. 12, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 1 N., R. 68 E.,
Sec. 7, Lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$.

2. The following described lands were reconveyed to the United States on September 13, 1956, through an exchange with Samuel A. and Ellen Hollinger:

Mount Diablo Meridian

T. 2 N., R. 70 E.,
Sec. 7, NW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 3 N., R. 70 E.,

Sec. 20, SW¼NE¼.

The areas described aggregate 263.12 acres in Lincoln County.

All minerals in the lands were reconveyed to the United States.

At 10:00 a.m. on January 18, 1990, the lands will be open to the operation of the public land laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10:00 a.m. on January 18, 1990, will be considered as simultaneously filed. All other applications received will be considered in order of filing.

At 10:00 a.m. on January 18, 1990, the lands will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 89-29374 Filed 12-18-89; 8:45 am]

BILLING CODE 4310-HC-M

Bureau of Land Management

[ID-942-00-4730-12]

Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., December 8, 1989.

The plat representing the dependent resurvey of a portion of the Sixth Standard Parallel North (south boundary, T. 30 N., R. 8 E.), portions of the west boundary and subdivisional lines, and the subdivision of certain sections, T. 29 N., R. 8 E., Boise Meridian, Idaho, Group No. 699, was accepted December 7, 1989.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: December 8, 1989

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-29461 Filed 12-18-89; 8:45 am]

BILLING CODE 4310-65-M

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7 p.m., on January 24, 1990, at the Joseph Yenni Building, 1221 Elmwood Park Boulevard, Harahan, Louisiana.

The Delta Region Preservation Commission was established pursuant to section 907 of Public Law 95-625 (16 U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

- General Management Plan Amendment Scoping Session with the National Park Service, Denver Service Center and Southwest Region staff.
- Old Business
- New Business

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park and Preserve.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact M. Ann Belkov, Superintendent, Jean Lafitte National Historical Park and Preserve, U.S. Customs House, 423 Canal Street, Room 210, New Orleans, Louisiana 70130-2341, telephone 504/589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park and Preserve.

Dated: December 5, 1989

Richard W. Marks,

Acting Regional Director, Southwest Region.

[FR Doc. 89-29478 Filed 12-18-89; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 29, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by January 3, 1990.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Los Angeles County

Clark Estate, 10211 Pioneer Blvd., Santa Fe Springs, 89002267

Highland Park Masonic Temple, 104 N. Avenue 58, Los Angeles, 89002268

Monterey County

Porter—Vallejo Mansion, 29 Bishop St., Pajaro, 89002273

CONNECTICUT

New London County

Pequot Fort, Address Restricted, Groton vicinity, 89002294

GEORGIA

Gwinnett County

Hudson—Nash House and Cemetery, 3490 Five Forks Trickum Rd., Lilburn, 89002264

Habersham County

Glen-Ella Springs Hotel, SW of Tallulah Falls on Co. Rd. 218, Turnerville vicinity, 89002270

Hall County

Logan Building, 119 E. Washington St., Gainesville, 89002266

Thomas County

Melrose and Sinkola Plantations, SW of Thomasville on US 13, Thomasville vicinity, 89002275

IDAHO

Washington County

Jewell Building, 15 N. Superior, Cambridge, 89002283

MASSACHUSETTS

Middlesex County

Ashland Dam and Spillway (Water Supply System of Metropolitan Boston MPS), N

end of Ashland Reservoir in Ashland State Park, Ashland, 89002289

Central Square Historic District (Stoneham MRA), Roughly bounded by Main, Central, Church, Winter and Common Sts., Stoneham, 89002277

Framingham Reservoir No. 3 Dam and Gatehouse (Water Supply System of Metropolitan Boston MPS), SE end of Framingham Reservoir No. 3, off MA 9/30, Framingham, 89002261

Framingham Reservoir No. 2 Dam and Gatehouse (Water Supply System of Metropolitan Boston MPS), Between Framingham Reservoirs Nos. 1 and 2, W of jct. of Winter and Fountain Sts., Framingham, 89002290

Framingham Reservoir No. 1 Dam and Gatehouse (Water Supply System of Metropolitan Boston MPS), E end of Framingham Reservoirs No. 1, off Winter St. N of Long Ave., Framingham, 89002291

Hopkinton Dam and Spillway (Water Supply System of Metropolitan Boston MPS), E end of Hopkinton Reservoir in Hopkinton State Park, Ashland, 89002288

Kennedy, F. A., Steam Bakery, 129 Franklin St., Cambridge, 89002285

Lake Cochituate Dam (Water Supply System of Metropolitan Boston MPS), NW side of Lake Cochituate, Framingham, 89002250

Medford Pipe Bridge (Water Supply System of Metropolitan Boston MPS), Over the Mystic River, between S. Court St. and Mystic Ave., Medford, 89002253

Middlesex Fells Reservoirs Historic District (Water Supply System of Metropolitan Boston MPS), Roughly bounded by Pond St., Woodland Rd., I-93, and MA 28, Stoneham, 89002249

Mystic Dam (Water Supply System of Metropolitan Boston MPS), Between Lower and Upper Mystic Lakes, Winchester, 89002282

Mystic Gatehouse (Water Supply System of Metropolitan Boston MPS), E of Edgewater Pl. on SE end of Upper Mystic Lake, Winchester, 89002284

Mystic Pumping Station (Water Supply System of Metropolitan Boston MPS), Alewife Brook Pkwy., Somerville, 89002255

Sudbury Aqueduct Linear District (Water Supply System of Metropolitan Boston MPS), Along Sudbury Aqueduct from Farm Pond at Waverly St. to Chestnut Hill Reservoir, Framingham, 89002293

Sudbury Dam Historic District (Water Supply System of Metropolitan Boston MPS), SE and of Sudbury Reservoir off MA 30, Sudbury, 89002265

Weston Aqueduct Linear District (Water Supply System of Metropolitan Boston MPS), Along Weston Aqueduct from Sudbury Reservoir to Weston Reservoir, Weston, 89002274

Norfolk County

Fisher Hill Reservoir and Gatehouse (Water Supply System of Metropolitan Boston MPS), Fisher Rd. between Hyslop and Channing Rds., Brookline, 89002254

Forbes Hill Standpipe (Water Supply System of Metropolitan Boston MPS), Reservoir Rd., Quincy, 89002252

Suffolk County

Bellevue Standpipe (Water Supply System of Metropolitan Boston MPS), On Bellevue Hill at Washington St. and Roxbury Pkwy., Boston, 89002251

Chestnut Hill Reservoir Historic District (Water Supply System of Metropolitan Boston MPS), Beacon St. and Commonwealth Ave., Boston, 89002271

Worcester County

Marlborough Brook Filter Beds (Water Supply System of Metropolitan Boston MPS), Framingham Rd., Marlborough, 89002286

Quinepoxet River Bridge (Water Supply System of Metropolitan Boston MPS), Thomas St. over the Quinepoxet River at the Wachusett Reservoir, West Boylston, 89002292

Wachusett Aqueduct Linear District (Water Supply System of Metropolitan Boston MPS), Along Wachusett Aqueduct from Wachusett Reservoir to Sudbury Reservoir, Clinton, 89002276

Wachusett Dam Historic District (Water Supply System of Metropolitan Boston MPS), N end of Wachusett Reservoir at Lancaster Millpond, Clinton, 89002269

MISSOURI**Carter County**

Chubb Hollow Site, Address Restricted, Van Buren vicinity, 89002272

NEW JERSEY**Burlington County**

Moorestown Historic District, Roughly bounded by Maple Ave., Chestnut Ave., Main St. from Zelle Ave. to Locust St., and Mill St., Moorestown, 89002295

Wills, Jacob, House (Evesham Township MPS), Brick Rd., W of Evans Rd., Marlton, 89002296

NEW YORK**New York County**

Residences at 5-15 West 54th Street, 5-15 W. 54th St., New York, 89002260

Queens County

La Casina, 90-33 160th St., New York, 89002259

NORTH CAROLINA**Jackson County**

Webster Rock School, Main St., Webster, 89002262

PENNSYLVANIA**Bradford County**

Methodist Episcopal Church of Burlington, US 6 at Township Rd. 357, West Burlington, 89002280

Chester County

West Chester Boarding School for Boys, 200 E. Biddle St., West Chester, 89002257

Dauphin County

Old Uptown Harrisburg Historic District, Roughly bounded by McClay, N. Third, Reilly, N. Second, and Calder, Harrisburg, 89002297

Erie County

Dickson Tavern, 201 French St., Erie, 89002256

Lancaster County

Windsor Forge Mansion, Windsor Rd. S of Bootjack Rd., Churchtown vicinity, 89002283

Monroe County

Academy Hill Historic District, Roughly bounded by Sarah, 8th, Fulmer and 5th Sts., Stroudsburg, 89002258

Montgomery County

Miller's House at Spring Hill, North Ln. and Hector St., Conshohocken, 89002281

Washington County

US Post Office—Charleroi, 638 Fallowfield Ave., Charleroi, 89002287

TEXAS**Schleicher County**

Mittel Site, Address Restricted, Eldorado vicinity, 89002278

Terrell County

Wroe Ranch Shelter No. 1, Address Restricted, Sheffield vicinity, 89002279

[FR Doc. 89-29479 Filed 12-18-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 486]

Railroad Cost of Capital; 1989

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 1989 cost of capital.

SUMMARY: The Commission is instituting a proceeding to determine the railroad industry's cost of capital rate for 1989. The decision solicits comments on: (1) The railroads' 1989 (i.e., current) cost of debt capital; (2) the railroads' 1989 (i.e., current) cost of preferred stock equity capital; (3) the railroads' 1989 cost of common stock equity capital; (4) the 1989 capital structure mix of the railroad industry on a market value basis. With respect to the cost of common equity capital, the decision seeks the use of Institutional Brokers Estimate System (IBES) data to estimate the growth rate component of the discounted cash flow methodology.

DATES: Notices of intent to participate are due December 29, 1989. Statements of railroads are due February 9, 1990. Statements of other interested parties are due March 9, 1990. Rebuttal statements by railroads are due March 23, 1990.

ADDRESS: Send an original and 15 copies of statements and an original and 1 copy of the notice of intent to participate to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Interstate Commerce Commission, Room 2215, Washington, DC 20423. Telephone: (202) 275-7428. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

This action will not significantly affect either the quality of the human environment or energy conservation. Nor will it have a significant economic impact on a substantial number of small entities.

Authority: 49 U.S.C. 10704(a).

Decided: December 11, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 89-29447 Filed 12-18-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 90X)]

**Missouri Pacific Railroad Co.;
Abandonment Exemption of Railroad
Line in Muskogee County, OK**

Applicant has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon its 2.7-mile line of railroad between mileposts 97.5 and 100.2, near Muskogee, Muskogee County, OK.

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 abandonment shall be protected under "Oregon Short Line R. Co.—

Abandonment—Goshen," 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on January 19, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by January 2, 1990.³ Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by January 9, 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: Joseph D. Anthofer, Missouri Pacific Railroad Company, Room 830, 1416 Dodge Street, Omaha, NE 68179.

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 abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by December 22, 1989. 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, public use, or trail use/rail banking conditions will be

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 exemption. See "Exemption of Out-of-Service Rail Lines," 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged 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).

³ The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

imposed, where appropriate, in a subsequent decision.

Decided: December 14, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-29448 Filed 12-18-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 5, 1989, a proposed Consent Decree in *United States v. James River Paper Company, Inc.*, Civil Action No. 89-30080-F was lodged with the United States District Court for the District of Massachusetts. The proposed Consent Decree requires the Defendant to pay a civil penalty of \$25,000 for a single violation of Section 311 of the Clean Water Act, 33 U.S.C. 1321, and to construct certain facilities to ensure that spills do not occur in the future.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. James River Paper Company, Inc.*, D.J. Ref. No. 90-5-1-1-3339.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Massachusetts, 1550 Main Street, Springfield, Massachusetts, 01103, Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts, 02203, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of \$.80 (10 cents per page reproduction charge)

payable to the Treasurer of the United States.

Richard B. Stewart,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-29462 Filed 12-18-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/

PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503, Telephone (202) 395-6880.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Department of Labor, Bureau of Labor Statistics
Labor Force Questionnaire—Versions A, B and C

CPS Versions A, B and C and Debriefing questions

Monthly
Individuals or households

11,637 "respondents" (each household responds for 4 consecutive months); 11 minutes per response; 8,534 total hours per year; 4 forms.

This test will provide information needed to evaluate the alternative questionnaires and to identify their major effects on labor market estimates. Based on analysis of this information, a single alternative version will be developed, tested, and, if successful, introduced as the new labor force questionnaire.

Revision

Bureau of Labor Statistics
Producer Price Indexes, by Industry
1220-0008; BLS 473P, BLS 1810A, B, C, E, and A-F

Form No.	Affected public	Respondents	Frequency	Average time per response
BLS 1810A, B, C, E, and A-F.	Businesses or other for-profit; Federal agencies or employees; and small businesses or organizations.	3,778	One time only.....	2 hours.
BLS 473P.....	Businesses or other for-profit; Federal agencies or employees; and small businesses or organizations.	20,099	Monthly.....	18 minutes.

290,732 total hours.

The Producer Price Index, which is one of the Nation's leading economic indicators, is used as a measure of price movements, indicator of inflationary trends in the economy, inventory valuation measure for some organizations, and measure of purchasing power of the dollar at the primary market level. It is also used in market research and as a basis for escalation in long-term contracts.

Extension

Employment Standards Administration
Black Lung Program Provider Enrollment
Form 1215-0137; CM-1168
On occasion.

Businesses or other for-profit; small businesses or organizations—3,000 respondents; 350 total hours; 7 minutes per response; 1 form.

The CM-1168 request profile information on providers to afford both timely reimbursement for medical services provided to Black Lung claimants and a list of active providers for miner referral.

Application for Federal Certificate of Age
1215-0083; WH-14
On occasion.

Individuals or households; State or local governments; farms; businesses or other for-profit; non-profit institutions; small businesses or organizations.

2,100 respondents; 368 total hours; 10 minutes per response; 1 form.

Section 3(l) of the Fair Labor Standards Act (FLSA) provides that an employer may protect against unwitting employment of oppressive child labor by obtaining a certificate of age certifying that a youth meets the FLSA minimum age requirements. Form WH-14 is an application for a Federal Certificate of Age.

Employer's Report of Injury or Occupational Illness; Physicians Report on Impairment of Vision; Employer's Supplementary Report of Accident or Occupational Illness: 1215-0031; LS-202; LS-205; LS-210.

Form No.	Affected public	Respondents	Frequency	Average time per response
LS-202	Individuals and households; businesses or other for-profit; small businesses or organizations.	41,000	On occasion.....	15.0733
LS-205 .....	...do.....	110	On occasion.....	15.0733
LS-210 .....	...do.....	4,300	On occasion.....	15.0733

11,408 total hours.

Forms are used to report injuries, period of disability, and medical treatment under the Longshore and Harbor Worker's Compensation Act.

Signed at Washington, DC this 14th day of December, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89-29459 Filed 12-18-89; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-23,139]

Delta Apparel, Inc., Knoxville, TN; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 13, 1989 applicable to all workers of Delta Apparel, Inc., Knoxville, Tennessee. The notice was published in the Federal Register on October 3, 1989 (54 FR 40755).

Based on new information from the company, additional workers are being retained for close down operations beyond the September 12, 1989 termination date. The intent of the certification is to cover all workers of Delta Apparel, Knoxville, Tennessee. The amended notices applicable to TA-W-23,139 is hereby issued as follows:

All workers and former workers at Delta Apparel, Inc., Knoxville, Tennessee who became totally or partially separated from employment on or after June 29, 1989 and before January 15, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of December 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services.

[FR Doc. 89-29457 Filed 12-18-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,499, et al.]

Pathfinder Mines Corp.; Riverton, Wyoming, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 18, 1989, applicable to all workers of Pathfinder Mines, Riverton, Wyoming, and St. George, Utah. The notice was published in the Federal Register on May 23, 1989 (54 FR 22381).

On July 21, 1989, the Certification was amended to include workers at the San Francisco, California, corporate office. That notice was published in the Federal Register on August 2, 1989 (54 FR 31901).

Based on new information from the company some worker separations will occur in the State of Arizona by the end of the year. The amended notice applicable to TA-W-22,499 and TA-W-22,500 is hereby issued as follows:

All workers of Pathfinder Mines Corporation's corporate office in San Francisco, California (TA-W-22, 499A) who became totally or partially separated from employment on or after January 27, 1988, and before November 30, 1988, and all workers of the Riverton, Wyoming office (TA-W-22, 499), St. George, Utah office (TA-W-22, 500) and all locations in the State of Arizona (TA-W-22,500A) who became totally or partially separated from employment on after January 27, 1988, are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of December 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-29456 Filed 12-18-89; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-85]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on Technology Requirements for Human Performance on Long Space Missions.

DATES: January 11, 1990, 9 a.m. to 5 p.m., and January 12, 1990, 8 a.m. to 2 p.m.

ADDRESSES: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Building 1, Room 928, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. James P. Jenkins, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2750.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance to the Office of Aeronautics and Space Technology (OAST) on space systems and technology programs. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Technology Requirements for Human Performance on Long Space Missions, chaired by Dr. Gerald P. Carr, is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including the team members and other participants). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open.

AGENDA: January 11, 1990

9 a.m.—Review of Human Performance Research.

1 p.m.—Demonstration of Technology.

5 p.m.—Adjourn.

January 12, 1990

8 a.m.—Review the Results of Exploration Task Force.

10 a.m.—Group Discussion.

2 p.m.—Adjourn.

Dated: December 14, 1989.

John W. Gaff,
Advisory Committee Management Officer,
National Aeronautics and Space
Administration.

[FR Doc. 89-29464 Filed 12-18-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meetings

AGENCY: National Commission on
Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the
Federal Advisory Committee Act, Public
Law 92-463 as amended, the National
Commission on Acquired Immune
Deficiency Syndrome announces a
forthcoming meeting of the Commission.

Date and Time: January 25, 1990, 9:00
a.m.-5:00 p.m.; January 26, 1990, 7:30
a.m.-8:00 p.m.

Place: Hollywood Roosevelt Hotel,
7000 Hollywood Boulevard, Hollywood,
California 90028.

Type of Meeting: Open.

FOR FURTHER INFORMATION CONTACT:
Maureen Byrnes, Executive Director, the
National Commission on Acquired
Immune Deficiency Syndrome, 1730 K
Street NW., Suite 815, Washington, DC
20006 (202/254-5125).

Agenda: On January 25, 1990 the
Commission will hear testimony
regarding the regional aspects of the
HIV epidemic.

On January 26, 1990 the Commission
will make a series of site visits in the
Los Angeles area.

Maureen Byrnes,
Executive Director.

[FR Doc. 89-29421 Filed 12-18-89; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting; Arts in Education Advisory Panel

Pursuant to section 10(a)(2) of the
Federal Advisory Committee Act (Pub.
L. 92-463), as amended, notice is hereby
given that a meeting of the Arts in
Education Advisory Panel (Overview
Section) to the National Council on the
Arts will be held on January 4, 1990,
from 9 a.m.-5 p.m. and on January 5,
from 9 a.m.-3 p.m. in Room M07 at the
Nancy Hanks Center, 1100 Pennsylvania
Avenue NW., Washington, DC 20506.

This meeting will be open to the
public on a space available basis. The

topics for discussion will be update on
program initiatives and major issues and
FY 91 guidelines.

If you need special accommodations
due to a disability, please contact the
Office of Special Constituencies,
National Endowment for the Arts, 1100
Pennsylvania Avenue NW., Washington,
DC 20506, 202/682-5532, TTY 202/682-
5496, at least seven (7) days prior to the
meeting.

Further information with reference to
this meeting can be obtained from Ms.
Yvonne M. Sabine, Advisory Committee
Management Officer, National
Endowment for the Arts, Washington,
DC 20506, or call (202) 682-5433.

Dated: December 13, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 89-29463 Filed 12-18-89; 8:45 am]

BILLING CODE 7537-01-M

Meeting; Office of Public Partnership Panel

Pursuant to section 10(a)(2) of the
Federal Advisory Committee Act (Pub.
L. 92-463), as amended, notice is hereby
given that a meeting of the Office of
Public Partnership Panel (States
Program Section) to the National
Council on the Arts will be held on
January 17-18, 1990 from 9 a.m.-5:30 p.m.
and on January 19 from 9 a.m.-12:30 p.m.
in Room 730 of the Nancy Hanks Center,
1100 Pennsylvania Avenue NW.,
Washington, DC 20506.

This meeting will be open to the
public on a space available basis. The
topics for discussions will be grant
applications, revised application format,
planning session: "Toward a Leadership
Agenda for the States Program," and
discussion of the site visit program.

If you need special accommodations
due to a disability, please contact the
Office for Special Constituencies,
National Endowment for the Arts, 1100
Pennsylvania Avenue NW., Washington,
DC 20506, 202/683-5532, TTY 202/682-
5496 at least seven (7) days prior to the
meeting.

Further information with reference to
this meeting can be obtained from Ms.
Yvonne M. Sabine, Advisory Committee
Management Officer, National
Endowment for the Arts, Washington,
DC 20506, or call 202/682-5433.

Dated: December 13, 1989.

Yvonne M. Sabine,
Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 89-29464 Filed 12-18-89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Northeast Nuclear Energy Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory
Commission (Commission) has issued
Amendment No. 41 to Facility Operating
License No. DPR-21, issued to Northeast
Nuclear Energy Company (the licensee).
The amendment revises the Technical
Specifications for operation of Millstone
Nuclear Power Station, Unit No. 1,
located in New London County,
Connecticut. The amendment is effective
as of the date of issuance, to be
implemented within 30 days of issuance.

The amendment revises the Technical
Specifications by changing the setpoints
for turbine stop valve closure scram
bypass, the turbine control valve fast
closure scram bypass and the APRM
flux scram setting to 50% of rated
reactor thermal power.

The application for the amendment
complies with the standards and
requirements of the Atomic Energy Act
of 1954, as amended (the Act), and the
Commission's rules and regulations. The
Commission has made appropriate
findings as required by the Act and the
Commission's rules and regulations in 10
CFR Chapter I, which are set forth in the
license amendment.

Notice of Consideration of Issuance of
Amendment and Opportunity for
Hearing in connection with this action
was published in the *Federal Register* on
March 31, 1988 (53 FR 10451). No request
for a hearing or petition for leave to
intervene was filed following this notice.

The staff has prepared an
Environmental Assessment related to
the action and has determined not to
prepare an environmental impact
statement. Based upon the
environmental assessment, the staff has
concluded that the issuance of the
amendment will not have a significant
effect on the quality of the human
environment.

For further details with respect to the
action, see (1) the application for
amendment dated August 17, 1987, (2)
Amendment No. to License No. DPR-21
(3) the staff's related Safety Evaluation
and, (4) the staff's Environmental
Assessment published on December 6,
1989 (54 FR 50460). All of these items are
available for public inspection at the
Commission's Public Document Room,
the Gelman Building, 2120 L Street NW.,
Washington, DC, and the Waterford
Public Library, 49 Rope Ferry Road,
Waterford, Connecticut 06385. A copy of

items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—I/II.

Dated at Rockville, Maryland this 12th day of December 1989.

For the Nuclear Regulatory Commission,
Michael L. Boyle,
Project Manager, Project Directorate I-4,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.

[FR Doc. 89-29441 Filed 12-18-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Containment Systems; Meeting

The Subcommittee on Containment Systems will hold a meeting on January 10, 1990, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 10, 1990—8:30 a.m. until 12:00 Noon.

The Subcommittee will discuss the NRC staff's document on Containment Performance Improvements (CPI) Program (all containment types other than the BWR Mark I).

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. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: December 11, 1989.

Gary R. Quittschreiber,
Chief, Project Review Branch No. 2.

[FR Doc. 89-29439 Filed 12-18-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policies and Practices; Meeting

The Subcommittee on Regulatory Policies and Practices will hold a meeting on January 10, 1990, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 10, 1990—1:00 p.m. until the conclusion of business.

The Subcommittee will review the approach being suggested by the NRC staff for license renewal along with the staff's proposed resolution of industry's comments on the suggested approach obtained at a November workshop on license renewal.

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 and the industry, 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. Gary Quittschreiber (telephone 301/492-9518) 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: December 12, 1989.

Raymond F. Fraley,
Executive Director.

[FR Doc. 89-29440 Filed 12-18-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

List of Articles Eligible for Duty-Free Treatment under the U.S. Generalized System of Preferences (GSP), USITC Report Availability and Deadline for Petitions in Special GSP Review for Countries in the Andean Region

As indicated in a previous notice of August 10, 1989 (54 FR 32891), the GSP Subcommittee of the Trade Policy Staff Committee hereby notifies interested parties of the opportunity to comment on the public version of the U.S. International Trade Commission (USITC) report assessing the domestic economic impact of proposed changes in the list of eligible items under the 1989 Annual Review of the Generalized System of Preferences. The report is available from the USITC by calling Cindy Payne at the Office of Industries at (202) 252-1454. The USITC is located at 500 E Street, SW., Washington, DC. The report is also available for review by appointment at the USTR Public Reading Room (101), in Washington, DC. Appointments may be scheduled by calling (202) 395-6186.

All comments concerning the USITC report should be submitted in 20 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, Room 517, 600 17th Street, NW., Washington, DC 20506. Comments must be received no later than 5 p.m. Wednesday, January 10, 1990.

Information submitted will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant

to 15 CFR 200.7. If the document contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "nonconfidential").

As indicated in a previous notice of November 14, 1989, (54 FR 47433), the GSP Subcommittee invited requests from the governments of Bolivia, Colombia, Ecuador and Peru to add products to the lists of articles eligible for duty free treatment under the GSP. This notice revises the deadline for the submission of petitions by the four governments. Petitions are now due by 5 p.m. January 16, 1990 at the Office of the Trade Representative, Room 517, 600 17th Street, NW., Washington, DC. All petitions must conform with regulations codified in 15 CFR part 2007, and with the other requirements specified in the above cited Federal Register notice.

Questions concerning the comment period, Special Andean Review, or any other aspect of the GSP program may be directed to the USTR GSP Information Center at (202) 395-6971.

Daniel F. Leahy, Jr.,
Acting Chairman, Trade Policy Staff
Committee.

[FR Doc. 89-29569 Filed 12-18-89; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27527; File No. SR-NASD-89-34]

Self-Regulatory Organizations; National Association of Securities Dealers; Order Approving Proposed Rule Change Relating to Buy-In Procedures

The National Association of Securities Dealers ("NASD"), on July 18, 1989, filed a proposed rule change with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ As discussed below, the proposal provides for the automation of NASD's buy-in procedures.² Notice of

the proposal was published in the Federal Register on August 22, 1989 to solicit comment from interested persons.³ On November 3, 1989, NASD amended the proposal.⁴ No comments were received. This order approves the proposal.

I. Description

The proposal would amend section 59 (captioned "Close Out Procedure—Buying In") of the NASD's Uniform Practice Code ("Code").⁵ The proposed amendment would modify the requirements for NASD members' handling of buy-ins in order to: (1) describe the existing manual buy-in procedures (*i.e.*, procedures involving hard copy and physical delivery) with greater precision; and (2) authorize the use of electronic communication techniques for buy-ins by expressly permitting electronic buy-in notices through media that provide immediate return for receipt capability, including, but not limited to, such facilities as facsimile transmission and computerized networks.⁶ The proposal

deliver securities as promised. The non-defaulting broker must buy-in the securities to meet its own obligations, and liability for resulting losses may be imposed on the defaulting broker. The opposite of a buy-in is a "sell-out," where a broker may dispose of securities if another broker defaults by refusing to accept delivery as promised. *See*, M. Thompson, *Investment & Securities Dictionary*, 38, 257 (1988); D. Scott, *Wall Street Words*, 42 (1988).

All securities markets have such buy-in procedures. *See, e.g.*, New York Stock Exchange Rule 204; American Stock Exchange Rule 971.

¹ *See* Securities Exchange Act Release No. 27142 (August 15, 1989), 54 FR 34844.

² The amendment, in essence, deleted certain estimates by NASD about prospective actions by another self-regulatory organization ("SRO") and the availability of a new electronic system developed by that SRO.

³ Section 59 currently provides that: "A contract which has not been completed by the seller according to its terms may be closed by the buyer not sooner than the third business day following the date delivery was due. . . ." This general provision would remain unchanged by the proposal.

This proposal, NASD states, has the general objective of automating buy-in procedures. It is not directed at (1) short sales; or (2) sell-outs, which are covered by Section 60 of the Code. Telephone conversation between Dorothy Kennedy, Manager, Uniform Practice Department, NASD, and Thomas C. Etter, Attorney, SEC (November 29, 1989).

⁴ NASD, at the current time, contemplates the transmission of buy-in communications by facsimile (fax) machines; but NASD expects that within a year at least one existing computerized network will have software capable of transmitting buy-in communications. Telephone conversation between Thomas M. Haberle, Special Counsel, NASD, and Thomas C. Etter, Attorney, SEC (November 13, 1989).

also includes numerous changes of a conforming and technical nature.⁷

Under the proposal, a broker-dealer intending to effect a buy-in would be required to notice to the selling broker-dealer (*i.e.*, the broker-dealer against whom the security would be bought-in) the following information concerning the contract to be closed: (1) Security issue, (2) quantity of units, (3) contract price, (4) execution date, (5) settlement date, and (6) such other information as necessary to identify the contract. Such notice must advise the selling broker-dealer that unless the selling broker-dealer effects delivery on or before a certain specified date and time, the security may be bought-in on the specified date and time for the account of the seller.⁸ The noticing party also must provide the name and telephone number of an individual authorized to pursue further discussions concerning the prospective buy-in. Under the proposal, such a pre-buy-in notice may be in electronic or manual form.

Under the proposal, the party executing a buy-in, immediately upon its execution but, in any case, no later than the close of business, local time where the seller maintains his office, must notify the broker-dealer for whose account the securities were bought as to the quantity purchased and the price paid. Under the proposal, such post-buy-in notice also may be in electronic or manual form.

II. Rationale

The NASD states that the proposed rule change reflects modern electronic methods of communication and the need to modify obsolete Code provisions in accord with the best interests of the securities industry. NASD states that the proposal emanated from a major review of the Code, which NASD began in September 1987, and which involved an effort by NASD to bring key provisions of the Code (such as section 59) into conformity with current industry standards and practices. NASD further states that the proposal is consistent

⁷ The proposal would allow both manual and automated buy-in procedures to exist side-by-side under the Code. While, presumably, the use of traditional buy-in procedures would decline due to their comparative inefficiency, this proposal would not specifically abolish them or limit their use. Telephone conversation between Therese M. Haberle, Special Counsel, NASD, and Thomas C. Etter, Attorney, SEC (November 9, 1989).

⁸ The proposal states that: (1) the specified buy-in time may not be prior to 11:30 a.m. local time in the community where the buyer maintains its office; and (2) if the originator of a buy-in, in a depository eligible security, is a participant in a registered securities depository, the buy-in may not be executed prior to 2:30 p.m., Eastern Time.

¹ 15 U.S.C. Sec. 78s(b) (1982).

² The term "buy-in procedures," in this context, refers to the procedures that one broker must follow when another broker (the defaulting broker) fails to

with the Act, particularly section 15A(b)(6) of the Act.

III. Discussion

The Commission believes that the proposal is consistent with the Act. The NASD's treatment of buy-in procedures is an important aspect of its procedures for the clearing and settlement of securities transactions.

Section 17A(a)(1) of the Act finds that inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions on behalf of investors and that the use of automated systems would create the opportunity for financially safer and operationally more efficient clearance and settlement procedures. Additionally, section 15A(b)(6) of the Act mandates that the rules of a national securities association [i.e., the NASD] be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in, securities.

The Commission believes that the proposed modifications to section 59 of the Code will improve the safety and efficiency of the clearance and settlement of securities transactions by: (1) Defining more accurately the procedures that broker-dealers must follow in their handling of buy-ins; and (2) more significantly, providing for the electronic transmission of buy-in communications. The Commission notes that, under existing practices, delivery of a written hard copy buy-in notice is required, which means broker-dealers must use runners to hand deliver them or use the mails. Allowing the replacement of such antiquated, hand delivery procedures by the use of modern, electronic systems will permit reduced labor expenses, improved security, and quicker turnaround times for processing buy-ins. Accordingly, the Commission believes that the proposal warrants approval.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act, particularly sections 15A(b)(6) and 17A(a) of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change [File No. SR-NASD-89-34] be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Dated: December 11, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-29453 Filed 12-18-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1145]

Conservation Measures for Antarctic Fishing Under the Auspices of the Commission for the Conservation of Antarctic Marine Living Resources

AGENCY: Bureau of Oceans and International Environmental and Scientific Affairs, State.

ACTION: Notice.

SUMMARY: At its Eighth Annual Meeting in Hobart, Tasmania, November 6-17 1989, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), of which the United States is a member, adopted the conservation measures and resolutions listed below, pending countries' approval, pertaining to fishing in the CCAMLR Convention Area in Antarctic waters. These were agreed upon in accordance with article IX, paragraph 6(A) of the Convention for the Conservation of Antarctic Marine Living Resources. The measures restrict overall catches of certain species of fish, prohibit the taking of certain species of fish, list the fishing seasons, and define reporting requirements.

DATE: Persons wishing to comment on the measures or desiring more information should contact within 30 days.

FOR FURTHER INFORMATION CONTACT: R. Tucker Scully, Director, Office of Marine Science and Polar Affairs (OES/OSP), Room 5801, Department of State, Washington, DC 20520, (202) 647-3262.

SUPPLEMENTARY INFORMATION:

Conservation Measures Adopted at the Eighth Meeting of CCAMLR

In accordance with article IX6(a) of the Convention for the Conservation of Antarctic Marine Living Resources members are hereby notified of the following five Conservation Measures and two Resolutions adopted at the Eighth Meeting of CCAMLR. These five Conservation Measures were adopted in

accordance with Conservation Measure 7/V and therefore enter into force immediately.

Conservation Measure 13/VII

Limitation of the Total Catch of Champsocephalus gunnari in Statistical Subarea 48.3 in the 1989/90 Season.

The Commission, in accordance with Conservation Measure 7/V, hereby adopts the following Conservation Measure in accordance with article IX of the Convention:

1. The total catch of Champsocephalus gunnari in the 1989/90 season shall not exceed 8,000 tonnes in Statistical Subarea 48.3.

2. The by-catch of any of the following species: *Notothenia rossii*, *Notothenia gibberifrons*, *Chaenocephalus aceratus* and *Pseudochaenichthys georgianus* in Statistical Subarea 48.3 shall not exceed 400 tonnes.

3. The fishery in Statistical Subarea 48.3 shall close if the by-catch of any of the species named in paragraph 2 above reaches 300 tonnes or if the total catch of Champsocephalus gunnari reaches 8,000 tonnes, whichever comes first.

4. If, in the course of the directed fishery for Champsocephalus gunnari, the by-catch of any one haul of any species names in paragraph 2 above exceeds 5%, the fishing vessel shall move to another fishing ground within the subarea.

5. The use of bottom trawls in the directed fishery for Champsocephalus gunnari in Statistical Subarea 48.3 is prohibited.

6. For the purpose of implementing paragraphs 1, 2 and 3 of this Conservation Measure, the Catch Reporting System set out in Conservation Measure 17/VIII shall apply in the 1989/90 season.

Conservation Measure 14/VIII

Prohibited of Directed Fishery on *Notothenia gibberifrons*, *Chaenocephalus aceratus*, *Pseudochaenichthys georgianus* and *Notothenia squamifrons* in Statistical Subarea 48.3 in the 1989/90 season.

The Commission, in accordance with Conservation Measure 7/V, hereby adopts the following Conservation Measure in accordance with article IX of the Convention:

Directed fishing on *Notothenia gibberifrons*, *Chaenocephalus aceratus*, *Pseudochaenichthys georgianus* and *Notothenia squamifrons* in Statistical Subarea 48.3 is prohibited in the 1989/90 season.

⁹ See 17 CFR 200.30-3(a)(12).

Conservation Measure 15/VIII

Closed Seasons in the 1989/90 Season in Statistical Subarea 48.3.

The Commission, in accordance with Conservation Measure 7/V, hereby adopts the following Conservation Measure in accordance with article IX of the Convention:

Directed fishing in *Champsoccephalus gunnari* between 20 November 1989 and 15 January 1990 and between 1 April and 4 November 1990 is prohibited. During those periods *Champsoccephalus gunnari*, *Notothenia rossii*, *Notothenia gibberifrons*, *Chaenocephalus aceratus*, *Pseudochanenichthys georgianus* and *Notothenia squamifrons* shall not be taken in Statistical Subarea 48.3 except for scientific research purposes.

Conservation Measure 16/VIII

Catch Limit on *Patagonotothen brevicauda guntheri* in Statistical Subarea 48.3 for the 1989/90 Season.

The Commission, in accordance with Conservation Measure 7/V, hereby adopts the following Conservation Measure in accordance with article XI of the Convention:

The catch of *Patagonotothen brevicauda guntheri* in Statistical Subarea 48.3 in the 1989/90 season shall be limited to 12,000 tonnes. For the purpose of implementing this Conservation Measure the Catch Reporting System set out in Conservation Measure 17/VIII shall apply in the 1989/90 season.

Conservation Measure 17/VIII

Catch Reporting System in Statistical Subarea 48.3 in the 1989/90 Season.

The Commission, in accordance with Conservation Measure 7/V, hereby adopts the following Conservation Measure in accordance with article IX of the Convention:

1. For the purposes of this Catch Reporting System the calendar month shall be divided into six reporting periods, viz: day 1 to day 5, day 6 to day 10, day 11 to day 15, day 16 to day 20, day 21 to day 25 and day 26 to the last day of the month. These reporting periods are hereinafter referred to as periods, A, B, C, D, E, and F.

2. At the end of each reporting period, each Contracting Party shall obtain from each of its vessels its total catch for that period and shall, by cable or telex, transmit the aggregated catch for its vessels so as to reach the Executive Secretary not later than the end of the next reporting period.

3. Such reports shall specify the month and reporting period (A, B, C, D, E, or F) to which each report refers.

4. Immediately after the deadline has passed for receipt of the reports for each

period, the Executive Secretary shall notify all Contracting Parties of the total catch taken during the reporting period, the total aggregate catch for the season to that date, together with an estimate of the date upon which the total allowable catch is likely to be reached for that season. Each estimate shall be based on a projection forward of the average daily catch rate (calculated as the total catch by all contracting parties divided by the number of days in the period) for the most recent period based on the reports received for the period in question, to the point at which the total allowable catch will have been taken.

5. When the Executive Secretary has received reports which show that 90% of the total allowable catch has been taken, the Executive Secretary shall make a final estimate of the date upon which the total allowable catch will be reached. The fishery shall close at the end of the last day of the reporting period within which that date falls.

Resolution 5/VIII

Protection of Seabirds from Incidental Mortality Arising from Longline Fishing.

The Commission took note of the recent introduction of longline fishing in the CCAMLR Convention Area. It expressed its concern that fishing with this technique could cause substantial incidental mortality of seabirds.

In this connection the Commission:

(a) Takes note of the intention of the Soviet Union not to increase, by more than one or two vessels, the number of its vessels engaged in longline fishing on *Dissostichus eleginoides* in Subarea 48.3 in the 1989/90 season;

(b) Recalls that techniques have been developed and are being used on a trial basis in other longline fisheries, such as in the tuna longline fishery in the South West Pacific, to minimize incidental mortality of seabirds; and

(c) Urges all parties to the Convention conducting longline fishing in the CCAMLR Convention Area to investigate and introduce as soon as possible methods to minimize incidental mortality to seabirds arising from the use of longline fishing techniques.

Resolution 6/VIII

Protection of *Notothenia gibberifrons* in the Peninsula Area (Statistical Subarea 48.1) and Around South Orkneys (Statistical Subarea 48.2).

The Commission recognized that it was important that fishing mortality in *Notothenia gibberifrons* should, as a precautionary measure, be minimized. To this end the Commission requests all parties to the Convention to keep the catch of *Notothenia gibberifrons* in the Peninsula Area (Statistical Subarea

48.1), and around South Orkneys, (Statistical Subarea 48.2), in the season 1989/90 to the lowest possible level.

To this end the Commission requests all parties to the Convention in the 1989/90 season:

(a) To refrain from directed fishing for *Notothenia gibberifrons*; and

(b) To ensure that by-catch of *Notothenia gibberifrons* in directed fishing for other species be avoided.

Other Conservation Measures in Force

At the Eighth Meeting of CCAMLR, the Commission agreed that Conservation Measures 2/III, 3/IV, 4/V, 5/V, 6/V and 7/V should remain in force.

Conservation Measure 11/VII and 12/VII expired on 20 November 1989 and the Commission agreed that Conservation Measure 1/III is no longer in force.

Conservation Measure 9/VI, the catch reporting system for *Champsoccephalus gunnari* in statistical subarea 48.3, is superseded by Conservation Measure 17/VIII for the 1989/90 fishing season.

Catch Reporting

In accordance with Conservation Measures 13/VIII and 16/VIII the five day catch reporting system set out in Conservation Measure 17/VIII becomes effective for the *Patagonotothen brevicauda guntheri* fishery in subarea 48.3 immediately. All catches of this species should be reported to the Executive Secretary in accordance with the deadlines set out in Conservative Measure 17/VIII.

Because of the closed season set out in Conservation Measure 15/VIII, the first fishing period for the fishery directed on *Champsoccephalus gunnari* subarea 48.3, within the five day reporting system detailed in 17/VIII, will be the five days 16-20 January 1990. This will be reporting period D in January. The deadline for reporting catches in this first period will thus be Thursday 25 January 1990.

Dated: December 8, 1989.

Frederick M. Bernthal,

Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 89-29422 Filed 12-18-89; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION**Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended December 8, 1989**

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.) The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46643.

Date filed: December 5, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 2, 1990.

Description: Application of Fine Airlines, Inc. pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing interstate and overseas scheduled air transportation of property and mail between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia.

Docket Number: 46645.

Date filed: December 5, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 2, 1990.

Description: Application of Fine Airlines, Inc. pursuant to Section 401(d) (1) and (3) of the Act and subpart Q of the Regulations, for a certificate of public convenience and necessity authorizing foreign scheduled air transportation of property and mail between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any point outside thereof.

Docket Number: 46648.

Date filed: December 6, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 3, 1990.

Description: Application of Dairo Air Services Ltd., pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air

carrier permit to authorize it to engage in foreign air transport of cargo and mail from points in the United States and points Worldwide and vice versa.

Docket Number: 46652.

Date filed: December 8, 1989.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 5, 1990.

Description: Application of Zuliana de Aviacion C.A., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit authorizing the carriage of property and mail on a non-scheduled basis between a point or points in Venezuela and the coterminal points Miami/Houston/San Juan/New York.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 89-29376 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary**President's Commission on Aviation Security and Terrorism; Closed Meeting**

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of closed meeting of the President's Commission on Aviation Security and Terrorism.

SUMMARY: As previously announced, the Commission will be holding its second public hearing. Before this hearing the Commission will meet in closed session to discuss matters relating to Commission organization, personnel and related matters.

DATE: Monday, December 18, 1989, 9:15 a.m., et.

ADDRESS: Reserve Officers Association Executive Library, Fourth Floor, One Constitution Avenue NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Harry R. Van Cleve, Commission on Aviation Security and Terrorism, 1825 K Street NW., Suite 519, Washington, DC 20036; telephone (202) 254-3166; FAX (202) 254-3359.

SUPPLEMENTARY INFORMATION: Prior notice of the public portion of the Commission's hearing has already been provided. (November 28, 1989; 54 FR 48971). In accordance with section 10 of the Federal Advisory Committee Act, the executive session before the public hearing will be closed to the public because matters will be discussed that come within the following provisions of 5 USC 552(b)(c): (1) Internal personnel rules and practices of the Commission, and (2) matters exempt from mandatory

disclosure by statute, namely section 316, Federal Aviation Act of 1958, as amended.

Issued in Washington, DC, on December 12, 1989.

Harry R. Van Cleve,

Commission General Counsel.

[FR Doc. 89-29375 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 88-096]

Alternatives for Licensing Commercial Fishing Industry Vessel Operators

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Commercial Fishing Industry Vessel Safety Act (PL 100-424) requires the USCG to submit to Congress a plan for licensing operators of documented fishing, fish processing, and fish tender vessels. This effort is directed solely toward the commercial fishermen, not the vessels upon which they serve. The Coast Guard invites the public to identify and develop alternatives for licensing persons aboard these vessels. The Coast Guard seeks comments regarding vessel size, crew size, geographic region, fishery, and any other relevant vessel operating criteria that may form the basis for requiring or not requiring a license. Comments are also requested concerning the existing license options in Title 46 Code of Federal Regulations, part 10, for fishing vessel operators.

DATES: Comments should be submitted by January 18, 1990.

ADDRESSES: Written comments may be mailed to Commandant (G-MVP-3), U.S. Coast Guard, 2100 Second Street, SW., Room 1210, Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT:

LCDR Bruce Pickard, Project Manager, Office of Marine Safety, Security and Environmental Protection, (G-MVP), phone (202) 267-0219.

SUPPLEMENTARY INFORMATION:

Currently, the Coast Guard enforces no personnel license requirements for persons operating fishing vessels, fish processing vessels, or fish tender vessels of less than 200 gross tons. This situation is largely attributed to the Officer's Competency Act which exempts vessels of less than 200 gross tons. Present operator qualifications as to professional competency, experience, age, training, etc., are solely a matter of vessel owner or vessel manager hiring practices. Hiring practices and

standards vary greatly between geographic regions and between fisheries. Some commercial fishermen, because of their experiences in other maritime enterprises, already possess Coast Guard licenses such as operators of uninspected towing vessels, masters and mates of vessels of not more than 200 gross tons, masters of vessels of not more than 100 gross tons, and operators of uninspected passenger vessels. These licenses each have different service and examination requirements. The Coast Guard asks whether this type of "traditional" licensing approach may be appropriate for the commercial fishing industry or, if not, what other approach would be better and why.

Signed December 11, 1989.

J.D. Sipes,
Rear Admiral, U.S. Coast Guard Chief, Office
of Marine Safety, Security and Environmental
Protection.

[FR Doc. 89-29377 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-14-M

Artisan Liens on Aircraft; Recordability

Federal Aviation Administration

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice of legal opinion is issued by the Assistant Chief Counsel for the Aeronautical Center to provide legal advice to the Aircraft Registration Branch, Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma, also identified as the FAA Aircraft Registry. Since December 17, 1981, the Assistant Chief Counsel for the Aeronautical Center has issued opinions in the Federal Register of those states from which artisan liens will be accepted for recordation by the FAA Aircraft Registry. This opinion is to advise interested parties of the addition of the State of North Dakota to that list.

DATE: October 17, 1989.

ADDRESS: Copies of prior opinions on the recordability of artisan liens from states which have statutes authorizing their recording may be obtained from: Assistant Chief Counsel for the Aeronautical Center, AAC-7, P.O. Box 25082, Oklahoma City, OK 73125-4904.

FOR FURTHER INFORMATION CONTACT: R. Bruce Carter, Office of Assistant Chief Counsel, address above, or by calling (405) 680-3296; (FTS 747-3296).

SUPPLEMENTARY INFORMATION: In the December 17, 1981, Federal Register, Vol. 46, No. 242, page 61528, the Federal Aviation Administration, Mike Monroney Aeronautical Center,

published its legal opinion on the recordability of artisan liens, with the identification of those states from which artisan liens would be accepted. In the April 23, 1984, Federal Register, Vol. 49, No. 79, page 17112, we advised that Florida, Nevada, and New Jersey had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from those states. In the June 10, 1986, Federal Register Vol. 51, No. 111, page 21046, we advised that Minnesota and New Mexico had passed legislation which, in our opinion, allows the Aircraft Registry to accept artisan liens from those states. In the June 23, 1988 Federal Register, Vol. 53, No. 121, page 23716, we advised that Missouri had passed legislation which, on our opinion, allows the Aircraft Registry to accept artisan liens from that state. In the September 19, 1989, Federal Register, Vol. 54, No. 180, page 38584, we advised that Texas was identified as a state from which artisan liens will be accepted.

The purpose of this opinion is to advise interested parties in the aviation community that in addition to those states identified in the September 19, 1989 publication, North Dakota is identified as a state from which artisan liens will be accepted.

The complete list of states from which artisan liens on aircraft will be accepted as of this date are:

Alaska	Nevada
Arkansas	New Jersey
Florida	New Mexico
Georgia	North Dakota
Illinois	Oklahoma
Indiana	Oregon
Kansas	South Carolina
Kentucky	South Dakota
Maine	Texas
Minnesota	Virgin Islands
Missouri	Washington
Nebraska	Wyoming

Issued in Oklahoma City, on October 17, 1989.

Joseph R. Standell,
Assistant Chief Counsel for the Aeronautical
Center.

[FR Doc. 89-29420 Filed 12-18-89; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs
Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where charges are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before January 3, 1990.

ADDRESS: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Applica- tion No.	Applicant	Renewal of exemp- tion
2787-X	U.S. Department of Defense, Falls Church, VA.	2787
3302-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ.	3302
3941-X	Aerojet Solid Propulsion Com- pany, Sacramento, CA.	3941
3941-X	Kerr-McGee Chemical Corpo- ration, Oklahoma City, OK.	3941
4453-X	Econexpress, Inc., Wheaton, IL.	4453
5643-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	5643
6299-X	Minnesota Valley Engineering, Inc., New Prague, MN.	6299

Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption
6325-X	Mining Services International Corporation (MSI), Salt Lake City, UT.	6325	7070-X	American Chemical & Refining Company, Inc., Waterbury, CT.	7070	9052-X	Chemical Handling Equipment Company, Inc., Toledo OH (see footnote 5).	9052
6418-X	Cenex—Land O'Lakes AG Services, Vancouver, WA.	6418	7455-X	Austin Powder Company, Cleveland, OH.	7455	9118-X	ICI Americas, Inc., Wilmington, DE.	9118
6497-X	FMC Corporation, Philadelphia, PA.	6497	7476-X	Thompson Tank & Manufacturing Company, Inc., Long Beach, CA.	7476	9145-X	Exxon Pipeline Company, Houston, TX.	9145
6530-X	AGA Gas, Inc., Washington, WV.	6530	7628-X	Allied Signal, Inc., Morristown, NJ.	7628	9168-X	All-Pak, Inc., Pittsburgh, PA.....	9168
6563-X	Mada Medical Products, Inc., Carlstadt, NJ.	6563	7708-X	HTL/Kin-Tech Division, Duarte, CA.	7708	9184-X	Cyanamid Canada, Inc., East Willowdale, Canada.	9184
6563-X	S.L.O. Health Products, Inc., Baywood Park, CA.	6563	7811-X	Mallinckrodt, Inc., Paris, KY.....	7811	9211-X	American Overseas Marine Corporation, Quincy, MA.	9211
6611-X	Air Products and Chemicals, Inc., Allentown, PA.	6611	7811-X	EM Science, Cincinnati, OH.....	7811	9230-X	Nuclear Metals, Inc., Concord, MA.	9230
6651-X	Heathbath Corporation, Springfield, MO.	6651	7876-X	Mallinckrodt, Inc., Paris, KY.....	7876	9281-X	GOEX, Inc., Cleburne, TX.....	9281
6691-X	Industrial Gas Distributors, Inc., Billings, MT.	6691	7909-X	Dow Chemical Company, Midland, MI.	7909	9281-X	Jet Research Center, Inc., Alvarado, TX.	9281
6765-X	Union Helium Co., Ltd., Minato-ku, Tokyo, Japan.	6765	7929-X	C-I-L, Inc., North York, Ontario, Canada.	7929	9348-X	DURACELL, Inc., Bethel, CT (see footnote 6).	9348
6805-X	Linde Gases of the South, Inc., Houston, TX.	6805	7945-X	U.S. Department of Defense, Falls Church, VA.	7945	9370-X	Norris Cylinder Company, Longview, TX.	9370
6805-X	UNIGAS, Inc., Mercedita, PR.....	6805	7954-X	Air Products and Chemicals, Inc., Allentown, PA.	7954	9549-X	GOEX, Inc., Cleburne, TX.....	9549
6805-X	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	6805	7954-X	Jack B. Kelley, Inc., Amarillo, TX.	7954	9571-X	U.S. Department of Defense, Falls Church, VA.	9571
6805-X	Linde Gases of Florida, Inc., Tampa, FL.	6805	7991-X	CSX Transportation, Inc., Jacksonville, FL.	7991	9606-X	Austin Powder Company, Cleveland, OH.	9606
6805-X	Linde Gases of the Southeast, Inc., Wilmington, NC.	6805	7991-X	Norfolk Southern Corporation, Norfolk, VA.	7991	9739-X	Unocal Corporation, Los Angeles, CA.	9739
6921-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ.	6921	8074-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ.	8074	9745-X	CMB Enterprises, Inc., Verona, NJ (see footnote 7).	9745
7024-X	Avondale Mills, Sylacauga, AL...	7024	8074-X	Matheson Gas Products, Inc., Secaucus, NJ.	8074	9819-X	Halliburton Services, Duncan, OK (see footnote 8).	9819
7051-X	Advance Research Chemicals, Inc., Catoosa, OK.	7051	8156-X	Cryogenic Rare Gas Laboratories, Inc., Hanahan, SC.	8156	9851-X	Northwest Airlines, Inc., St. Paul, MN.	9851
7052-X	Pointer, Inc., Tempe, AZ.....	7052	8362-X	Altus Corporation, San Jose, CA (see footnote 1).	8362	9851-X	Delta Airlines, Inc., Atlanta, GA.	9851
7052-X	Clifton Precision, Springfield, PA.	7052	8388-X	B.W. Norton Manufacturing Company, Inc., Hayward, CA.	8388	9885-X	Astro Container Company, Evendale, OH.	9885
7052-X	Power Conversion, Inc., Saddle Brook, NJ.	7052	8401-X	ERA Aviation, Inc., Anchorage, AK.	8401	9973-X	Thiokol Corporation, Shreveport, LA (see footnote 9).	9973
7052-X	In-Situ, Inc., Laramie, WY.....	7052	8409-X	EM Science, Cincinnati, OH.....	8409	10134-X	Fluid Systems Div. of Allied-Signal Aerospace Co., Tempe, AZ (see footnote 10).	10134
7052-X	Hydri—Production Technology Division, Houston, TX.	7052	8410-X	EM Science, Cincinnati, OH.....	8410			
7052-X	Medtronic, Inc./Promeon Division, Brooklyn Center, MN.	7052	8426-X	Crosby & Overton, Inc., Long Beach, CA.	8426			
7052-X	ECO Energy Conversion, Somerville, MA.	7052	8427-X	U.S. Department of Defense, Falls Church, VA.	8427			
7052-X	Crompton Parkinson, Limited, Tyne & Wear, England.	7052	8697-X	ERA Aviation, Inc., Anchorage, AK.	8697			
7052-X	Engineered Assemblies & Components Corporation, Teterboro, NJ..	7052	8706-X	Petro-Steel, Corsica, SD (see footnote 2).	8706			
7052-X	DME Corporation, Ft. Lauderdale, FL.	7052	8723-X	IRECO, Incorporated, Salt Lake City, UT (see footnote 3).	8723			
7052-X	Hazeltine Corporation, Braintree, MA.	7052	8725-X	NCF Industries, Inc. (CNG Cylinder Corp.), Long Beach, CA.	8725			
7052-X	Bren-Tronics, Inc., Commack, NY.	7052	8786-X	Gas Spring Corporation, Colmar, PA (see footnote 4).	8786			
7052-X	Acme Aerospace Products Group, Salt Lake City, UT.	7052	8814-X	Structural Composites Industries, Inc., Pomona, CA.	8814			
7052-X	DC Battery Products, St. Paul, MN.	7052	8814-X	Structural Composites Industries, Inc., Pomona, CA.	8814			
7052-X	Siemens, AG, Munchen, West Germany.	7052	8859-X	Eastman Kodak Company, Rochester, NY.	8859			
7052-X	Interstate Electronics Corporation, Anaheim, CA.	7052	8870-X	EM Science, Cincinnati, OH.....	8870			
7052-X	ACR Electronics, Inc., Fort Lauderdale, FL.	7052	8871-X	Chase Packaging Corporation, Greenwich, CT.	8871			
7052-X	Ballard Battery Systems, North Vancouver, B.C., Canada.	7052	8915-X	Linde Gases of the South, Inc., Houston, TX.	8915			
7052-X	Leigh Instruments, Limited, Arlington, VA.	7052	8915-X	Linde Gases of Florida, Inc., Tampa, FL.	8915			
7052-X	ITT Barton Instruments Company, City of Industry, CA.	7052	8915-X	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	8915			
7060-X	Airborne Express, Inc., Wilmington, OH.	7060	8915-X	UNIGAS, Inc., Mercedita, PR.....	8915			

(1) To renew and authorize a maximum of 10 individual cells or a battery structure comprising 30 cells maximum in a special packaging design.

(2) To authorize modification of cargo tank by allowing increased diameters, varying thickness of metal, and moving head gasket.

(3) To authorize certain cargo units identified under DOT-E 4453 to be included for use under DOT-E 8723 for shipment of certain blasting agents in bulk.

(4) To authorize burst to charge ratio of 3.5 for gas cylinders that contain 30 cubic inches or less of gas.

(5) To authorize a decrease in the minimum wall thickness of non-DOT specification rotationally molded polyethylene portable tanks and to authorize an additional oxidizing material, n.o.s., (solid).

(6) To authorize lithium/manganese dioxide batteries to be raised from 2 grams of lithium to 3 grams of lithium per battery.

(7) To authorize shipment of insecticide, liquified gas (containing no poison A or poison B material) contained in a non-DOT specification container conforming to the DOT spec. 2P except for size.

(8) To authorize additional non-DOT specification stainless steel portable tanks with a capacity of 160 and 345 gallons for

shipment of certain flammable or corrosive liquids.

(9) To authorize additional explosive projectile, class A explosive in specially designed packagings.

(10) Request modification to formula used in wall stress calculation for pressure vessels used for shipping argon and helium mixture, classed as nonflammable gas.

Application No.	Applicant	Parties to exemption
3996-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	3996
4338-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	4338
4850-P	Jet Research Center, Inc., Alvarado, TX.	4850
4884-P	Scott Specialty Gases, Inc., Plumsteadville, PA.	4884
6805-P	O'Brien Energy Systems, Inc., Philadelphia, PA.	6805
6874-P	Philipp and Lion Ltd., London, England.	6874
7052-P	Ansul Fire Protection Wormald U.S., Inc., Marinette, WI.	7052
7052-P	Ferranti International Signal, Inc., Lancaster, PA.	7052
7052-P	S&G Photographic, Princeton, NJ.	7052
7052-P	Informatique Electronique Securite Maritime, Guidel, France.	7052
7259-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	7259
7753-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	7753
8287-P	Nalco Chemical Company, Naperville, IL.	8287
8426-P	Hayter Trucking, Inc., Taft, CA.	8426
8467-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	8467
8473-P	Baker Performance Chemicals, Inc., Houston, TX.	8473
8518-P	Hayter Trucking, Inc., Taft, CA.	8518

Application No.	Applicant	Parties to exemption
9841-P	Exsif SA. (France), 78000 Versailles, France.	9841
9902-P	Rhone-Poulenc Basic Chemicals Company, Shelton, CT.	9902
10022-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	10022
10022-P	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ.	10022
10103-P	Du-Laur Products, Inc., Vassar, MI.	10103

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 18, 1990.

ADDRESS COMMENTS TO: Docket Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Note: Federal Register Vol. 54, No. 219, page 47644 referencing Exemption No. 5861-X should read 7945-X. Page 47645 referencing Exemption No. 8445-P should read 9723-P.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 11, 1989.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of Hazardous Materials Transportation.
 [FR Doc. 89-29378 Filed 12-18-89; 8:45 am]
BILLING CODE 4910-60-M

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof.
10283-N	Hoyer GMBH Internationale Fachspedition, West Germany.	49 CFR 173.318	To authorize shipment of argon, nitrogen, oxygen, and carbon dioxide, (cryogenic liquids) classed as non-flammable gas in IMO type 7 tank containers. (Modes 1, 2, 3.)
10284-N	Hoyer GMBH Internationale Fachspedition West Germany.	49 CFR 173.318	To authorize shipment of argon, nitrogen, and oxygen (cryogenic liquids), classed as non-flammable gas in IMO Type 7 tank Container. (Modes 1, 2, 3.)
10289-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.119, 179.101-1(a)	To authorize shipment of various flammable liquids in 105A300W and 112A340W pressure tank cars with the safety relief valve start-to-discharge pressure, psi, at 82.5 per cent of the tank test pressure rating. (Mode 2.)
10289-N	Dart Energy Corporation, Mason, MI.	49 CFR 173.119	To authorize use of non-DOT specification cargo tanks for transportation of crude oil and condensate, classed as both combustible liquid and flammable liquid, and 2 diesel fuel, classed as flammable liquid. (Mode 1.)
10290-N	Crown Sheetmetal LTD., Invercargill, New Zealand.	49 CFR 173.304	To authorize manufacture, marking and sale of a non-DOT specification stainless steel cylinder similar to the DOT Specification 4BW cylinder for shipment of liquefied petroleum gas classed as flammable gas. (Modes 1, 3.)
10291-N	Tankbouw Rootselaar B.V., Holland.	49 CFR 173.315, 178.245-1(b)	To authorize manufacture, marking and sale of a non-DOT specification portable tank similar to the DOT Specification 51 portable tank for shipment of various non-flammable gases. (Modes 1, 2, 3.)
10292-N	Kerrco Incorporation, Hastings, NE.	49 CFR 173.119, 173.125, 173.266, Part 173 Subpart F.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded polyethylene portable tank, not to exceed 300 gallons capacity for shipment of certain corrosive liquids, flammable liquid and hydrogen peroxide solution classed as an oxidizer. (Modes 1, 2, 3.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof.
10293-N	Tremco Incorporation, Beachwood, OH.	49 CFR 173.245.....	To authorize shipment of a corrosive liquid, classed as a corrosive material, in a 5 gallon laminated composite bag containing 4.5 gallons corrosive liquid on top of a non-hazardous material separated by a 3 mil polyethylene sheet, in a non-DOT 55 gallon 18/20 gauge steel drum. (Mode 1.)
10294-N	Great Lakes Chemical, Corporation, El Dorado, AR.	49 CFR 173.314.....	To authorize shipment of Bromotrifluoromethane, classed as non-flammable gas, in a DOT Specification 110A500W tank car. (Mode 2.)
10295-N	Sherex Chemical Company, Inc., Dublin, OH.	49 CFR 173.134.....	To authorize shipment of pyrophoric liquid, n.o.s., classed as blasting agent, in collapsible polyethylene lined, woven polypropylene bags, NTE, 250 pounds each, on pallet constructed of 5/8 inch plywood deck with 2 x 5 wooden runners. (Modes 1, 3.)
10296-N	Explosive Technologies, International, Wilmington, DE.	49 CFR 173.14(a)(i).....	To authorize shipment of ammonium nitrate—fuel oil mixture, classed as blasting agent, in collapsible polyethylene-lined woven polypropylene bags, with a capacity not to exceed 2,250 pounds each, on pallet constructed of 5/8 inch plywood deck with 2 x 5 wooden runners. (Mode 1.)
10297-N	Tropigas De Puerto Rico, Inc., Caguas, PR.	49 CFR 173.34(1), 175.30, Part 107, Appendix B, Subparagraphs 1, 2, 3.	To authorize the rebuilding, repair, by method other than as prescribed, and sale of DOT Specification 4 series cylinder. (Modes 1, 2, 3, 4, 5.)
10298-N	North Star Air Cargo, Inc., Anchorage, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To authorize shipment of liquid fuels classed as flammable or combustible liquids in non-DOT specification seal drums (roll-gons) up to 500 gallon capacity by cargo aircraft only. (Mode 4.)
10299-N	M&T Chemicals Inc., Woodbridge, NJ..	49 CFR 173.247.....	To authorize shipment of Tin Tetrachloride anhydrous, classed as a corrosive material in a DOT Specification 6D/2SL container. (Modes 1, 2, 3.)

This notice of receipt of application for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 13, 1989.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of
Hazardous Materials Transportation.
[FR Doc. 89-29379 Filed 12-18-89; 8:45 am]
BILLING CODE 4910-60-M

the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0810

Form Number: None

Type of Review: Extension

Title: Time for Filing Returns and Other Documents

Description: This regulation tells a taxpayer where in the regulations the dates for filing returns and other documents may be found if the dates are not specified by statute. The information is used to avoid or establish the existence of a failure to file penalty.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations

Estimated Number of Respondents:
12,417

Estimated Burden Hours Per Response:
15 minutes

Frequency of Response: As required

Estimated Total Reporting Burden: 3,104 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. 89-29302 Filed 12-18-89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 12, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under

Sunshine Act Meetings

Federal Register

Vol. 54, No. 242

Tuesday, December 19, 1989

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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board was held at the offices of the Farm Credit Administration in McLean, Virginia, on December 14, 1989, from 11:10 a.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This meeting was closed to the public pursuant to exemptive provisions of the Government in the Sunshine Act. The matter considered at the meeting was:

Closed Session¹

Jackson FLB/FLBA, in Receivership.

Dated: December 14, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

¹ Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(4), (8), and (9).

[FR Doc. 89-29582 Filed 12-15-89; 12:43 pm]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

December 14, 1989.

FCC To Hold Open Meeting, Thursday, December 21, 1989

The Federal Communications Commission will hold a Special Open Meeting on the subject list below on Thursday, December 21, 1989, which is scheduled to commence at 4 p.m. in room 856 at 1919 M Street NW., Washington, DC.

Agenda, Item No., and Subject

Common Carrier—1—Title: Refinement of Procedures and Methodologies for Represcribing Interstate Rates of Return for AT&T Communications and Local Exchange Carriers. (CC Docket No. 87-463).

Summary: The Commission will consider an item relating to the rate of return for interstate services of local exchange carriers.

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 Sarah Lawrence, Office of Public Affairs, Telephone number (202) 632-5050.

Federal Communications Commission.

Issued: December 14, 1989.

Donna R. Searcy,

Secretary.

[FR Doc. 89-29555 Filed 12-15-89; 11:00 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the Government in the Sunshine Act (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Tuesday, December 12, 1989, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency) and Director M. Danny Wall (Director of the Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Proposed amendments to part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which amendments establish, with respect to State and/or Federal savings associations, interim application and notice procedures governing (1) The conduct of, and requests to engage directly in, certain activities; (2) the divestiture of equity investments and junk bonds; and (3) prior notice of the establishment or acquisition of a subsidiary.

By the same majority vote, the Board further determined that no notice earlier than December 7, 1989, of this change in the subject matter of the meeting was practicable; and that Corporation

business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a policy statement regarding qualified financial contracts.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: December 14, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-29585 Filed 12-16-89; 1:15 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Notice

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 3:00 p.m. on Tuesday, December 12, 1989, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency) and Director M. Danny Wall (Director of the Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Requests for Exemption from Cross Guarantee Provision of FIRREA:

1. U.S. Thrift Opportunity Partners, Limited Partnership, Chicago, Illinois.
2. Johnson International Bancorp, Ltd., Racine, Wisconsin.

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets: The Bowery Savings Bank, New York City (Manhattan), New York.

Matters relating to the Corporation's assistance agreement with an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added

to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552(b)(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: December 14, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-29586 Filed 12-15-89; 1:16 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: December 11, 1989, 54 FR 50883.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: December 13, 1989, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added to the Agenda of December 13, 1989:

Item No., Docket No., and Company

CP-1

RP90-16-000, Northwest Alaskan Pipeline Company

CI89-348-001, Natgas U.S. Inc.

RP87-34-004, Northwest Alaskan Pipeline Company

RP89-109-000, United Gas Pipe Line Company

CP88-899-000, Northern Natural Gas Company, a Division of Enron Corp.

CP-2

CP89-1991-000 and CP89-2001-000, Mississippi River Transmission Corporation

Lols D. Cashell,

Secretary.

[FR Doc. 89-29626 Filed 12-15-89; 3:21 pm]

BILLING CODE 6717-02-M

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m., January 26, 1990.

PLACE: The Willard Intercontinental Hotel, 1401 Pennsylvania Avenue, NW., Washington, DC 20004.

STATUS: Closed, pursuant to 5 U.S.C. 552 (b)(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the board foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Mark G. Pomar, Deputy Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Board Meeting

Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036.

Certification of Closed Meeting

The Executive Director, in accordance with Section 3 (f)(1) of the government in the Sunshine Act (5 U.S.C. 552b (f)(1) and the Board's rules issued under that Act (22 CFR 1302), hereby certifies that the Board meeting of June 28, 1990, at which will be discussed matters concerning the board foreign policy objectives of the United States Government, may properly be closed to the public on the basis of the exemptions set forth in the Board's rules in 22 CFR 1302.4 (c) and (h).

Dated: December 8, 1989.

Mark G. Pomar,

Deputy Executive Director.

[FR Doc. 89-29551 Filed 12-18-89; 11:00 am]

BILLING CODE 6156-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 18, 25, 1989 and January 1, and 8, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 18

Tuesday, December 19

10:00 a.m.

Briefing on Risk Communication (Public Meeting)

Wednesday, December 20

2:00 p.m.

Briefing of DOE on Status of Civilian High Level Waste Program (Public Meeting)

Thursday, December 21

2:00 p.m.

Briefing on NRC Actions for Cleanup of Contaminated Sites Under NRC Jurisdiction (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Denial of Petitions for Rulemaking that Relate to Emergency Preparedness at Nuclear Power Plants

Friday, December 22

10:00 a.m.

Briefing by Executive Branch (Closed—Ex. 1)

Week of December 25 (Tentative)

There are no Commission meetings scheduled for the Week of December 25.

Week of January 1 (Tentative)

Thursday, January 4

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 8 (Tentative)

Tuesday, January 9

10:00 a.m.

Briefing on Status of Development of Updated Source Term (Public Meeting)

Thursday, January 11

2:00 p.m.

Periodic Briefing by Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

Dated: December 14, 1989.

William M. Hill, Jr.

Office of the Secretary.

[FR Doc. 89-29586 Filed 12-15-89; 11:24 am]

BILLING CODE 7590-01-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 4:10 p.m. on Tuesday, December 12, 1989, the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to (1) internal corporate activities and (2) the probable failure of a thrift association.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred by Director M. Danny Wall, (Director of the Office of Thrift Supervision), and 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)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: December 14, 1989.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 89-29587 Filed 12-15-89; 1:17 pm]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 18, 1989.

A closed meeting will be held on Tuesday, December 19, 1989, at 3:30 p.m., and an open meeting will be held on Thursday, December 21, 1989, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain

staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 19, 1989, at 3:30 p.m., will be:

- Settlement of injunctive actions.
- Settlement of administrative proceedings of an enforcement nature.
- Institution of administrative proceedings of an enforcement nature.
- Institution of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, December 21, 1989, at 10:00 a.m., will be:

1. Consideration of whether to grant Delta Government Options Corp. registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934. For

further information, please contact Richard Konrath at (202) 272-2388 or Gordon K. Fuller at (202) 272-2414.

2. Consideration of whether to propose for public comment amendments to Form N-1A, the registration form for mutual funds, and related rule changes. The proposed Form N-1A amendments include: (i) revisions of the per share table contained in the prospectus; (ii) two alternative disclosure requirements designed to provide investor with information about fund performance that can be easily understood, including a management's discussion and analysis of investment results; and (iii) required disclosure concerning fund portfolio managers. For further information, please contact Larisa E. Dobriansky at (202) 272-2097.

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: Anthony Ain at (202) 272-2400.

Johathan G. Katz,

Secretary.

December 14, 1989.

[FR Doc. 89-29504 Filed 12-14-89; 4:58 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register

Vol. 54, No. 242

Tuesday, December 19, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Financial Assistance Award—Intent To Renew Grant With the National Association of Regulatory Utility Commissioners (NARUC)

Correction

In notice document 89-28498 beginning on page 50427 in the issue of Wednesday, December 6, 1989, make the following correction:

On page 50428, in the first column, in the eighth line, insert "Information" following "Transferring".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ90-2-33-000 and TM90-2-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates

Correction

In notice document 89-28914 beginning on page 51064 in the issue of Tuesday, December 12, 1989, make the following correction:

On page 51064, in the third column, in the heading, the docket numbers should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket 89-72-NG]

Poco Petroleum, Inc.; Application To Extend Blanket Authorization To Import Natural Gas From Canada

Correction

In notice document 89-28892 beginning on page 50814 in the issue of Monday, December 11, 1989, make the following correction:

On page 50814, in the second column, under DATE:, in the fifth line, "January 10, 1989" should read "January 10, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[CGD 89-019]

RIN 2115-AD22

Traffic Separation Scheme; Galveston Bay Approach

Correction

In rule document 89-15648 beginning on page 28061 in the issue of Wednesday, July 5, 1989, make the following correction:

§ 167.350 [Corrected]

On page 28062, in the third column, in § 167.350(b)(7), in the second column, "94° 25.95' W." should read "94° 25.80' W.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-29-AD; Amdt. 39-6387]

Airworthiness Directives; Boeing of Canada Ltd. deHavilland Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 Airplanes

Correction

In rule document 89-26767 beginning on page 47511 in the issue of Wednesday, November 15, 1989, make the following correction:

§ 39.13 [Corrected]

On page 47512, in the third column, in § 39.13(a)(3), in the first line, insert "inspect" following "Visually".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 129

[Docket No. 26020; Amdt. Nos. 129-19, 137-13]

RIN 2120-AD24

Organizational Changes and Delegations of Authority

Correction

In rule document 89-22317 beginning on page 39288 in the issue of Monday, September 25, 1989, make the following correction:

§ 129.11 [Corrected]

1. On page 39294, in the first column, in amendatory instruction 107, in the second line, "paragraph (6)" should read "paragraph (b)".

§ 137.77 [Corrected]

2. On the same page, in the third column, in amendatory instruction 126, in the first line, "Section 137.77(c) is amended" should read "Section 137.77 is amended".

BILLING CODE 1505-01-D

Federal Register

Tuesday
December 19, 1989

Part II

**Department of
Transportation**

**Urban Mass Transportation
Administration**

**UMTA Fiscal Year 1990 Formula Grant
Apportionments; Notice**

DEPARTMENT OF TRANSPORTATION**Urban Mass Transportation Administration****UMTA Fiscal Year 1990 Formula Grant Apportionments**

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) and Related Agencies Appropriations Act, 1990, signed into law by President Bush on November 21, 1989, provides Fiscal Year 1990 appropriations for the formula grant programs under Sections 9 and 18 and for the Section 16(b)(2) elderly and handicapped program of the Urban Mass Transportation Act of 1964, as amended (the UMT Act). This Notice includes the distribution of these funds. Limitations on the use of operating assistance also are included in this Notice, as well as other pertinent information.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Director, Office of Capital and Formula Assistance, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street SW., Room 9301, Washington, DC 20590, (202) 366-1862.

SUPPLEMENTARY INFORMATION: Funds appropriated to the Section 9 program are apportioned on a formula basis to provide capital and operating assistance in urbanized areas. Funds appropriated to the Section 18 program are apportioned on a formula basis to provide capital and operating assistance in nonurbanized areas. Funds appropriated to the Section 16(b)(2) program are allocated to the States to provide capital assistance for transportation for elderly and disabled persons.

Formula Program Appropriations

This Notice provides the Fiscal Year 1990 apportionment of sections 9 and 18 funds for urbanized and nonurbanized areas and provides Fiscal Year 1990 allocations for the Section 16(b)(2) program, based on the most recent U.S. Census data. Section 9 apportionments for urbanized areas over 200,000 in population also are based on operating and financial data submitted as part of the Section 15 Reporting System.

Under Title I of the Department of Transportation (DOT) and Related Agencies Appropriations Act, 1990, a total of \$1,630,000,000 has been appropriated for Fiscal Year 1990 for the Sections 9 and 18 programs. Of this

amount, \$5,000,000 is available for the Rural Transportation Assistance Program (RTAP). The Fiscal Year 1990 Appropriations Act directs that, before apportionment of the \$1,625,000,000 in formula funds, \$16,554,033 shall be made available to the Section 18 program. Of the remaining amount, 97.07 percent is being made available to the Section 9 program and 2.93 percent is being made available to the Section 18 program.

An additional \$70,000,000 has been made available under section 9B (the capital only formula program funded from the Mass Transit Account). A total of \$35,000,000 was appropriated for Fiscal Year 1990 for the Section 16(b) (2) program. These funds are allocated by an administrative formula.

Part of the Fiscal Year 1990 Appropriations Act, Title IV, Emergency Drug Funding, sets aside 0.3 percent of DOT funding in support of efforts to fight the war on drugs. The budgets of other Federal agencies also reflect reductions for the drug program. Therefore, the total amount appropriated for Sections 9 and 18 is reduced to \$1,620,125,000. The total amount allocated under section 9B is reduced to \$69,790,000. The total amount appropriated for RTAP is reduced to \$4,985,000, and the total amount appropriated for the Section 16(b)(2) program is reduced to \$34,895,000.

These programs are not affected by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Gramm-Rudman-Hollings), Public Law 100-119.

Additional Section 9 Formula Funding

In addition to the new appropriated Fiscal Year 1990 formula funds of \$1,554,590,000, the Section 9 apportionment also includes \$9,754,123 in deobligated Sections 5 and 9 funds and Section 9 funds that were never obligated and have become available for reapportionment under the Section 9 Program as provided for under Section 9(o). Included also is \$230,532 in Fiscal Year 1988 and Fiscal Year 1987 Section 9 project management oversight funds that were deobligated in Fiscal Year 1989 and also have become available for reapportionment. Thus, the total additional funding amount being apportioned under Section 9 is \$9,984,655.

Section 9B Formula Program—Distribution of Mass Transit Account (Trust Fund)

The Surface Transportation and Uniform Relocation Assistance Act of 1987 (the STURA Act) established the Section 9B Program. The Act states that beginning in Fiscal Year 1988, in any

year in which the obligation limitation for the Discretionary Grants Program exceeds \$1 billion, the funds in excess of that amount are to be allocated half on a discretionary basis and half under a new Section 9B formula program—essentially a capital-only Section 9 program. The obligation limitation for Fiscal Year 1990 is \$1,140,000,000. Thus, \$70,000,000 has been allocated for Section 9B. However, Title IV, Emergency Drug Funding, reduces the obligation limitation to \$69,790,000. These Section 9B funds cannot be used for operating assistance, but are otherwise treated as Section 9 funds. In grant applications, amounts applied for under each Section should be clearly shown.

Project Management Oversight Set Aside

Section 23(a) of the UMT Act allows the Secretary of Transportation to use not more than one-half of one percent of the funds made available for Fiscal Year 1990 under sections 3, 9, 9B, 18, the National Capital Transportation Act of 1969 (Stark Harris), and section 103(e)(4) of title 23, United States Code, (Interstate Transfer) to contract with any person to oversee the construction of any major project under such programs. The Fiscal Year 1990 Appropriations Act added section 23(h) to the UMT Act expanding this authority to include safety, procurement, management and financial reviews and audits. Therefore, one-half of one percent of the funds appropriated for Fiscal Year 1990 under section 9 (including section 9B), or \$6,121,900, have been reserved for this purpose. The remaining amount of Fiscal Year 1990 funds is apportioned in this Notice. Funds appropriated under section 18 have not been reserved for project management oversight since adequate funds are available from prior year reservations.

New York Metropolitan Transportation Authority Safety Review

The Fiscal Year 1990 Appropriations Act directs the Secretary to conduct a thorough independent safety review of the New York Metropolitan Transportation Authority, including the New York City Transit Authority, the Long Island Railroad and Metro-North commuter railroads, using available funds or funds withheld from formula money allocated to the New York portion of the New York-Northeast New Jersey urbanized area. The Section 9 apportionment for this area contained in this notice has not been reduced for this

review. However, funds may be withheld at a future date.

Total Section 9 Fiscal Year 1990 Apportionments

This Notice provides tables which reflect both the amounts apportioned under the Section 9 program (General Fund) and the Section 9B program (Trust Fund). The amounts appropriated under Section 9 (\$1,554,590,000) and Section 9B (\$69,790,000) together total \$1,624,380,000. The project management oversight reservation of \$8,121,900 has been subtracted from this total. Reapportioned funds in the amount of \$9,984,855 were then added to the remainder. Thus, the total amount being apportioned for Section 9 (including Section 9B) is \$1,628,242,755.

Section 9 Fiscal Year 1989 Apportionment Adjustments

Adjustments have been made to the apportionments for certain urbanized areas because of corrections to data that were used to compute the Fiscal Year 1989 formula grant apportionments published in the *Federal Register* of October 13, 1988 (53 FR 40168). Differences between corrected apportionments and previously published apportionments have been resolved and necessary adjustments have been made by adding to or subtracting, as appropriate, from the apportionments for Fiscal Year 1990. The dollar amounts published in this Notice contain these adjustments, and the affected urbanized areas have been so advised.

Section 15 Data Used for Section 9 Apportionments

Data submitted for the Section 15 Annual Report for 1987 has been used to calculate the Section 9 apportionments for urbanized areas over 200,000 in population.

Passenger Mile Data

Passenger mile data submitted for the 1987 Section 15 Report underwent a special analysis since a large percentage of reporters' passenger mile data was not collected and/or reported in accordance with UMTA definitions and requirements. Some agencies misread UMTA Circular 2710.5A and implemented a procedure that did not meet the statistical requirements. Many reporters implemented alternative techniques prior to receiving written confirmation from UMTA that the technique would result in data that satisfy the required confidence and precision levels.

To assist in resolving reporting problems in the future, self-certification

of passenger mile data will be effective for the 1990 Section 15 report year. Specific instructions will be contained in the 1990 Reporting Manual and Sample Forms. The requirement that passenger mile data meet the 95 percent confidence and 10 percent precision levels will not change.

Based on the policy reflected in this new certification process, those agencies that submitted complete Section 15 reports (including passenger mile data) and responded to UMTA's communications on their 1987 data have had their submittals included in the database that is being used to calculate the Fiscal Year 1990 Section 9 apportionments. This inclusion will continue through the 1989 Section 15 report year to allow these reporters additional time to comply with the statistical requirements.

Restored Commuter Rail Service

The Fiscal Year 1990 Appropriations Act adds a new provision to the law which requires the inclusion of directional route miles for restored commuter rail service in the calculation of the Fiscal Year 1990 Section 9 apportionments. The Act states that when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration (UMTA) funding, the directional route miles of such service shall be included for the purpose of calculating the Fiscal Year 1990 Section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to UMTA. This provision of the Act has been taken into account and appropriate directional route miles for restored commuter rail service have been included in the calculation of the Fiscal Year 1990 Section 9 apportionment.

Section 9 Fiscal Year 1990 Apportionments to the Governors

For all urbanized areas under 200,000 in population within each State, one figure is provided for the Governor's apportionment. In accordance with section 9 of the UMT Act, these apportionments are not made to individual urbanized areas but are made to the Governors for use within all urbanized areas between 50,000 and 200,000 in population, as needed. UMTA has administered the Section 9 program

in this fashion from its inception, and it parallels UMTA's procedures under the Section 5 program. For technical assistance purposes, and in compliance with the STURA Act, this Notice also contains the amount attributable to each urbanized area above 50,000 in population within the State.

Designation of Davis, California, as an Urbanized Area

The Census Bureau has designated Davis, California, as an urbanized area based upon a May 5, 1989, Special Census of Davis and vicinity. Thus, Davis, California, has been included in the Fiscal Year 1990 Section 9 apportionment calculation. Similarly, the Section 18 apportionment calculation has been adjusted to delete the population attributable to Davis.

Section 9 Operating Assistance Limitations

In addition to the Fiscal Year 1990 apportionments, this Notice includes a listing of the Fiscal Year 1990 limitations on the amount of Section 9 funds that may be used for operating assistance.

The STURA Act made a number of changes in the Section 9 operating assistance limitations. In addition to the changes which were made previously in the limitations, the Act added section 9(k)(2)(B). This section states that on each October 1 after October 1, 1987, the operating assistance limitations for all urbanized areas under 200,000 in population shall be increased to reflect the increase in the Consumer Price Index (CPI) for all urban consumers during the most recent calendar year. The CPI Detailed Report, December 1988, published by the Department of Labor, indicates the calendar year 1988 CPI increase for all urban consumers is 4.4 percent.

This 4.4 percent increase was applied against the base operating assistance limitation calculated under section 9(k)(2)(A). This base was the Fiscal Year 1987 authorized operating assistance limitation of \$124,019,004 for urbanized areas under 200,000 in population. The resulting increase in the operating assistance limitation, \$5,456,836, sets the overall national Fiscal Year 1990 operating assistance limitation authorized by the UMT Act at \$923,914,307.

However, the Fiscal Year 1990 Appropriations Act limits the nationwide availability for operating assistance to a maximum of \$804,691,850 (for funds under the Fiscal Year 1990 Appropriations Act).

Title IV, Emergency Drug Funding, further reduces the nationwide

availability for operating assistance limitation to \$802,278,000.

Accordingly, the operating assistance limitations published in this Notice take into account both the UMT Act and the Fiscal Year 1990 Appropriations Act. That is, the higher operating assistance limitation of the UMT Act, \$923,914,307, has been reduced to the \$802,278,000 required by the Fiscal Year 1990 Appropriations Act by taking a pro rata reduction across all categories of grantees.

Statewide Operating Assistance Limitations

The Fiscal Year 1990 Appropriations Act adds a new provision regarding operating assistance limitations. The Act states that in any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of UMTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, UMTA will not reduce the amount of operating assistance allowed for any other state, or local transit agency or instrumentality within the urbanized areas affected. In short, this permits the statewide agency to combine all of the operating assistance limitations within the State. This provision takes effect with the Fiscal Year 1990 Section 9 apportionments.

Thus, the operating assistance limitations tables are presented differently from previous years. The tables show the full operating assistance limitations for each urbanized area or State without regard to the availability of general funds for any one particular urbanized area or State.

Section 18 Program

The Fiscal Year 1990 Section 18 apportionment totals \$65,867,497. This Notice provides a table which contains the State apportionments.

In addition to the appropriated Fiscal Year 1990 formula funds of \$65,535,000, the Section 18 Fiscal Year 1990 apportionment also includes \$332,497 in prior year funds which had lapsed to the States to which they were originally apportioned. \$323,194 in Fiscal Year

1988 Section 18 funds which had been set aside for project management oversight and have not been used are remaining in reserve for possible use in Fiscal Year 1990. No additional Fiscal Year 1990 Section 18 funds are being set aside for this purpose.

The Fiscal Year 1990 Rural Transit Assistance Program (RTAP) allocations to the States totalling \$4,247,563 are also included in this Notice. Of the \$4,985,000 appropriated for the RTAP program in Fiscal Year 1990, eighty-five percent, or \$4,237,250, is allocated to the States to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. In addition, \$10,313 in unobligated Fiscal Year 1987 RTAP funds is being reallocated with the Fiscal Year 1990 RTAP funds. These funds are to be used in conjunction with the States' administration of the Section 18 formula assistance program. The remainder of the RTAP funds are made available by UMTA in direct contracts to carry out the RTAP National Program.

Section 16(b)(2) Elderly and Handicapped Program

A total of \$35,002,087 is allocated to the States for Fiscal Year 1990 under the Section 16(b)(2) program. This capital assistance program provides funds to nonprofit organizations to provide transportation for elderly and handicapped persons. This Notice includes a table which reflects these state allocations. The allocations include \$34,895,000 of the Fiscal Year 1990 appropriation, and \$107,087 in funds not obligated in prior fiscal years.

Period of Availability of Funds

The funds apportioned to urbanized areas under section 9 in this notice will remain available to be obligated by UMTA to recipients for three (3) fiscal years following Fiscal Year 1990. Any of these apportioned funds unobligated at the close of business on September 30, 1993, will revert to UMTA for reapportionment under Section 9. Funds apportioned to nonurbanized areas under Section 18, including RTAP funds, will remain available for two (2) fiscal years following Fiscal Year 1990. Any such funds remaining unobligated at the close of business on September 30, 1992, will revert to UMTA for reapportionment among the States. Funds allocated to States under section 16(b)(2) in this Notice must be obligated by September 30, 1990. Any such funds remaining unobligated as of this date will revert to UMTA for reallocation among the States.

Approval of Grants

The Urban Mass Transportation Administration has established quarterly and bimonthly cycles for processing formula grants. Section 9, Interstate Transfer, and Federal-Aid Urban Systems (FAUS) grants are processed on a quarterly basis. Sections 8, 16(b)(2), and 18 grants are processed on a bimonthly basis. Applicants should submit completed applications to the appropriate UMTA Regional Office by the first day of each review cycle. Remaining Fiscal Year 1990 quarterly review cycles begin on January 2, April 2, and July 2. If the application is complete, UMTA will approve and release the grant by the end of the cycle. The only factor which would delay UMTA's approval of the project would be a failure by the Department of Labor (DOL) to issue a 13(c) certification where such certification is a prerequisite to grant approval. Incomplete applications will not be processed but, if the missing components are supplied, will be reconsidered in the next review cycle.

For an application to be considered complete, all appropriate ancillary activities such as inclusion of the project in a locally approved Transportation Improvement Program (TIP), intergovernmental reviews, environmental reviews, all applicable civil rights and 504 program requirements, and submission of all requisite certifications and documentation must be completed, including certification of compliance with UMTA's anti-drug rule by December 21, 1989, for those operators in areas greater than 200,000 in population. The application must be in approvable form with all required documentation and submissions on hand, except for the 13(c) certification which is issued by DOL.

The application submission and approval dates for Fiscal Year 1990 for Section 9, Interstate, and FAUS projects are: for completed applications submitted to UMTA no later than the first business day of the fiscal year quarter, UMTA will award grants by the last business day of the fiscal year quarter. For Sections 8, 16(b)(2), and 18 projects, if completed applications are submitted to UMTA no later than the first business day of the bimonthly periods beginning November, January, March, May and July, UMTA will award grants by the last business day of the bimonthly period.

It is the policy of UMTA to expedite grant application reviews and maximize program delivery by reducing the

number of grant actions. To this end, UMTA strongly encourages grant applicants to submit only one application per fiscal year formula per program (i.e., Section 9, Section 18, etc.). The single application should contain the fiscal year's capital, planning and operating elements. During recent years, most grantees have adopted the one grant per fiscal year approach; however, there are a number of grantees who still submit more than one application per fiscal year. While UMTA recognizes that there may be extenuating circumstances which would necessitate an applicant to submit more than one application per year and will process these applications on a case-by-case basis, applicants are encouraged to

comply with the one grant per fiscal year approach.

Application Procedures

Applications for Sections 9, 18 and 16(b)(2) funds should be submitted to the appropriate UMTA Regional Office. Section 9 applications should be in conformance with UMTA Circular 9030.1A, published September 18, 1987. Section 18 applications should be in conformance with UMTA Circular 9040.1B, published July 1, 1988. Section 16(b)(2) applications should be in conformance with Circular 9070.1B, published July 1, 1988. Copies of the circulars are available from each UMTA Regional Office.

Discretionary Section 3 Capital Grants

Formula funding is the primary Federal resource for transit capital assistance needs. However, critical bus and rail modernization capital projects that cannot be accommodated under the formula grant program will be considered for funding under the Section 3 discretionary program.

Applications for these discretionary bus and rail modernization capital projects should be submitted to the appropriate UMTA Regional Office by January 15, 1990, for consideration in early 1990.

Issued on December 8, 1989.

Brian W. Clymer,
Administrator.

BILLING CODE 4910-57-M

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Atlanta, Georgia.....	\$20,225,940	\$905,090	\$21,131,030
Baltimore, Maryland.....	18,267,741	816,178	19,083,919
Boston, Massachusetts.....	46,141,855	2,066,611	48,208,466
Buffalo, New York.....	7,569,795	337,634	7,907,429
Chicago, Illinois-Northwestern Indiana.....	124,060,136	5,477,189	129,537,325
Cincinnati, Ohio-Kentucky.....	8,222,052	366,633	8,588,685
Cleveland, Ohio.....	16,144,095	720,769	16,864,864
Dallas-Fort Worth, Texas.....	17,257,243	769,561	18,026,804
Denver, Colorado.....	12,246,689	546,140	12,792,829
Detroit, Michigan.....	24,571,376	1,095,403	25,666,779
Fort Lauderdale-Hollywood, Florida.....	6,506,643	290,031	6,796,674
Houston, Texas.....	19,671,400	877,212	20,548,612
Kansas City, Missouri-Kansas.....	5,700,091	254,074	5,954,165
Los Angeles-Long Beach, California.....	96,878,177	4,322,427	101,200,604
Miami, Florida.....	17,063,822	761,904	17,825,726
Milwaukee, Wisconsin.....	11,150,570	497,192	11,647,762
Minneapolis-St. Paul, Minnesota.....	13,406,255	598,043	14,004,298
New Orleans, Louisiana.....	11,347,132	508,335	11,855,467
New York, N.Y.-Northeastern New Jersey.....	376,341,709	17,142,584	393,484,293
Philadelphia, Pennsylvania-New Jersey.....	70,806,296	3,169,875	73,976,171
Phoenix, Arizona.....	7,844,431	349,644	8,194,075
Pittsburgh, Pennsylvania.....	21,806,654	973,974	22,780,628
Portland, Oregon-Washington.....	11,816,252	527,347	12,343,599
St. Louis, Missouri-Illinois.....	13,588,843	585,830	14,174,673
San Diego, California.....	17,018,440	760,212	17,778,652
San Francisco-Oakland, California.....	61,522,969	2,754,095	64,277,064
San Jose, California.....	14,054,120	627,901	14,682,021
San Juan, Puerto Rico.....	9,040,077	403,344	9,443,421
Seattle-Everett, Washington.....	22,798,578	1,019,123	23,817,701
Washington, D.C.-Maryland-Virginia.....	49,495,859	2,216,563	51,712,422

TOTAL	\$1,152,565,240	\$51,740,918	\$1,204,306,158

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Akron, Ohio.....	\$3,152,554	\$140,505	\$3,293,059
Albany-Schenectady-Troy, New York.....	4,428,760	197,439	4,626,199
Albuquerque, New Mexico.....	2,519,881	112,312	2,632,193
Allentown-Bethlehem-Easton, Pa.-N.J.....	2,230,603	99,434	2,330,037
Ann Arbor, Michigan.....	1,978,910	88,197	2,067,107
Augusta, Georgia-South Carolina.....	994,720	44,338	1,039,058
Austin, Texas.....	4,276,587	190,582	4,467,169
Bakersfield, California.....	1,698,696	75,711	1,774,407
Baton Rouge, Louisiana.....	1,858,753	82,874	1,941,627
Birmingham, Alabama.....	3,042,257	135,602	3,177,859
Bridgeport, Connecticut.....	3,484,309	155,950	3,640,259
Canton, Ohio.....	1,257,731	56,055	1,313,786
Charleston, South Carolina.....	1,629,145	72,641	1,701,786
Charlotte, North Carolina.....	2,544,881	113,479	2,658,360
Chattanooga, Tennessee-Georgia.....	1,493,828	66,598	1,560,426
Colorado Springs, Colorado.....	1,850,621	82,516	1,933,137
Columbia, South Carolina.....	1,681,981	74,980	1,756,961
Columbus, Georgia-Alabama.....	1,067,429	47,578	1,115,007
Columbus, Ohio.....	6,516,423	290,508	6,806,931
Corpus Christi, Texas.....	1,683,765	75,047	1,758,812
Davenport-Rock Island-Moline, Iowa-Illinois	1,832,411	81,673	1,914,084
Dayton, Ohio.....	7,594,717	339,686	7,934,403
Des Moines, Iowa.....	1,670,652	74,472	1,745,124
El Paso, Texas.....	3,491,590	155,739	3,647,329
Fayetteville, North Carolina.....	818,105	36,465	854,570
Flint, Michigan.....	1,997,079	89,010	2,086,089
Fort Wayne, Indiana.....	1,606,963	71,621	1,678,584
Fresno, California.....	2,617,160	116,670	2,733,830
Grand Rapids, Michigan.....	2,304,746	102,729	2,407,475
Greenville, South Carolina.....	1,170,780	52,181	1,222,961
Harrisburg, Pennsylvania.....	1,490,541	66,449	1,556,990
Hartford, Connecticut.....	4,458,288	198,759	4,657,047
Honolulu, Hawaii.....	12,195,700	544,430	12,740,130
Indianapolis, Indiana.....	4,772,171	212,735	4,984,906
Jackson, Mississippi.....	1,204,077	53,665	1,257,742
Jacksonville, Florida.....	3,943,856	175,837	4,119,693
Knoxville, Tennessee.....	1,317,139	58,704	1,375,843
Lansing, Michigan.....	1,701,187	75,822	1,777,009
Las Vegas, Nevada.....	2,389,814	106,561	2,496,375
Lawrence-Haverhill, Mass.-New Hampshire....	2,009,209	89,819	2,099,028
Little Rock-North Little Rock, Arkansas....	1,672,152	74,548	1,746,700
Lorain-Elyria, Ohio.....	611,499	27,251	638,750
Louisville, Kentucky-Indiana.....	6,318,629	281,734	6,600,363
Madison, Wisconsin.....	2,682,832	119,645	2,802,477
Melbourne-Cocoa, Florida.....	1,125,455	50,172	1,175,627

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Memphis, Tennessee-Arkansas-Mississippi....	\$4,950,596	\$220,643	\$5,171,239
Mobile, Alabama.....	1,410,309	62,861	1,473,170
Nashville-Davidson, Tennessee.....	2,662,406	118,690	2,781,096
New Haven, Connecticut.....	3,855,845	172,547	4,028,392
Newport News-Hampton, Virginia.....	1,786,488	79,647	1,866,135
Norfolk-Portsmouth, Virginia.....	4,916,180	219,132	5,135,312
Ogden, Utah.....	1,451,048	64,685	1,515,733
Oklahoma City, Oklahoma.....	2,754,267	122,750	2,877,017
Omaha, Nebraska-Iowa.....	3,665,156	163,360	3,828,516
Orlando, Florida.....	4,986,452	222,749	5,209,201
Oxnard-Ventura-Thousand Oaks, California...	1,787,102	79,653	1,866,755
Pensacola, Florida.....	1,066,535	47,536	1,114,071
Peoria, Illinois.....	1,437,802	64,075	1,501,877
Providence-Pawtucket-Warwick, R.I.-Mass....	9,595,325	429,197	10,024,522
Raleigh, North Carolina.....	1,246,931	55,583	1,302,514
Richmond, Virginia.....	3,843,625	171,369	4,014,994
Rochester, New York.....	4,703,441	209,675	4,913,116
Rockford, Illinois.....	1,124,776	50,132	1,174,908
Sacramento, California.....	6,343,773	283,004	6,626,777
St. Petersburg, Florida.....	5,200,610	231,820	5,432,430
Salt Lake City, Utah.....	6,027,080	268,741	6,295,821
San Antonio, Texas.....	10,422,204	464,727	10,886,931
San Bernardino-Riverside, California.....	4,431,596	197,511	4,629,107
Sarasota-Bradenton, Florida.....	1,529,915	68,186	1,598,101
Scranton-Wilkes-Barre, Pennsylvania.....	2,269,843	101,178	2,371,021
Shreveport, Louisiana.....	1,531,726	68,274	1,600,000
South Bend, Indiana-Michigan.....	1,456,382	64,914	1,521,296
Spokane, Washington.....	2,709,996	120,804	2,830,800
Springfield-Chicopee-Holyoke, Mass.-Conn...	3,966,872	176,826	4,143,698
Syracuse, New York.....	3,463,467	154,382	3,617,849
Tacoma, Washington.....	4,021,305	179,366	4,200,671
Tampa, Florida.....	4,412,581	196,748	4,609,329
Toledo, Ohio-Michigan.....	3,328,480	148,366	3,476,846
Trenton, New Jersey-Pennsylvania.....	2,416,044	107,877	2,523,921
Tucson, Arizona.....	4,203,174	187,376	4,390,550
Tulsa, Oklahoma.....	2,161,134	96,309	2,257,443
West Palm Beach, Florida.....	2,583,213	115,141	2,698,354
Wichita, Kansas.....	1,763,084	78,586	1,841,670
Wilmington, Delaware-New Jersey-Maryland...	2,387,114	106,402	2,493,516
Worcester, Massachusetts.....	2,102,140	93,691	2,195,831
Youngstown-Warren, Ohio.....	1,798,605	80,157	1,878,762

TOTAL	\$260,163,208	\$11,603,393	\$271,766,601

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
ALABAMA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$3,761,331	\$168,655	\$3,929,986
Anniston.....	326,606	14,645	341,251
Auburn-Opelika.....	203,404	9,107	212,211
Decatur.....	237,852	10,665	248,517
Dothan.....	208,504	9,349	217,853
Florence.....	319,430	14,323	333,753
Gadsden.....	301,081	13,500	314,581
Huntsville.....	671,706	30,119	701,825
Montgomery.....	1,001,740	44,917	1,046,657
Tuscaloosa.....	491,308	22,030	513,338
ALASKA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$762,708	\$34,199	\$796,907
Anchorage.....	762,708	34,199	796,907
ARIZONA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$328,273	\$14,720	\$342,993
Yuma, Ariz.-Calif.....	328,273	14,720	342,993
ARKANSAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,108,190	\$49,690	\$1,157,880
Fayetteville-Springdale.....	263,705	11,824	275,529
Fort Smith, Ark.-Okla.....	394,238	17,678	411,916
Pine Bluff.....	361,297	16,200	377,497
Texarkana, Tex.-Ark.....	88,950	3,988	92,938
CALIFORNIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$12,110,802	\$543,038	\$12,653,840
Antioch-Pittsburg.....	631,109	28,298	659,407
Chico.....	292,403	13,111	305,514
Davis.....	515,970	23,136	539,106
Fairfield.....	398,140	17,852	415,992
Henet.....	304,570	13,657	318,227

FISCAL YEAR 1990 UNTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
CALIFORNIA--Continued:			
Lancaster.....	255,064	11,437	266,501
Merced.....	351,964	15,782	367,746
Modesto.....	1,195,623	53,611	1,249,234
Napa.....	416,628	18,681	435,309
Palm Springs.....	283,207	12,699	295,906
Redding.....	233,943	10,490	244,433
Salinas.....	772,816	34,652	807,468
Santa Barbara.....	1,099,107	49,283	1,148,390
Santa Cruz.....	626,110	28,074	654,184
Santa Maria.....	353,948	15,871	369,819
Santa Rosa.....	874,088	39,193	913,281
Seaside-Monterey.....	811,060	36,367	847,427
Simi Valley.....	544,608	24,420	569,028
Stockton.....	1,428,233	64,041	1,492,274
Visalia.....	354,247	15,884	370,131
Yuba City.....	366,511	16,434	382,945
Yuma, Ariz.-Calif.....	1,453	65	1,518

COLORADO:

Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,484,833	\$111,418	\$2,596,251
Boulder.....	615,787	27,612	643,399
Fort Collins.....	457,713	20,523	478,236
Grand Junction.....	297,398	13,335	310,733
Greeley.....	437,437	19,614	457,051
Pueblo.....	676,498	30,334	706,832

CONNECTICUT:

Governor's apportionment for areas 50,000 to 200,000 in population:	\$10,664,210	\$479,389	\$11,143,599
Bristol.....	433,392	19,433	452,825
*Danbury, Conn.-N.Y.....	1,724,854	77,644	1,802,498
Meriden.....	352,753	15,818	368,571
New Britain.....	871,511	39,078	910,589
New London-Norwich.....	715,162	32,067	747,229
*Norwalk.....	1,926,911	86,705	2,013,616
*Stamford.....	2,394,028	107,650	2,501,678
*Waterbury.....	2,245,599	100,994	2,346,593

*An appropriate amount for commuter rail from
UZA's above 200,000 has been included.

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
DELAWARE:			
FLORIDA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$5,197,560	\$233,054	\$5,430,614
Daytona Beach.....	858,660	38,502	897,162
Fort Myers.....	682,057	30,582	712,639
Fort Pierce.....	321,746	14,427	336,173
Fort Walton Beach.....	403,123	18,076	421,199
Gainesville.....	573,217	25,703	598,920
Lakeland.....	553,509	24,819	578,328
Naples.....	230,263	10,324	240,587
Ocala.....	229,487	10,290	239,777
Panama City.....	368,615	16,528	385,143
Tallahassee.....	616,753	27,655	644,408
Winter Haven.....	360,130	16,148	376,278
GEORGIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,894,700	\$129,796	\$3,024,496
Albany.....	417,635	18,726	436,361
Athens.....	308,545	13,835	322,380
Macon.....	743,080	33,319	776,399
Rome.....	235,275	10,550	245,825
Savannah.....	898,899	40,306	939,205
Warner Robins.....	291,266	13,060	304,326
HAWAII:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$741,439	\$33,245	\$774,684
Kailua-Kaneohe.....	741,439	33,245	774,684
IDAHO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,076,347	\$48,262	\$1,124,609
Boise City.....	777,212	34,850	812,062
Pocatello.....	299,135	13,412	312,547

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
ILLINOIS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$7,138,236	\$320,072	\$7,458,308
Alton.....	470,164	21,082	491,246
Aurora.....	943,128	42,289	985,417
Beloit, Wis.-Ill.....	33,675	1,510	35,185
Bloomington-Normal.....	613,645	27,515	641,160
Champaign-Urbana.....	882,587	39,574	922,161
Danville.....	307,822	13,802	321,624
Decatur.....	632,082	28,342	660,424
Dubuque, Iowa-Ill.....	12,842	576	13,418
Elgin.....	704,246	31,578	735,824
Joliet.....	1,014,130	45,473	1,059,603
Kankakee.....	415,951	18,651	434,602
Round Lake Beach.....	328,161	14,714	342,875
Springfield.....	779,803	34,966	814,769
INDIANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$4,396,944	\$197,155	\$4,594,099
Anderson.....	400,005	17,936	417,941
Bloomington.....	451,161	20,230	471,391
Elkhart-Goshen.....	453,579	20,337	473,916
Evansville, Ind.-Ky.....	1,018,577	45,672	1,064,249
Kokomo.....	413,513	18,542	432,055
Lafayette-West Lafayette.....	646,055	28,969	675,024
Muncie.....	581,003	26,051	607,054
Terre Haute.....	433,051	19,418	452,469
IOWA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,453,337	\$110,005	\$2,563,342
Cedar Rapids.....	767,056	34,394	801,450
Dubuque, Iowa-Ill.....	411,777	18,464	430,241
Iowa City.....	326,040	14,619	340,659
Sioux City, Iowa-Nebr.-S. Dak.....	407,793	18,285	426,078
Waterloo.....	540,671	24,243	564,914

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
KANSAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,054,390	\$47,278	\$1,101,668
Lawrence.....	347,071	15,562	362,633
St. Joseph, Mo.-Kans.....	5,745	258	6,003
Topeka.....	701,574	31,458	733,032
KENTUCKY:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,230,359	\$100,007	\$2,330,366
Clarksville, Tenn.-Ky.....	123,796	5,551	129,347
Evansville, Ind.-Ky.....	133,403	5,982	139,385
Huntington-Ashland, W.Va.-Ky.-Ohio	314,796	14,115	328,911
Lexington-Fayette.....	1,217,139	54,575	1,271,714
Owensboro.....	441,225	19,784	461,009
LOUISIANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,606,207	\$116,860	\$2,723,067
Alexandria.....	463,028	20,762	483,790
Houma.....	301,210	13,506	314,716
Lafayette.....	687,564	30,829	718,393
Lake Charles.....	594,656	26,664	621,320
Monroe.....	559,749	25,099	584,848
MAINE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,125,410	\$50,462	\$1,175,872
Bangor.....	239,018	10,717	249,735
Lewiston-Auburn.....	283,211	12,699	295,910
Portland.....	549,186	24,625	573,811
Portsmouth-Dover-Rochester, N.H.-Me.	53,995	2,421	56,416
MARYLAND:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$987,561	\$44,282	\$1,031,843
Annapolis.....	357,559	16,033	373,592
Cumberland, Md.-W. Va.....	286,484	12,846	299,330
Hagerstown, Md.-Pa.....	343,518	15,403	358,921

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
MASSACHUSETTS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$4,920,169	\$220,616	\$5,140,785
Brockton.....	1,168,170	52,380	1,220,550
Fall River, Mass.-R.I.....	929,195	41,664	970,859
Fitchburg-Leominster.....	343,505	15,402	358,907
Lowell, Mass.-N.H.....	998,392	44,767	1,043,159
New Bedford.....	1,005,750	45,097	1,050,847
Pittsfield.....	262,696	11,779	274,475
Taunton.....	212,461	9,527	221,988
MICHIGAN:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$4,378,974	\$196,350	\$4,575,324
Battle Creek.....	394,204	17,676	411,880
Bay City.....	452,281	20,280	472,561
Benton Harbor.....	331,725	14,874	346,599
Jackson.....	469,943	21,072	491,015
Kalamazoo.....	854,302	38,306	892,608
Muskegon-Muskegon Heights.....	563,306	25,258	588,564
Port Huron.....	340,190	15,254	355,444
Saginaw.....	973,023	43,630	1,016,653
MINNESOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,487,659	\$66,705	\$1,554,364
Duluth-Superior, Minn.-Wis.....	444,035	19,910	463,945
Fargo-Moorhead, N. Dak.-Minn.....	210,278	9,429	219,707
Grand Forks, N. Dak.-Minn.....	49,878	2,236	52,114
La Crosse, Wis.-Minn.....	21,328	956	22,284
Rochester.....	405,608	18,187	423,795
St. Cloud.....	356,532	15,987	372,519
MISSISSIPPI:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,411,497	\$63,290	\$1,474,787
Biloxi-Gulfport.....	855,488	38,359	893,847
Hattiesburg.....	260,801	11,694	272,495
Pascagoula-Moss Point.....	295,208	13,237	308,445

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
MISSOURI:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,739,325	\$77,990	\$1,817,315
Columbia.....	316,531	14,193	330,724
Joplin.....	248,430	11,139	259,569
St. Joseph, Mo.-Kans.....	408,219	18,305	426,524
Springfield.....	766,145	34,353	800,498
MONTANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,258,184	\$56,416	\$1,314,600
Billings.....	497,773	22,320	520,093
Great Falls.....	433,843	19,453	453,296
Missoula.....	326,568	14,643	341,211
NEBRASKA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,184,068	\$53,093	\$1,237,161
Lincoln.....	1,125,018	50,445	1,175,463
Sioux City, Iowa-Nebr.-S. Dak.....	59,050	2,648	61,698
NEVADA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$952,515	\$42,710	\$995,225
Reno.....	952,515	42,710	995,225
NEW HAMPSHIRE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,424,415	\$63,870	\$1,488,285
Lowell, Mass.-N.H.....	3,472	156	3,628
Manchester.....	630,471	28,270	658,741
Nashua.....	431,575	19,351	450,926
Portsmouth-Dover-Rochester, N.H.-Me.	358,897	16,093	374,990

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
NEW JERSEY:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,117,015	\$50,086	\$1,167,101
Atlantic City.....	782,458	35,085	817,543
Vineland-Millville.....	334,557	15,001	349,558
NEW MEXICO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$540,102	\$24,218	\$564,320
Las Cruces.....	288,076	12,917	300,993
Santa Fe.....	252,026	11,301	263,327
NEW YORK:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$3,560,133	\$159,633	\$3,719,766
Binghamton.....	996,026	44,661	1,040,687
Danbury, Conn.-N.Y.....	11,389	511	11,900
Elmira.....	434,238	19,471	453,709
Glens Falls.....	257,014	11,524	268,538
Newburgh.....	318,749	14,292	333,041
Poughkeepsie.....	701,593	31,459	733,052
Utica-Rome.....	841,124	37,715	878,839
NORTH CAROLINA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$6,102,743	\$273,642	\$6,376,385
Asheville.....	461,220	20,681	481,901
Burlington.....	327,866	14,701	342,567
Concord.....	327,063	14,665	341,728
Durham.....	902,332	40,459	942,791
Gastonia.....	503,448	22,574	526,022
Goldsboro.....	255,351	11,450	266,801
Greensboro.....	1,011,652	45,362	1,057,014
Hickory.....	272,310	12,210	284,520
High Point.....	479,882	21,517	501,399
Jacksonville.....	320,796	14,384	335,180
Wilmington.....	390,174	17,495	407,669
Winston-Salem.....	850,649	38,144	888,793

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
NORTH DAKOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,069,525	\$47,957	\$1,117,482
Bismarck-Mandan.....	340,899	15,286	356,185
Fargo-Moorhead, W. Dak.-Minn.....	413,854	18,557	432,411
Grand Forks, W. Dak.-Minn.....	314,772	14,114	328,886
OHIO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$3,464,690	\$155,354	\$3,620,044
Hamilton.....	627,681	28,145	655,826
Huntington-Ashland, W.Va.-Ky.-Ohio	181,942	8,158	190,100
Lima.....	399,267	17,903	417,170
Mansfield.....	395,427	17,731	413,158
Middletown.....	446,312	20,012	466,324
Newark.....	268,588	12,043	280,631
Parkersburg, W.Va.-Ohio.....	44,333	1,988	46,321
Sharon, Pa.-Ohio.....	26,623	1,194	27,817
Springfield.....	620,463	27,821	648,284
Stevensville-Weirton, Ohio-W.Va.-Pa.	244,793	10,976	255,769
Wheeling, W. Va.-Ohio.....	209,261	9,383	218,644
OKLAHOMA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$754,700	\$33,840	\$788,540
Enid.....	242,270	10,863	253,133
Fort Smith, Ark.-Okla.....	9,177	411	9,588
Lawton.....	503,253	22,566	525,819
OREGON:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,410,576	\$108,088	\$2,518,664
Eugene.....	1,239,429	55,575	1,295,004
Longview, Wash.-Oreg.....	6,350	284	6,634
Medford.....	303,184	13,595	316,779
Salem.....	861,613	38,634	900,247

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
PENNSYLVANIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$6,902,090	\$309,484	\$7,211,574
Aitona.....	532,658	23,884	556,542
Erie.....	1,360,149	60,988	1,421,137
Hagerstown, Md.-Pa.....	4,413	198	4,611
Johnstown.....	560,297	25,123	585,420
Lancaster.....	951,345	42,658	994,003
Monessen.....	329,641	14,781	344,422
Reading.....	1,269,238	56,912	1,326,150
Sharon, Pa.-Ohio.....	292,295	13,106	305,401
State College.....	397,898	17,841	415,739
Steubenville-Weirton, Ohio-W.Va.-Pa.....	1,218	55	1,273
Williamsport.....	367,475	16,477	383,952
York.....	835,463	37,461	872,924
PUERTO RICO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$4,821,534	\$216,193	\$5,037,727
Aquadilla.....	385,863	17,301	403,164
Arecibo.....	442,038	19,821	461,859
Caguas.....	1,035,033	46,410	1,081,443
Mayaguez.....	724,697	32,495	757,192
Ponce.....	1,702,529	76,340	1,778,869
Vega Baja-Manati.....	531,374	23,826	555,200
RHODE ISLAND:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$383,788	\$17,209	\$400,997
Fall River, Mass.-R.I.....	83,590	3,748	87,338
Newport.....	300,198	13,461	313,659
SOUTH CAROLINA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,206,494	\$54,098	\$1,260,592
Anderson.....	247,935	11,117	259,052
Florence.....	261,215	11,713	272,928
Rock Hill.....	233,779	10,482	244,261
Spartanburg.....	463,565	20,786	484,351

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
SOUTH DAKOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$766,099	\$34,351	\$800,450
Rapid City.....	278,418	12,484	290,902
Sioux City, Iowa-Nebr.-S.Dak.....	8,017	359	8,376
Sioux Falls.....	479,664	21,508	501,172
TENNESSEE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$1,313,048	\$58,876	\$1,371,924
Bristol, Tenn.-Bristol, Va.....	127,375	5,711	133,086
Clarksville, Tenn.-Ky.....	241,100	10,811	251,911
Jackson.....	232,859	10,441	243,300
Johnson City.....	358,912	16,093	375,005
Kingsport, Tenn.-Va.....	352,802	15,820	368,622
TEXAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$12,072,513	\$541,321	\$12,613,834
Abilene.....	449,075	20,137	469,212
Amarillo.....	798,184	35,790	833,974
Beaumont.....	605,977	27,172	633,149
Brownsville.....	623,655	27,964	651,619
Bryan-College Station.....	429,129	19,242	448,371
Galveston.....	349,017	15,650	364,667
Harlingen-San Benito.....	335,519	15,045	350,564
Killeen.....	511,456	22,933	534,389
Laredo.....	819,449	36,743	856,192
Longview.....	321,849	14,431	336,280
Lubbock.....	939,052	42,106	981,158
McAllen-Pharr-Edinburg.....	975,596	43,745	1,019,341
Midland.....	394,883	17,706	412,589
Odessa.....	596,117	26,729	622,846
Port Arthur.....	538,300	24,137	562,437
San Angelo.....	403,892	18,110	422,002
Sherman-Dension.....	249,835	11,202	261,037
Temple.....	230,607	10,340	240,947
Texarkana, Tex.-Ark.....	220,477	9,886	230,363
Texas City-La Marque.....	444,462	19,929	464,391
Tyler.....	405,779	18,195	423,974
Victoria.....	316,870	14,208	331,078

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
TEXAS--Continued:			
Waco.....	607,741	27,251	634,992
Wichita Falls.....	505,592	22,670	528,262
UTAH:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$978,307	\$43,867	\$1,022,174
Provo-Orem.....	978,307	43,867	1,022,174
VERMONT:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$381,565	\$17,109	\$398,674
Burlington.....	381,565	17,109	398,674
VIRGINIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,734,626	\$122,618	\$2,857,244
Bristol, Tenn.-Bristol, Va.....	99,143	4,445	103,588
Charlottesville.....	405,796	18,196	423,992
Danville.....	286,071	12,827	298,898
Kingsport, Tenn.-Va.....	19,167	859	20,026
Lynchburg.....	400,527	17,959	418,486
Petersburg-Colonial Heights.....	549,246	24,628	573,874
Roanoke.....	974,676	43,704	1,018,380
WASHINGTON:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,304,587	\$103,336	\$2,407,923
Bellingham.....	279,610	12,537	292,147
Bremerton.....	343,369	15,396	358,765
Longview, Wash.-Oreg.....	273,786	12,276	286,062
Olympia.....	345,790	15,505	361,295
Richland-Kennewick.....	564,084	25,293	589,377
Yakima.....	497,948	22,329	520,277
WEST VIRGINIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$2,517,518	\$112,883	\$2,630,401
Charleston.....	916,856	41,111	957,967

FISCAL YEAR 1990 UMTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
WEST VIRGINIA--Continued:			
Cumberland, Md.-W. Va.....	13,626	611	14,237
Huntington-Ashland, W.Va.-Ky.-Ohio	593,469	26,611	620,080
Parkersburg, W. Va.-Ohio.....	390,347	17,503	407,850
Steubenville-Weirton, Ohio-W.Va.-Pa	154,872	6,944	161,816
Wheeling, W. Va.-Ohio.....	448,348	20,103	468,451
WISCONSIN:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$5,724,137	\$256,665	\$5,980,802
Appleton.....	957,438	42,931	1,000,369
Beloit, Wis.-Ill.....	249,651	11,194	260,845
Duluth-Superior, Minn.-Wis.....	112,324	5,037	117,361
Eau Claire.....	372,959	16,723	389,682
Green Bay.....	724,341	32,478	756,819
Janesville.....	302,490	13,563	316,053
Kenosha.....	691,809	31,020	722,829
La Crosse, Wis.-Minn.....	401,514	18,004	419,518
Oshkosh.....	359,597	16,124	375,721
Racine.....	880,892	39,498	920,390
Sheboygan.....	375,425	16,834	392,259
Wausau.....	295,697	13,259	308,956
WYOMING:			
Governor's apportionment for areas 50,000 to 200,000 in population:	\$718,874	\$32,234	\$751,108
Casper.....	382,972	17,172	400,144
Cheyenne.....	335,902	15,062	350,964
TOTAL	\$143,724,307	\$6,445,689	\$150,169,996
OVER 1,000,000 IN POPULATION	\$1,152,565,240	\$51,740,918	\$1,204,306,158
200,000-1,000,000 IN POPULATION	260,163,208	11,603,393	271,766,601
50,000-200,000 IN POPULATION	143,724,307	6,445,689	150,169,996
NATIONAL TOTALS	\$1,556,452,755	\$69,790,000	\$1,626,242,755

FISCAL YEAR 1990 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

LIMITATION FOR URBANIZED AREAS

OVER 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Atlanta, Georgia.....	\$6,178,877
Baltimore, Maryland.....	9,889,793
Boston, Massachusetts.....	18,568,034
Buffalo, New York.....	6,094,728
Chicago, Illinois-Northwestern Indiana.....	51,425,457
Cincinnati, Ohio-Kentucky.....	5,357,046
Cleveland, Ohio.....	9,801,617
Dallas-Fort Worth, Texas.....	8,789,549
Denver, Colorado.....	6,000,559
Detroit, Michigan.....	21,760,171
Fort Lauderdale-Hollywood, Florida.....	3,854,208
Houston, Texas.....	9,235,968
Kansas City, Missouri-Kansas.....	4,539,143
Los Angeles-Long Beach, California.....	58,038,466
Miami, Florida.....	8,525,117
Milwaukee, Wisconsin.....	5,554,521
Minneapolis-St. Paul, Minnesota.....	7,406,114
New Orleans, Louisiana.....	6,718,410
New York, N.Y.-Northeastern New Jersey.....	134,413,023
Philadelphia, Pennsylvania-New Jersey.....	32,356,789
Phoenix, Arizona.....	4,785,207
Pittsburgh, Pennsylvania.....	9,658,458
Portland, Oregon-Washington.....	4,475,270
St. Louis, Missouri-Illinois.....	9,750,445
San Diego, California.....	7,427,186
San Francisco-Oakland, California.....	19,775,755
San Jose, California.....	6,718,883
San Juan, Puerto Rico.....	7,636,525
Seattle-Everett, Washington.....	6,275,340
Washington, D.C.-Maryland-Virginia.....	17,167,268

\$508,177,927

LIMITATION FOR URBANIZED AREAS

200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Akron, Ohio.....	\$2,337,596
Albany-Schenectady-Troy, New York.....	2,267,212
Albuquerque, New Mexico.....	1,567,541
Allentown-Bethlehem-Easton, Pa.-N.J.....	2,370,445
Ann Arbor, Michigan.....	993,937
Augusta, Georgia-South Carolina.....	791,775
Austin, Texas.....	1,491,054
Bakersfield, California.....	972,218
Baton Rouge, Louisiana.....	1,299,178
Birmingham, Alabama.....	2,386,495
Bridgeport, Connecticut.....	2,071,917
Canton, Ohio.....	1,144,743
Charleston, South Carolina.....	1,085,333
Charlotte, North Carolina.....	1,308,389
Chattanooga, Tennessee-Georgia.....	986,345
Colorado Springs, Colorado.....	979,153
Columbia, South Carolina.....	1,116,531
Columbus, Georgia-Alabama.....	830,196
Columbus, Ohio.....	4,410,955
Corpus Christi, Texas.....	871,246
Davenport-Rock Island-Moline, Iowa-Illinois.....	1,133,627
Dayton, Ohio.....	2,935,145
Des Moines, Iowa.....	1,104,090
El Paso, Texas.....	1,805,843
Fayetteville, North Carolina.....	746,697
Flint, Michigan.....	1,535,835
Fort Wayne, Indiana.....	1,095,129
Fresno, California.....	1,473,756
Grand Rapids, Michigan.....	1,557,701
Greenville, South Carolina.....	752,915

FISCAL YEAR 1990 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

LIMITATION FOR URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION--(CONTINUED)

URBANIZED AREA	LIMITATION	URBANIZED AREA	LIMITATION
Harrisburg, Pennsylvania.....	\$1,137,097	Providence-Pawtucket-Warwick, R.I.-Mass....	\$4,777,970
Hartford, Connecticut.....	2,307,556	Raleigh, North Carolina.....	735,056
Honolulu, Hawaii.....	2,857,857	Richmond, Virginia.....	1,946,946
Indianapolis, Indiana.....	3,839,903	Rochester, New York.....	3,121,004
Jackson, Mississippi.....	907,743	Rockford, Illinois.....	978,072
Jacksonville, Florida.....	2,034,549	Sacramento, California.....	3,529,943
Knoxville, Tennessee.....	904,908	St. Petersburg, Florida.....	3,357,188
Lansing, Michigan.....	1,168,124	Salt Lake City, Utah.....	2,468,474
Las Vegas, Nevada.....	1,386,639	San Antonio, Texas.....	4,644,776
Lawrence-Haverhill, Mass.-New Hampshire....	858,383	San Bernardino-Riverside, California.....	2,552,398
Little Rock-North Little Rock, Arkansas....	1,041,190	Sarasota-Bradenton, Florida.....	1,274,252
Lorain-Elyria, Ohio.....	788,514	Scranton-Wilkes-Barre, Pennsylvania.....	1,751,160
Louisville, Kentucky-Indiana.....	3,921,718	Shreveport, Louisiana.....	1,061,294
Madison, Wisconsin.....	1,001,792	South Bend, Indiana-Michigan.....	1,159,367
Melbourne-Cocoa, Florida.....	707,611	Spokane, Washington.....	1,125,001
Memphis, Tennessee-Arkansas-Mississippi....	3,634,605	Springfield-Chicopee-Holyoke, Mass.-Conn...	2,043,930
Mobile, Alabama.....	1,012,834	Syracuse, New York.....	1,916,204
Nashville-Davidson, Tennessee.....	1,685,148	Tacoma, Washington.....	1,566,293
New Haven, Connecticut.....	1,869,302	Tampa, Florida.....	1,940,251
Newport News-Hampton, Virginia.....	1,145,514	Toledo, Ohio-Michigan.....	2,262,934
Norfolk-Portsmouth, Virginia.....	3,112,948	Trenton, New Jersey-Pennsylvania.....	1,997,996
Ogden, Utah.....	703,686	Tucson, Arizona.....	1,674,019
Oklahoma City, Oklahoma.....	2,332,325	Tulsa, Oklahoma.....	1,584,986
Omaha, Nebraska-Iowa.....	2,391,956	West Palm Beach, Florida.....	1,668,220
Orlando, Florida.....	1,760,054	Wichita, Kansas.....	1,371,199
Oxnard-Ventura-Thousand Oaks, California...	1,364,990	Wilmington, Delaware-New Jersey-Maryland...	2,027,993
Pensacola, Florida.....	762,822	Worcester, Massachusetts.....	1,170,600
Peoria, Illinois.....	1,062,845	Youngstown-Warren, Ohio.....	1,803,364

TOTAL			\$150,636 500

FISCAL YEAR 1990 UNTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

STATE LIMITATION FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE	LIMITATION	STATE	LIMITATION
ALABAMA	\$3,974,156	NEBRASKA	\$1,181,288
ALASKA	762,891	NEVADA	835,658
ARIZONA	305,621	NEW HAMPSHIRE	1,396,118
ARKANSAS	1,198,812	NEW JERSEY	1,751,944
CALIFORNIA	10,693,099	NEW MEXICO	511,475
COLORADO	2,491,367	NEW YORK	4,172,356
CONNECTICUT	7,301,806	NORTH CAROLINA	6,160,399
DELAWARE	0	NORTH DAKOTA	1,034,999
FLORIDA	4,792,485	OHIO	3,686,084
GEORGIA	3,123,285	OKLAHOMA	812,292
HAWAII	702,678	OREGON	2,142,185
IDAHO	993,261	PENNSYLVANIA	7,535,231
ILLINOIS	8,142,236	PUERTO RICO	4,492,135
INDIANA	4,592,647	RHODE ISLAND	365,357
IOWA	2,673,664	SOUTH CAROLINA	1,183,104
KANSAS	1,138,945	SOUTH DAKOTA	783,462
KENTUCKY	2,242,217	TENNESSEE	1,324,038
LOUISIANA	2,639,629	TEXAS	11,997,115
MAINE	1,213,113	UTAH	807,809
MARYLAND	927,385	VERMONT	360,877
MASSACHUSETTS	5,877,925	VIRGINIA	2,843,687
MICHIGAN	4,730,837	WASHINGTON	2,149,330
MINNESOTA	1,643,420	WEST VIRGINIA	2,726,688
MISSISSIPPI	1,355,890	WISCONSIN	5,900,727
MISSOURI	1,812,008	WYOMING	681,041
MONTANA	1,298,797		
TOTAL			\$143,463,573
OVER 1,000,000 IN POPULATION			\$508,177,927
200,000-1,000,000 IN POPULATION			150,636,500
50,000-200,000 IN POPULATION			143,463,573
NATIONAL TOTAL			\$802,278,000

FISCAL YEAR 1990 UMTA SECTION 16(b)(2) ALLOCATIONS

AMOUNTS ALLOCATED TO STATES

STATE	ALLOCATION	STATE	ALLOCATION
ALABAMA.....	\$625,523	NEBRASKA.....	339,745
ALASKA.....	139,089	NEVADA.....	196,692
AMERICAN SAMOA.....	50,934	NEW HAMPSHIRE.....	233,352
ARIZONA.....	460,154	NEW JERSEY.....	1,061,307
ARKANSAS.....	476,410	NEW MEXICO.....	253,247
CALIFORNIA.....	2,776,864	NEW YORK.....	2,488,051
COLORADO.....	392,353	NORTH CAROLINA.....	804,884
CONNECTICUT.....	511,433	NORTH DAKOTA.....	207,518
DELAWARE.....	189,446	NORTHERN MARIANAS....	50,489
DISTRICT OF COLUMBIA.....	208,139	OHIO.....	1,405,542
FLORIDA.....	1,919,539	OKLAHOMA.....	532,384
GEORGIA.....	715,045	OREGON.....	445,453
GUAM.....	127,950	PENNSYLVANIA.....	1,766,460
HAWAII.....	208,218	PUERTO RICO.....	430,615
IDAHO.....	224,476	RHODE ISLAND.....	262,266
ILLINOIS.....	1,500,046	SOUTH CAROLINA.....	453,250
INDIANA.....	748,436	SOUTH DAKOTA.....	219,362
IOWA.....	529,848	TENNESSEE.....	712,481
KANSAS.....	444,542	TEXAS.....	1,632,599
KENTUCKY.....	593,800	UTAH.....	241,874
LOUISIANA.....	582,695	VERMONT.....	187,166
MAINE.....	275,244	VIRGIN ISLANDS.....	129,421
MARYLAND.....	564,535	VIRGINIA.....	679,800
MASSACHUSETTS.....	910,540	WASHINGTON.....	586,006
MICHIGAN.....	1,134,826	WEST VIRGINIA.....	386,720
MINNESOTA.....	626,007	WISCONSIN.....	712,268
MISSISSIPPI.....	452,532	WYOMING.....	163,734
MISSOURI.....	817,027		
MONTANA.....	213,750		
TOTAL.....			\$35,002,087

[FR Doc. 89-29185 Filed 12-13-89; 3:57 pm]

BILLING CODE 4910-57-C

REGULATIONS

**Tuesday
December 19, 1989**

Part III

**Department of
Housing and Urban
Development**

**Office of the Assistant Secretary for
Public and Indian Housing**

**24 CFR Parts 965 and 990
Performance Funding System: Formal
Review Process, Energy Conservation
Savings, Audit Responsibilities, Definition
of Responsible Insurance Company;
Proposed Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Public and Indian Housing**

24 CFR Parts 965 and 990

[Docket No. R-89-1453; FR-2504-P-01]

RIN 2577-AA49

**Performance Funding System: Formal
Review Process, Energy Conservation
Savings, Audit Responsibilities,
Definition of Responsible Insurance
Company**

AGENCY: Office of the Assistant
Secretary for Public and Indian Housing,
HUD.

ACTION: Proposed rule.

SUMMARY: The proposed rule would implement provisions of section 118 of the Housing and Community Development Act of 1987 that require several modifications of the Performance Funding System (PFS) of calculating operating subsidy eligibility of Public Housing Agencies and Indian Housing Authorities (hereafter, collectively called PHAs) operating public housing and Indian housing rental projects. These revisions deal with:

- (1) Sharing of energy rate reductions;
- (2) Non-HUD financing of energy conservation measures;
- (3) Establishing a formal review process for revision of allowable expense levels (AELs);
- (4) Combining of units; and
- (5) Funding of audit costs.

In addition, this proposed rule would provide a definition of a "financially sound and responsible insurance company." PHAs are required by their Annual Contributions Contracts (ACCs) with HUD to carry adequate insurance coverage. This definition is being added to clarify HUD's policy on what constitutes adequate insurance coverage under the ACC.

DATE: Comment due date: February 20, 1990.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief

public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 755-7084). (These are not toll-free telephone numbers.)

FOR FURTHER INFORMATION CONTACT: Theodore R. Daniels, Director, Financial Management and Occupancy Division, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-8145. A telecommunications device for hearing or speech-impaired persons is available at (202) 245-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in §§ 965.205, 990.105(c)(5)(ii)(B), 990.170 (c)(4) and (g), 990.108(e), 990.110 (c)(1)(i), (e) and (f) of this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577-0125. Information on the estimated public reporting burden is provided under the Preamble heading, Findings and Certifications. The public reporting burden for each of these collections of information is estimated to include the time for reviewing the 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 Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for HUD.

II. Statutory Background

A. Procedure

Section 118 of the Housing and Community Development Act of 1987 (Pub. L. No. 100-242, 100 Stat. 1815)

amended section 9(a) of the United States Housing Act of 1937. This provision authorizes the Performance Funding System method of determining operating subsidy eligibility of PHAs operating rental projects, based on a formula representing the operations of a prototype well-managed project.

Section 118 confirmed that the PFS should continue to operate primarily as it has been, based on the system defined in regulations in effect as of February 5, 1988, as modified in accordance with the changes prescribed in the 1987 Act. (February 5, 1988 was the date of approval of the 1987 Act.) Although the 1987 Act prescribed no deadline for implementing the changes it made in section 9(a) of the 1937 Act, it did require that the changes be made by regulation, in consultation with PHAs, before the fiscal year to which they are to be applied. Consequently, the changes can be made prospective only, by rulemaking only (with the exception of the insurance issue, on which action was required in 1988).

The Department anticipates that development of a final rule will take a number of months after the close of the comment period. As a result, we doubt that the rule can be made effective before PHA fiscal years starting in Federal Fiscal Year 1991 (PHA fiscal years beginning on or after January 1991).

B. Content

The new provisions added to the 1937 Act by the 1987 Act that are to be implemented by this rulemaking are section 9(a)(3)(B)(i) of the 1937 Act, sharing of energy cost savings; section 9(a)(3)(B)(ii), incentives for private financing of energy conservation measures; section 9(a)(3)(B)(iii), formal review process; section 9(a)(3)(B)(iv), combination of units; and section 9(a)(1), audit responsibilities.

Principal among these is the provision for a formal review process. Section 118(a)(2) of the 1987 Act requires that HUD provide:

A formal review process for the purpose of providing revisions (either increases or reductions) to the allowable expense level of a public housing agency as necessary—

(I) To correct inequities and abnormalities that exist in the base year expense level of such public housing agency;

(II) To accurately reflect changes in operating circumstances since the initial determination of such base year expense level; and

(III) To ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government and the lower cost of operating the project in an

economically prosperous unit of local government[.]

This formal review process could be interpreted to mean one of at least two things: a review of a PHA's actual expenses or actual types of expenses, as compared with the level of operating subsidy eligibility anticipated under the formula, on a one-time or annual basis; or a revision to the formula in response to the three listed factors, with one opportunity for each PHA to determine whether use of the revised formula indicates that the current Allowable Expense Level is inappropriately high or low. The Department has chosen the latter interpretation for the reasons discussed below.

III. Changes in the Regulation

A. Formal Review Process

The current rule provides, in § 990.105(c), that a formula expense level be computed in accordance with a formula prescribed by HUD, using weights and constants and a local inflation factor assigned each year by HUD. The Formula Expense Level is used in two ways: in establishing the Allowable Expense Level (AEL) for the first year under the PFS by assuring that the base year expense level (as defined in § 990.102) is within a specified range around the Formula Expense Level, and to determine the annual amount of increase or decrease in the AEL when a PHA's projects' characteristics change substantially.

Section 990.105(c) indicates that the formula itself is "subject to updating by HUD annually or at any other time" and that the updating will be accomplished by publication in the *Federal Register* or by direct notification to the PHAs. In the case of implementation of section 118 of the 1987 Act, HUD is choosing to update the formula by publication of a rule that adds a new provision to the section that permits special adjustments to the Allowable Expense Level, and that makes other conforming changes to the existing regulation.

This revised formula has been developed to apply to recent circumstances of a PHA, so as to determine in an equitable way whether a PHA's Allowable Expense Level needs to be adjusted in accordance with the dictates of section 118(a)(2). This system treats all PHAs in accordance with an objective standard, and it is administratively feasible for both the Department and the PHAs.

To understand what the formula can and cannot do, some background is useful. In establishing the PFS system in the mid-1970's, Congress directed that "for purposes of making payments * * *

the Secretary shall establish standards for costs of operations * * * or [determine] the costs of providing comparable services as determined in accordance with criteria or a formula * * *." Use of a "standards" approach would have involved reaching agreement on the type and level of maintenance, administrative, and tenant services that should be eligible for reimbursement. Information on how much it costs to achieve these standards would then need to be obtained, preferably based on the experience of well-managed projects that are not part of the public housing system. (Otherwise the cost structure is self-perpetuating, whether too high or too low.) This approach was not adopted, largely because of difficulties in reaching a consensus as to what standards to use and what types of non-PHA projects to select for comparison.

The other approach, which can be thought of as a "comparative" approach, involves obtaining large amounts of comparative data on PHA operating costs and circumstances, and then deriving a formula that predicts typical operating costs for any given type of PHA. This approach also requires collection of large amounts of data covering a significant portion of the public housing inventory and requires considerable analysis, and, consequently is lengthy and costly. However, this comparative approach was adopted by HUD when the PFS system was first implemented.

A comparative approach cannot address the question of whether the overall level of PHA expenditures is adequate, but can be used to determine whether a particular PHA is over-funded or under-funded relative to other PHAs with similar characteristics. The new formula is a major improvement over the one currently in use in terms of the statistical reliability of its predictions. However, given the history of cost controls on PHAs, the fact that the basic approach is of a comparative nature, and that no adjustments have been made for what type and level of services "should" be provided, the Formula Expense Level cost estimate produced by the equation cannot legitimately be said to be an exact indicator of how much a PHA should be permitted to spend. In addition, the formula itself has a range of error.

Based on these considerations and the outcomes of various range tests, HUD has concluded that using less than a 15 percent "range test" in applying the new formula could not be justified. That is, it concluded that PHAs with a current allowed expense level (AEL) no higher than 115 percent of the predicted

formula expense level (FEL) under the new formula could not safely be said to be over-funded, just as those with expense levels above 85 percent of the FEL could not be said to be under-funded.

A one-time systematic adjustment to the current Allowable Expense Level makes sense. The factors which have proved to have the most predictive value for PHA expenses in the new formula are PHA inventory and community characteristics. PHA expenditure patterns are closely tied to past Allowable Expense Levels, and the other factors used to derive an equation change little in the short term. HUD intends to study the impacts of changes that would result from introduction of 1990 Census data, but these data will not be available for some time and are not likely to alter the predicted values for most PHAs. Once the new formula has been used by PHAs that want to appeal their current AELs, the Department believes that no additional significant improvement in accuracy of PHA expense levels is feasible using a comparative approach that relies on cost data driven by allowed historic costs.

The new formula would use the following factors:

- Measures of community distress (and need), such as the community's per capita value of the Community Development Block Grant program's Formula B, discussed below (multiplied by the proportion of the PHA's units containing two or more bedrooms);
- Measures of area costs, such as the community's index of local government wage rates and the median rent in the community; and
- Measures of the PHA's operating characteristics, such as, the weighted average height of the PHA's buildings (multiplied by the proportion of its units containing two or more bedrooms), and the total number of the PHA's units containing two or more bedrooms.

These factors contrast with the current formula, which uses the following factors:

- The weighted average number of bedrooms in the PHA's projects;
- The weighted average age of all the PHA's projects;
- The weighted average height of the tallest building in each project; and
- The HUD-supplied index for the relative operating costs of a sample of PHAs in the HUD region.

One advantage of the new formula over the current formula is that the community's median rents and level of

local government wages are more valid indicators of local cost than the regional cost indicator now used, because they are based on measures independent of PHA historical spending patterns. Another advantage is that the new formula contains an indicator of economic distress, as required by the 1987 Act provision: the CDBG Formula B, which takes into account the age of the housing stock, loss of population and the number of families below the poverty line. A third advantage is that the new formula is derived by weighting sample PHAs by the number of units they represent rather than by the number of PHAs in each size group, thereby improving the statistical representativeness and precision of the formula. The new formula also gives greater weight to the average building height where the building serves a family population (proportion of two plus bedroom units), as opposed to an elderly population. Building height is a significant indicator of cost when the building serves a family population because of items such as elevator maintenance.

Under the current PFS, there are two ways to calculate the annual adjustment to the Allowable Expense Level for changes in operating conditions:

(1) A simplified calculation is used when the PHA has not experienced enough change in housing stock since the last comprehensive calculation to reach a threshold of net changes in the number of units it manages equal to at least 5 percent or 1,000 units, whichever is less. These PHAs increase their AEL by .5 percent to reflect the higher maintenance costs attributable to the aging of the stock.

(2) A comprehensive calculation is used when the PHA has experienced enough change in housing stock since the last comprehensive calculation to reach a threshold of net changes in the number of units of 5 percent or 1,000 units, whichever is less. These PHAs calculate the impact on the Formula Expense Level of changes in the PHAs housing stock with reference to age of the units, building height, and average number of bedrooms per unit.

After the effective date of the final rule, the usual methods would be followed, substituting the revised formula for the current formula in the comprehensive calculation described in paragraph (2) above (and in § 990.105(e)(5)(ii)(B) of the rule). Because project age no longer would be a factor in the new formula, all PHAs would perform the simplified calculation described in paragraph (1) above, to reflect the aging of their stock. Only the PHAs that meet the threshold of net

change would perform the additional calculation described in paragraph (2) above.

If a PHA submitted a budget for FY 1991 before the effective date of the rule that was based on the old formula, the PHA would be given the option of recomputing its adjusted AEL based on the new formula if it submitted a revision to HUD within 60 days after the dissemination of the new formula (and the effectiveness of the final rule). At that point, it could request a formal review of its AEL under the revised formula, as well. Any PHA submitting a budget to HUD more than 60 days after the dissemination of the new formula (and the effectiveness of the final rule) would be required to use the new formula in the calculation of the Formula Expense Level—if it exceeded the threshold of unit change and was required to perform calculation (2), above.

The revised formula also would be used in the formal review required by section 118 of the 1987 Act. Based on the characteristics of the PHA and the community, the revised formula would be used to determine a new Formula Expense Level (as in the procedure described in paragraph (2) above). Then a range of fifteen percent (discussed above) would be applied to determine whether the PHA's Allowable Expense Level should be increased or decreased. The rule would provide that if the PHA's new AEL were below 85 percent of the Formula Expense Level, HUD would raise it to that level, after the formal review. The rule would provide that if a PHA's new AEL were more than fifteen percent above the Formula Expense Level, HUD would adjust its AEL downward to 115 percent of the FEL.

The Department is concerned about whether the formula, even as revised, treats Indian housing authorities equitably, since they experience special problems associated with scattered sites, single family construction, and remoteness. During the development of a final rule, HUD will look at the effect of the revised formula on some sample IHAs.

HUD expects to provide PHAs with a worksheet and a chart of data for each region that would allow each PHA to perform the calculations for itself. Under this system, the PHA would determine whether its Allowable Expense Level for the next budget year would be within the range of fifteen percent below to fifteen percent above the Formula Expense Level. If its new AEL were below the range, a request for formal review of its AEL would produce favorable results. In any event, after making its own calculations, a PHA

could decide whether to appeal its current AEL under the revised formula.

The Department estimates that about 720 PHAs (representing 12 percent of the units) might be entitled to increases in their Allowable Expense Levels as a result of this appeals process, at a cost to the government of \$20 million. PHAs with fewer than 250 units would be the group most affected. This group is most affected because HUD is permitting more variation from the predicted Allowable Expense Level, and more small PHAs seem to experience greater variation from the prediction. However, since the Department is not requiring PHAs to have their AELs adjusted in accordance with the revised formula unless they appeal their AEL for Fiscal Year 1991, the small PHAs that are affected by the revised formula will probably all benefit. (See the paragraphs in the Findings and Certifications section below that discuss the Regulatory Flexibility Act.)

B. Energy-related Changes

1. Utility Rates

Section 9(a)(3)(B)(i) of the 1937 Act provides a financial incentive for PHAs to negotiate alternative purchase arrangements to obtain their utilities for the lowest possible price, for example, by purchasing natural gas directly from the "well head." This incentive is mentioned in § 990.107 in a new paragraph (b)(2) and in § 990.107(f), and is described in detail in § 990.110(c).

2. Utility Consumption

During fiscal years 1982-1986, HUD provided \$756.5 million for energy conservation measures under the modernization program. Nevertheless, much more needs to be and can be done to reduce public housing's billion dollar annual fuel and utility costs. Many PHAs have the ability to reduce their utility costs by relying on their own initiative and using non-HUD funds, i.e., funds other than Comprehensive Improvement Assistance Program funds and operating reserves. However, in some cases, the PFS has not encouraged such initiative either because the PHA's right to retain part of any savings realized through reduced utilities consumption has not been understood, or because the PFS was not designed to cover the capital investments that have more than a one and a half year payback period.

The existing incentive for energy conservation by PHAs under the PFS is the provision in § 990.110(c)(3), permitting a PHA to retain half of any decrease in the utilities expense level

resulting from decreased consumption during the PHA fiscal year (as compared to the amount calculated for that year). The PHA calculates a Utilities Expense Level (UEL) as part of its budget submission for a given fiscal year. The UEL is determined using utilities rates in effect at the time, and consumption is estimated based on the average of a three-year "rolling base" (the average consumption in the three years ending one full year before the beginning of the PHA's requested budget year). At the end of a PHA's fiscal year, the actual utility expense and consumption for that year are compared to the UEL. The PHA retains half of any decrease after adjustments for utility rate changes and for the effect of the weather on space heating consumption.

Because of the rolling base provisions, the savings from an energy improvement are gradually phased out. The PHA retains half of the energy savings in the first two years following the improvement, one-third in the third year, and one-sixth in the fourth year. By the fifth year, the energy savings are reflected completely in the three-year rolling base. Over a four year period, therefore, the PHA will generally realize 150 percent of the value of the first year's savings.

Section 9(a)(3)(B)(ii) provides financing incentives to encourage PHAs to undertake physical improvements to reduce energy consumption that are financed either through performance contracts or shared savings agreements with private energy service companies, or through loans from utilities or State or local governmental entities. The incentives include the following:

(1) The freezing of the rolling base and retention by the PHA of 100 percent of cost savings resulting from reductions in energy consumption during the term of the financing agreement; and

(2) The provision of additional operating subsidy, with the PHA retaining the right—as under the current rule—to keep 50 percent of consumption savings.

These incentives are offered to PHAs that undertake energy conservation measures which the PHA demonstrates to the HUD field office will pay for themselves within the contract period (which may not exceed 12 years), *i.e.*, where the PHA's payments are not expected to exceed the anticipated energy cost savings. The incentives are generally described in a new paragraph (g) added to § 990.107, which indicates that the determination of which incentive applies will depend on how the contract negotiated by the PHA is structured. To the extent that a contract makes a PHA's payments dependent on

realizing energy cost savings, the first incentive would apply. If the contract does not make payment dependent on savings, the second incentive would apply. (A reference to these incentives would be added to part 965 in the Subpart dealing with energy conservation measures, § 965.307.)

The Department notes that a PHA's selection of a contractor to provide energy-savings services or improvements is a procurement action, subject to the procurement requirements adopted government-wide on Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. These requirements are found in HUD's regulations at 24 CFR part 85.

Section 85.36(d) of that rule provides that, for procurements costing at least \$25,000, there are two generally acceptable methods of procurement: sealed bids (formal advertising) and competitive proposals. The method of noncompetitive proposals is permitted under the rule only where the other procurement methods are infeasible and one of the following circumstances applies: (1) The item is available only from a single source; (2) emergency does not permit the delay involved in competitive selection; (3) the awarding agency (HUD, in this case) authorizes noncompetitive proposals; or (4) competition is determined inadequate after solicitation from a number of sources.

The Department invites public comments on the feasibility of using the procurement methods of sealed bids and competitive proposals for the procurement of energy-saving services or improvements. Public comments also are invited on what types of situations would justify HUD authorization, under the third circumstance stated above, of the noncompetitive proposals method for these procurements.

a. First incentive. The elements of the first incentive would be implemented by revising § 990.107(c) to include a new paragraph (c)(4), to provide that the rolling base could be frozen for the amortization period of the improvement, and by adding a paragraph (c)(2)(ii) to § 990.110, to authorize the retention of 100 percent of cost savings for this type of contract after the PHA receives approval of it under § 990.107(g)(1).

When HUD reviews each proposed contract under § 990.107(g), it will assess its costs and benefits, weighing the amount of capital investment, the extent of savings, and the length of term and risk to the investor. HUD will look for arrangements that pay off the capital investment for the energy savings

measures as rapidly as possible, consistent with providing incentives for private investment in PHA energy efficiency. The Department also recognizes that additional costs to a PHA such as staff training and activities promoting tenant cooperation, *e.g.*, energy conservation educational efforts, should be eligible for payback from the energy savings. The rule provides at § 990.110(c)(2)(ii) for savings to be applied to recognized costs in the following order: (1) Payment of the contractor, in accordance with the contract; (2) reimbursement of the PHA's direct costs; (3) retention by the PHA of up to 30 percent of the total savings to use for any eligible expenditure; and (4) prepayment of the PHA's obligation under the contract.

A PHA could negotiate an arrangement that would provide it with anticipated savings greater than those necessary to pay back the energy service contractor's investment plus the additional costs to the PHA, as a further incentive to the PHA to enter into shared savings or other performance contracting arrangements. Under item three above, the PHA could then retain part of the savings. In this proposal, the Department has used a figure of 30 percent, but invites comment on what percentage would be appropriate.

Energy savings in any year could fall short of expectations—and in fact, short of the amount necessary for full payment of any fixed amount due the energy service contractor to cover its investment and an approved return on its investment—in which case, the amount of the actual savings would be paid to the contractor. In anticipation of this possibility, a performance contract may provide that the term be extended automatically to the length necessary to amortize the remaining balance of the payments to the contractor, up to a maximum term of 12 years.

b. Second incentive. The second incentive—provision of additional operating subsidy—would be implemented by revising paragraph (c)(2) of § 990.110 and by adding a paragraph (f) to § 990.110. Paragraph (f) would describe the conditions under which additional operating subsidy would be available and the monitoring that would be necessary to assure that the statutory condition of limiting the subsidy to the amount saved is fulfilled.

The PHA would be eligible for additional operating subsidy to amortize the cost of energy conservation measures under the contract, subject to a maximum annual limit equal to the cost savings for that year. Each year, the

energy cost savings would be determined as follows:

- The consumption level that would have been expected if the energy conservation measure had not been taken would be adjusted for (1) the Heating Degree Days experience for the year, and (2) any change in utility rate.
- The actual cost of energy (of the type affected by the energy conservation measure) after implementation of the energy conservation measure would be subtracted from the expected energy cost, to produce the energy cost savings for the year. (The PHA would be able to retain 50 percent of this savings under § 990.110(c).)

If the cost savings for any year during the contract period is less than the amount of operating subsidy made available under § 990.110(f) to pay for the energy conservation in that year, HUD would offset the deficiency against the PHA's operating subsidy eligibility for the next PHA fiscal year.

C. Effect of Combining Units

Under the current rule, when a PHA redesigns or rehabilitates a project and combines two or more units into one larger unit, the operating subsidy eligibility amount automatically decreases, because it is based on allowing a set expense level for "unit months available", which is, in turn, based on the number of project units. Section 9(a)(3)(B)(iv) of the 1937 Act, as amended by the 1987 Act, provides that when such a combination of units results in a unit that houses at least the same number of people previously served, the amount of operating subsidy should not be reduced solely as a result of the decrease in number of units.

This provision of the statute would be implemented by the addition of another category of other costs in § 990.108 in the operating subsidy determination that will compensate PHAs with unit reconfigurations. As of the effective date of the final rule, PHAs would be eligible for an additional amount of subsidy calculated as follows: Each unit month not included in the requested year's "unit months available" as a result of these combinations that have occurred since the PHA's base year, multiplied by the per unit month (P.U.M.) Allowable Expense Level for the requested year.

D. Audit Cost Funding

Section 9(a)(1) of the 1937 Act, as amended by section 118 of the 1987 Act, authorizes HUD to arrange an audit if a PHA fails to submit one in accordance with Federal requirements (24 CFR part 44), and authorizes HUD to charge the

cost of the audit to the PHA by deducting it from any assistance otherwise payable to the PHA. The authority to have the audit performed includes arranging for any accounting services necessary to place the PHA's books and records into auditable condition. This provision of the statute would be implemented by revising § 990.120, concerning audits.

E. Responsible Insurance Company

PHAs are required, in their Annual Contributions Contracts (ACCs) with HUD, to maintain specified insurance coverage for property and casualty losses that would jeopardize their financial stability. This insurance coverage is required to be obtained from a "financially sound and responsible insurance company" of its substantial equivalent. (See section 305 of the ACC and Article IX of the Mutual Help ACC.)

Since 1982, 97 insurance companies have been liquidated, put into receivership or conservatorship, or have been issued cease and desist orders by various State insurance departments. Of those, HUD is aware of at least three companies that wrote coverage for PHAs, depriving the PHAs of payments to cover their losses and the return of unearned premiums. As a result, the Department emphasizes the need for PHAs to select financially sound and responsible risk protection arrangements to safeguard the PHA's own interests and those of the Department.

The standard is specified in this proposed rule in a formerly "reserved" subpart B of part 965, a part that applies to the maintenance and operation of PHA-owned projects. A new § 965.205 has been created to specify under what conditions various types of risk protection providers will qualify as a "financially sound and responsible insurance company". (Section 965.205 embodies in rule form the types of insurance and risk protection providers that have been permitted by the Department over the last few years.) In each case where insurance is to be obtained, documents must be submitted to establish that the entity satisfies the basic criteria for a financially sound and responsible insurance provider.

Separate subsections of § 965.205 address the criteria applicable to various types of providers. Paragraph (b) describes the requirements for traditional insurance companies, including foreign-based companies. Paragraphs (c) and (d) pertain to non-profit insurance entities and to municipal leagues or pools (including one formed by a single municipality), respectively.

Traditional insurance companies may qualify (1) by being licensed or duly authorized to issue insurance in the State or Indian area and (2) by maintaining adequate reserves. Documentation of this first requirement must be forwarded by the PHA to HUD for review and approval. The second requirement may be evidenced by a rating and classification issued by the A. M. Best Company (a company that has specialized for 83 years in reporting the financial condition of property/casualty insurers licensed to do business in the United States). The rating and classification deemed satisfactory evidence of adequate reserves is a "Class VI" for financial status and at least "B+" for performance. If a company is not rated by Best, it must demonstrate the adequacy of its reserves by submitting an audited financial statement.

An insurance company that is not licensed or duly authorized to issue insurance in the State or Indian area may still qualify as a "financially sound and responsible insurance company" by satisfying seven specific criteria. These criteria are comparable to the criteria used by the Best Company in establishing their ratings and by the various States in the licensing of insurance companies.

PHA non-profit insurance entities and State-authorized municipal league self-insurance pools or trusts, including one formed by a single municipality, may qualify by satisfying most of the seven criteria applicable to non-licensed insurance companies.

The method of selection of risk protection coverage by a PHA is discussed in a new § 965.210. The process is governed by 24 CFR part 85, which governs all procurement of goods and services by State and local governments and Federally recognized Indian tribes, including any public housing agency or Indian housing authority, and numerous cross-references to part 85 are made in this section. (Part 85 is HUD's rule reflecting Federal government-wide procurement policy, requiring competition in the selection of goods and services.) For example, § 85.36 (d)(1) provide that purchases costing less than \$25,000 may be made using relatively simple and informal methods, and § 85.36(d)(3) provides that, when formal advertising is inappropriate, competitive proposals may be solicited. Section 85.36(f) requires that some sort of cost or price analysis be performed in every procurement action, consistent with the overall purpose of that section to assure that the most advantageous proposal be

selected, considering price and other factors.

Selection of risk protection coverage from a PHA-sponsored non-profit entity (one in which the PHA presumably would be an active participant) or a municipal pool is permissible under part 85. In fact, part 85 includes a reference to the possible economy and efficiency that can be achieved by mutual cooperation of governmental entities in the use of common goods and services (§ 85.36(b)(5)). In order to determine that economy and efficiency would result from such a selection, a PHA would first have to conduct a market search—in accordance with the procedures specified in § 85.36(d)(1) through (d)(3)—to establish competitive costs from all qualified sources (financially sound and responsible insurance companies and their equivalents). If a PHA were particularly concerned about the cyclical nature of insurance premiums from conventional insurance companies and the difficulty of coping with premium costs when the cycle is at its peak, it could include in its evaluation factors in the competitive proposal process the ability of the supplier to provide long-term coverage at a fixed rate, or some similar factor.

Since selection of coverage from any entity for an indefinite period (essentially committing the PHA to perpetual participation) would vitiate the purpose of competitive selection, § 965.210 requires that the risk protection coverage selected be for a fixed term of three years or less, and requires that the PHA must reassess its selection before the expiration of the term. Should a PHA feel that a term greater than three years is necessary to obtain the most advantageous coverage, it may seek a waiver of this provision from HUD, in accordance with part 999 of this chapter, by documenting the facts and grounds.

F. Miscellaneous

In 1981, section 3 of the United States Housing Act of 1937 was amended to prescribe each family's monthly rental payment in terms of the higher of three possible amounts—each of which was based on its monthly income (30 percent of adjusted monthly income, 10 percent of gross monthly income, or a welfare allotment for housing expenses), and to authorize HUD to define income. These amendments rendered ineffective the requirement of section 9(b) that a PHA's eligibility for operating subsidy in the public housing program be conditioned on charging aggregate rentals in any year of at least 20 percent of the sum of the monthly incomes of all the families. This rule would remove the reference to

that obsolete requirement from § 990.101.

IV. Findings and Certifications

A. Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

B. Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981, and therefore no regulatory impact analysis is necessary. At its estimated cost of \$30 million, it will not have an annual effect on the economy of \$100 million or more. Furthermore, it will not cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601) the Undersigned hereby certifies that this rule, as distinguished from the statute, would not have a significant economic impact on a substantial number of small entities. The rule would provide for a formal review process to determine, under a revised formula, whether a PHA has an allowable expense level outside a range of 15 percent below or 15 percent above the formula amount; it would permit some modest increase in subsidy for PHA's that undertake certain energy saving measures; and it would specify what criteria an insurance entity must satisfy in order to fulfill the contractual requirement to maintain insurance coverage with a financially sound and responsible company.

The formal appeals process might affect favorably nearly 400 of the PHAs that operate fewer than 100 dwelling units, as a result of the revision of the formula. That result is attributable to the statutorily required modifications to

correct inequities and abnormalities that existed in the base year, to accurately reflect changes in operating circumstances since the determination of the base year expense level, and to reflect the relative cost of operating in an economically distressed area or an economically prosperous area. Small PHAs have been more likely than large PHAs to deviate more from the allowable expense level predicted under the current formula. Since the formal review process will affect only PHAs that request a review and they will be able to calculate in advance the impact of the revised formula, the effect on small PHAs of the formal review process is likely to be entirely favorable.

The means chosen to implement the formal review process required by law has been designed to minimize the burden on PHAs. A clerk employed by any PHA, large or small, would be able to compute the PHA's allowable expense level (and associated subsidy eligibility) using a computational table and a chart with data for the various jurisdictions, with the addition of the total number of units operated by the PHA and the number of units with two or more bedrooms. An alternative method of implementing the statute that would involve annual review of each PHA's actual expenses in comparison to estimated expenses of that PHA or to actual expenses of similar PHAs would be more time-consuming and burdensome for small PHAs than the method chosen.

The energy saving measures cost-sharing provisions would be unlikely to have any significant impact on small PHAs. The provisions specifying criteria for a financially sound and responsible insurance company are also unlikely to have any significant impact on small PHAs, since many of them use traditional insurance companies that have been rated by the A.M. Best Company that can easily be determined to satisfy the requirements.

D. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have federalism implications and, thus, are not subject to review under the Order. The rule will provide for additional financial assistance or retained savings to HUD-assisted housing owned and operated by PHAs but will not interfere with State or local government functions.

E. Executive Order 12806, The Family

The General Counsel, as the Designated Official under Executive Order 12806, The Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves the amount of funding that a PHA should receive under a formula revised to satisfy statutory requirements.

F. Regulatory Agenda

This rule is listed as sequence number 1112 under the Office of Public and Indian Housing in the Department's semiannual agenda of regulations published on October 30, 1989 (54 FR 44702, 44733), under Executive Order 12291 and the Regulatory Flexibility Act.

G. Catalog

The Catalog of Federal Domestic Assistance Program numbers for this rule are 14.145, 14.146, and 14.147.

H. Information Collection Requirements

The information collection requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Information on the public reporting burden of the sections in this rule that the Department has determined contain information collection requirements is provided as follows:

Description of requirement	Section	No. of respondents	Freq. of response	Est. avg. resp. time	Est. annual burden (hrs.)
Insurance.....	965.205	8	1	5	40
Freezing AEL retain savings.....	900.107 (c)(4) and (g), 990.110(f)	200	1	8	1,600
Sharing of consumption reduction.....	990.110(c)(1)(f)	100	1	2	200
Formal review process.....	990.110(e)	720	1	4	2,880
New formula.....	990.105(c)(5)(ii)(B)	2,500	1	1	2,500
Combin. units.....	990.108(e)	15	1	1	15
Recordkeeping.....	990.107 (c)(4) and (g), 990.110(f)	200	1	2	400
Total burden.....	—	—	—	—	7,635

List of Subjects**24 CFR Part 965**

Energy conservation, Loan programs: housing and community development, Public housing, Utilities.

24 CFR Part 990

Grant programs: housing and community development, Low and moderate income housing, Public housing.

Accordingly, 24 CFR parts 965 and 990 would be amended as follows:

PART 965—PHA-OWNED OR LEASED PROJECTS MAINTENANCE AND OPERATION

1. The authority citation for part 965 would continue to read as follows:

Authority: Secs. 2, 3, 6, 9, United States Housing Act of 1937 (42 U.S.C. 1437, 1437a, 1437d, and 1437g); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart H is also issued under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846).

2. A new subpart B would replace the currently reserved subpart B, to read as follows:

Subpart B—Required Insurance Coverage

Sec.
965.201 Purpose and applicability.
965.205 Approved sources of required coverage.
965.210 Method of selecting insurance coverage.

Subpart B—Required Insurance Coverage**§ 965.201 Purpose and applicability.**

(a) *Purpose.* The purpose of this subpart is to implement policies concerning insurance coverage required under the Annual Contributions Contract (ACC) between the U.S. Department of Housing and Urban Development (HUD) and a Public Housing Agency or an Indian Housing Authority (collectively referred to as PHA) and insurance coverage required under the Mutual Help Annual Contributions Contract (MHACC) between HUD and an Indian Housing Authority.

(b) *Applicability.* The provisions of this subpart apply to all housing owned by PHAs, including Mutual Help and Turnkey III housing. However, these provisions do not apply to section 23 and section 10(c) PHA-leased projects or to section 8 Housing Assistance Payments Program projects.

§ 965.205 Approved sources of required coverage.

(a) *Contractual requirements for insurance coverage.* The Annual Contributions Contract (ACC) and the Mutual Help Annual Contributions Contract (MHACC) between PHAs and the U.S. Department of Housing and Urban Development require (in section 305 of the ACC and Article IX of the MHACC) that PHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs. The

insurance coverage is required to be obtained from a "financially sound and responsible insurance company." To satisfy this requirement, the insurance entity selected must qualify as a "financially sound and responsible insurance company" as described in paragraph (b) of this section or as a substantial equivalent under paragraphs (c) or (d) of this section.

(b) *Financially sound and responsible insurance company.*—(1) *Licensed insurance company.* (i) HUD will approve an insurance company that is licensed or duly authorized to issue insurance in the State(s) or jurisdiction(s) in which it offers insurance as a financially sound and responsible insurance company if the company maintains adequate reserves for undischarged liabilities of all types—as evidenced by a minimum policyholders' surplus fund of \$25 million, or 50 percent of the net annual premiums written, whichever is greater. In the case of a foreign-based insurance company (domiciled outside the United States), the minimum policyholders' surplus fund, which is based on the amount of the gross direct premiums written for the United States policyholders, must be maintained in cash or negotiable securities on deposit with a member bank of the Federal Reserve System.

(ii) An insurance company selected by a PHA to provide coverage must submit a certification to the PHA, which must be sent to HUD, stating that the company satisfies the licensure

requirement. HUD Headquarters will verify the company's satisfaction of that requirement with the appropriate State department of insurance. A PHA may accept as satisfactory evidence of adequate reserves a rating from the A.M. Best Company, received within one year before its selection by the PHA, of at least "Class VI" for financial status and at least "B+" for performance. A company not rated by the Best Company must demonstrate the adequacy of its reserves by submitting a current audited financial statement.

(2) *Unlicensed insurance company.* HUD will approve an insurance company that is not licensed or duly authorized to issue insurance in the State(s) or jurisdiction(s) in which it offers insurance under the following conditions:

(i) The insurance company meets all of the following criteria:

(A) Has competent underwriting staff, as evidenced by professionals with an average of at least five years of experience in large risk (exceeding \$100,000 in annual premiums) commercial underwriting;

(B) Has efficient and qualified management, evidenced by at least one senior staff person who has a minimum of five years of experience at the management level of Vice President of a property/casualty insurance entity and/or a minimum of five years experience as a senior branch manager of a branch office with annual property/casualty premiums exceeding \$5 million;

(C) Has been in the same business for a minimum period of five years;

(D) Maintains internal audit and cost controls over income and expenditures;

(E) Maintains sound investments;

(F) Maintains adequate reserves for undischarged liabilities of all types, as evidenced by a minimum policyholders' surplus fund, as described in paragraph (b)(1)(i); and

(G) Has proper organizational documentation.

(ii) The insurance company submits the following documentation:

(A) Evidence of competent underwriting staff and of efficient and qualified management, including copies of resumes of underwriting staff and of key management personnel responsible for oversight and for the day-to-day operation of the entity;

(B) Evidence that the company has been in the insurance business for a minimum of five years;

(C) Evidence of an annual budget and internal audit and cost controls over income and expenditures;

(D) Evidence that it maintains sound investment practices;

(E) Evidence that the entity will satisfy the requirement for adequate reserves for undischarged liabilities. This evidence must include a current audited financial statement and an actuarial review of all prior incurred losses over a minimum period of four years and a four-year projection of anticipated income, loss payments, loss reserves, loss adjustment, and administrative expenses. (The actuary will recommend the level of funding necessary to pay the expected losses and to establish the policyholders' surplus account.); and

(F) Evidence of proper organization, including copies of the articles of incorporation, the by-laws, and an opinion from legal counsel that establishment of the entity conforms with all legal requirements under State or tribal law.

(c) *Approved PHA non-profit insurance entity.* HUD will approve a non-profit self-funded insurance pool created by PHAs that limits participation to PHAs and that credits PHA payments and investment income to the loss fund as substantially equivalent to a "financially sound and responsible insurance company", as described in paragraph (b), if—

(1) The entity conforms with the requirements of paragraph (b)(2)(i), except for subparagraph (C), and except that, with respect to subparagraph (F), the policyholders' surplus fund part of the adequate reserves requirement need only satisfy the 50 percent of net annual premiums written (but not the \$25 million minimum); and

(2) The entity satisfies the requirements of paragraph (b)(2)(ii) (except for subparagraph (B)), including:

(i) with respect to evidence of proper organization (subparagraph (F)), a copy of the business plan;

(ii) with respect to investment policies (subparagraph (D)), its agreement to invest all funds of the entity in accordance with HUD investment management practice requirements for PHAs (see HUD Handbook 7475.1), and its agreement to confine use of all funds to insurance-related expenditures.

(d) *Approved municipal league pool or trust.* HUD will approve a State-authorized municipal league pool or trust (including a trust formed by a single municipality) that is formed to self-insure for various types of insurance coverage as substantially equivalent to a "financially sound and responsible insurance company", as described in paragraph (b) of this section if—

(1) The entity conforms with the requirements of paragraph (b)(2)(i), except for subparagraph (C), and except that, with respect to subparagraph (F),

the policyholders' surplus fund part of the adequate reserves requirement need only satisfy the 50 percent of net premiums written (but not the \$25 million minimum);

(2) The entity satisfies the requirements of paragraph (b)(2)(ii) (except for subparagraph (B)); and

(3) The pool or trust does not insure extra-hazardous risks, e.g., a police department, airport, hospital, etc., without carrying specific reinsurance sufficient to cover such risks.

§ 965.210 Method of selecting insurance coverage.

(a) *General.* (1) Part 85 provides that procurement of services under a Federal grant must be done in accordance with the grantee's (PHA's) procurement procedures, reflecting applicable State and local laws and regulations, provided that they conform to applicable Federal law. Part 85 requires competition in all procurement transactions. Generally, awards are to be made to the responsible firm whose proposal to provide the service is most advantageous to the program, with price and other factors considered. Factors other than price that may be considered in the procurement of insurance are continued availability of coverage and predictability of premium over the long-term. Any selection based on factors other than cost must be supported by the PHA's written determination, in accordance with part 85, that the arrangement will promote economy and efficiency, or that selection factors other than cost make selection of that entity the most advantageous to the PHA.

(2) The methods of selection to be used (specified in § 85.36(d)) include a simple and informal method for small purchases (those not exceeding a cost of \$25,000) and the competitive proposal method, as well as formal advertising. The PHA must consider coverage from any qualified entity, i.e., any insurance company that qualifies under § 965.205(b), as well as any entity that qualifies under § 965.205 (c) or (d) as substantially equivalent to a financially sound and responsible insurance company.

(b) *Term of coverage.* Risk protection coverage must be for a fixed term, not to exceed three years, and the PHA must reassess its choice of risk protection coverage before the expiration of the term in accordance with paragraph (a) of this section.

(c) *PHA-created non-profit entities and municipal pools.* Part 85 encourages entities such as PHAs to enter into State and local intergovernmental agreements for procurement or use of common goods

and services to foster greater economy and efficiency (§ 85.36(b)(5)). When a PHA has the legal authority to enter into an agreement with other PHAs to carry out operating functions, it may execute such an agreement for risk protection coverage to be provided through a PHA non-profit entity, as described in § 965.205(c), or a municipal pool as described in § 965.205(d)—provided that it has complied with the provisions of paragraph (a) of this section.

3. In subpart C—Energy Audits and Energy Conservation Measures, § 965.307 would be amended by designating the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 965.307 Funding.

(b) If a PHA finances energy conservation measures from sources other than CIAP or operating reserves, such as on the basis of a promise to repay, HUD may agree to provide adjustments in its calculation of the PHA's operating subsidy eligibility under the PFS for the project and utility involved if the financing arrangement is cost-beneficial to HUD. To receive the benefit of this type of adjustment, a PHA's repayments may not exceed the cost of the energy saved as a result of the energy conservation measures during a period not to exceed 12 years. See § 990.107(g) of this chapter.

PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

4. The authority citation for part 990 would continue to read as follows:

Authority: Sec. 9, United States Housing Act of 1937 (42 U.S.C. 1437g); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 990.101 [Amended]

5. In § 990.101, paragraph (c)(4) would be amended by removing the third sentence, and the parenthetical sentence that follows it.

6. In § 990.102, the definition of "range" would be revised, to read as follows:

§ 990.102 Definitions.

Range. Fifteen percent below to fifteen percent above the PHA's Formula Expense Level. The range is used in connection with determination of the Allowable Expense Level, as provided in § 990.105; the qualification for transition funding, as provided in § 990.106; and in consideration of requests for adjustments of the Base Year Expense Level or for appeal of the

Allowable Expense Level, as provided under § 990.110.

7. In § 990.105, paragraph (c) would be amended by removing the fourth, fifth, and sixth sentences; paragraph (d) would be removed; paragraphs (e), (f), and (g) would be redesignated as paragraphs (d), (e), and (f), respectively; and newly redesignated (f) would be amended by removing the words "paragraphs (a) through (f)" and substituting the words "paragraphs (a) through (e)". In addition, newly redesignated paragraph (d) would be amended by: redesignating paragraph (d)(6) as paragraph (d)(7); adding a new paragraph (d)(6); and revising paragraphs (d)(1)(iii), (d)(2), introductory text, (d)(2)(ii), (d)(4)(iii), (d)(5)(ii), and (d)(5)(iii) [to change cross-references to "paragraph (e)" to reference "paragraph (d)"], to read as follows:

§ 990.105 Computation of allowable expense level.

(d) *Computation of Allowable Expense Level.*

(1) (iii) The sum of the Base Year Expense Level, and any amounts described in paragraphs (d)(1) (i) and (ii) of this section multiplied by the Local Inflation Factor.

(2) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level is above the top of the Range.* Every PHA whose Base Year Expense Level is above the top of the Range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its top limit of the Range (not to its Base Year Expense Level, as in paragraph (d)(1) of this section):

(ii) The sum of the figure equal to the top limit of its Range and the increase (decrease) described in paragraph (d)(2)(i) of this section, multiplied by the Local Inflation Factor.

(4) (iii) The sum of the AEL for the Current Budget Year and the increase (decrease) described in paragraphs (d)(4)(i) and (ii) of this section, multiplied by the Local Inflation Factor.

(5) (ii) If the PHA has not experienced a change in the number of its units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) or paragraph (d)(5)(ii)(B) of this section, the AEL shall

be increased by one-half of one percent (.5 percent); or

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (e)(4) of this section or this paragraph (e)(5)(ii)(B), it shall use the increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year. The PHA characteristics that shall be used to compute the Formula Expense Level for the Current Budget Year shall be the same as those that were used for the Requested Budget Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B), except that the number of interim years in which the .5 percent adjustment was made under paragraph (d)(5)(kk)(A) shall be added to the average age that was used for the last adjustment; and

(iii) The amount computed in accordance with paragraphs (d)(5)(i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

(6) *Allowable Expense Level for budget years after the first budget year under PFS that begin on or after January 1, 1991.* For each budget year after the first budget year under PFS that begins on or after January 1, 1991, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 990.108(c);

(ii) The AEL for the Current Budget Year also shall be adjusted as follows:

(A) Increased by one-half of one percent (.5 percent); and

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) of this section or this paragraph (d)(6)(ii)(B), it shall use the increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year. The PHA's characteristics that shall be used to compute the Formula Expense Level for the Current Budget Year shall be the same as those that applied to the Requested Budget Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B).

(iii) The amount computed in accordance with paragraphs (d)(6)(i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

8. In § 990.107, paragraph (b) would be redesignated as paragraph (b)(1) and a new paragraph (b)(2) would be added; the introductory language of paragraph (c) would be revised and a new paragraph (c)(4) would be added; paragraph (f) would be revised; and a new paragraph (g) would be added, to read as follows:

§ 990.107 Computation of utilities expense level.

(b) Utilities rates. (1) * * *

(2) If a PHA takes action, such as administrative appeals or legal action, to reduce the rate it pays for utilities, then the PHA will be permitted to retain part of the rate savings during the first 12 months that are attributable to its actions. See paragraph (f) of this section and § 990.110(c).

(c) Computation of Allowable Utilities Consumption Level. The Allowable Utilities Consumption Level (AUCL) used to compute the Utilities Expense Level of a PHA for the Requested Budget Year generally will be based on the availability of consumption data. For project utilities where consumption data are available for the entire Rolling Base Period, the computation will be in accordance with paragraph (c)(1) of this section. Where data are not available for the entire period, the computation will be in accordance with paragraph (c)(2) of this section, unless the project is a new project, in which case the computation will be in accordance with paragraph (c)(3) of this section. For a project where the PHA has taken special energy conservation measures that qualify for special treatment in accordance with paragraph (g)(1) of this section, the computation of the Allowable Utilities Consumption Level may be made in accordance with paragraph (c)(4). The AUCL for all of a PHA's projects is the sum of the amounts determined using all of these subparagraphs, as appropriate.

(4) Freezing the Allowable Utilities Consumption Level. Notwithstanding the provisions of paragraphs (c)(1) and (c)(2), if a PHA undertakes energy conservation measures that are approved by HUD under paragraph (g) of this section, the Allowable Utilities Consumption Level for the project and the utilities involved may be frozen during the contract period. Before the AUCL is frozen, it must be adjusted to reflect any energy savings resulting from the use of modernization funding. The AUCL is then frozen at the level calculated for the year during which the conservation measures initially will be

implemented (adjusted for heating degree days in accordance with paragraph (d) of this section), as determined in accordance with paragraph (g). If the AUCL is frozen during the contract period, the annual three-year rolling base procedures for computing the AUCL shall be reactivated after the PHA satisfies the conditions of the contract. The three years of consumption data to be used in calculating the AUCL after the end of the contract period will be as follows:

(i) First year: the energy consumption during the year before the year in which the contract ended and the energy consumption for each of the two years before installation of the energy conservation improvements;

(ii) Second year: the energy consumption during the year the contract ended, energy consumption during the year before the contract ended, and energy consumption during the year before installation of the energy conservation improvements;

(iii) Third year: the energy consumption during the year after the contract ended, energy consumption during the year the contract ended, and energy consumption during the year before the contract ended.

(f) Adjustments. PHAs shall request adjustments of Utilities Expense Levels in accordance with § 990.110(c), which requires an adjustment based upon a comparison between actual experience and estimates of consumption (after adjustment for heating degree days in accordance with paragraph (d) of this section) and of utility rates.

(g) Incentives for energy conservation improvements. If a PHA undertakes conservation measures that are financed by an entity other than the Secretary, such as physical improvements financed by a loan from a utility or governmental entity, management of costs under a performance contract, or a shared savings agreement with a private energy service company, the PHA may qualify for one of two possible incentives under this part. For a PHA to qualify for these incentives, HUD approval must be obtained. Approval will be based upon a determination that payments under the contract can be funded from the reasonably anticipated energy cost savings, and the contract period does not exceed 12 years.

(1) If the contract allows the PHA's payments to be dependent on the cost savings it realizes, then the PHA may take advantage of a frozen AUCL under paragraph (c)(4) of this section, and it may retain the full amount of the cost

savings, as described in § 990.110(c)(2)(ii).

(2) If the contract does not allow the PHA's payments to be dependent on the cost savings it realizes, then the AUCL will continue to be calculated in accordance with paragraphs (c)(1) through (c)(3), as appropriate; the PHA will be able to retain part of the cost savings, in accordance with § 990.110(c)(2)(i); and the PHA will qualify for additional operating subsidy (above the amount based on the allowable expense level) to cover the cost of amortizing the improvement loan during the term of the contract, in accordance with § 990.110(f).

9. In § 990.108, a new paragraph (e) would be added, to read as follows:

§ 990.108. Other costs.

(e) Costs resulting from combination of two or more units. When a PHA redesigns or rehabilitates a project and combines two or more units into one larger unit and the combination of units results in a unit that houses at least the same number of people as were previously served, the AEL for the requested year shall be multiplied by the number of unit months not included in the requested year's unit months available as a result of these combinations that have occurred since the Base Year.

10. In § 990.110, paragraph (a)(1) would be amended by removing from the last sentence the words, "or \$10.31"; paragraphs (c)(1) through (4) would be revised; paragraphs (c)(5) through (6) would be removed; paragraph (e) would be redesignated as paragraph (g); and new paragraphs (e) and (f) would be added; to read as follows:

§ 990.110 Adjustments.

(c) Adjustments to Utilities Expense Level. * * *

(i) Rates. (i) A decrease in the Utilities Expense Level because of decreased utility rates—to the extent funded by operating subsidy—will be deducted by HUD from future operating subsidy payments. However, where the rate reduction is directly attributable to action by the PHA, such as administrative appeals or legal action (beyond normal public participation in ratemaking proceedings), 50 percent of the decrease will be retained by the PHA for the 12-month period following the decrease (and the other 50 percent will be deducted from operating subsidy otherwise payable).

(ii) An increase in the Utilities Expense Level because of increased

utility rates—to the extent funded by operating subsidy—will be fully funded by residual receipts, if available during that fiscal year, or by increased operating subsidy, subject to availability of funds.

(2) *Consumption.* (1) Generally, 50 percent of any decrease in the Utilities Expense Level attributable to decreased consumption (adjusted for Heating Degree Days in accordance with § 990.107(d)), after adjustment for any utility rate change, will be retained by the PHA; 50 percent will be offset by HUD against subsequent payment of operating subsidy.

(ii) However, in the case of a PHA whose energy conservation measures have been approved by HUD as satisfying the requirements of § 990.107(g)(1), the PHA may retain 100 percent of the savings from decreased consumption (adjusted for Heating Degree Days and for any utility rate changes) until the term of the financing agreement is completed, to be applied in the following order:

(A) Payment of the contractor, as prescribed by the contract;

(B) Reimbursement of the PHA's direct costs related to the energy conservation measures;

(C) Retention of up to 30 percent of the total savings from decreased consumption to cover any eligible costs;

(D) Prepayment of the amount due the contractor under the contract.

(iii) An increase in the Utilities Expense Level attributable to increased consumption will be fully funded by residual receipts after provision for reserves, if available. If residual receipts are not available and the increase would result in a reduction of the operating reserve below the authorized maximum, then 50 percent of the amount will be funded by increased operating subsidy payments, subject to the availability of funds.

(3) *Emergency adjustments.* In emergency cases, where a PHA establishes to HUD's satisfaction that a severe financial crisis would result from a utility rate increase, an adjustment covering only the rate increase may be submitted to HUD at any time during the PHA's Current Budget Year. Unlike the adjustments mentioned in paragraphs (c)(1) and (c)(2) of this section, this adjustment shall be submitted to the HUD Field Office by revision of the original submission of the estimated Utility Expense Level for the fiscal year to be adjusted.

(4) *Documentation.* Supporting documentation substantiating the

requested adjustments shall be retained by the PHA pending HUD audit.

(3) *Formal review process (1991).*—(1) Eligibility for consideration. Any PHA with an established Allowable Expense Level may request a review of its Allowable Expense Level for its requested budget year that starts during calendar year 1991.

(2) *Eligibility for adjustment.* If a PHA's AEL for the requested budget year that starts during calendar year 1991 would be either less than 85 percent of the Formula Expense Level or more than 115 percent of the Formula Expense Level, as calculated using the revised formula and the characteristics for the PHA and its community, then the PHA's AEL is subject to adjustment. This revised formula is based on the following factors:

(i) Measures of community distress (and need), such as the community's per capita value of the Community Development Block Grant program's Formula B (multiplied by the proportion of the PHA's units containing two or more bedrooms):

(ii) Measures of area costs, such as the community's index of local government wage rates and the median rent in the community; and

(iii) Measures of the PHA's operating characteristics, such as the weighted average height of the PHA's buildings (multiplied by the proportion of its units containing two or more bedrooms), and the number of the PHA's units containing two or more bedrooms.

(3) *Procedure.* If a PHA wants HUD to provide a formal review of its Allowable Expense Level to determine whether it qualifies for an adjustment, the PHA must request a review before its budget for that year is approved. (However, if a PHA's fiscal year that begins during 1991 starts before the effectiveness of this rule, the PHA's request for a formal review under the revised formula must be submitted within 60 days of HUD's provision of the formula and factors.) Each PHA will be provided with a worksheet, a data chart, and instructions for calculating its revised Formula Expense Level. The PHA can then compare its FEL with its AEL for the requested budget year and determine whether its AEL is within the range. If a PHA requests review and its AEL is within the range, HUD will not adjust the AEL. If a PHA requests review and its AEL is not within the range, HUD will increase it to the bottom of the range, or decrease it to the top of the range. The revised Allowable Expense Levels approved by HUD will

be put into effect for the PHA's budget year that begins in calendar year 1991.

(f) *Energy conservation financing.* If HUD has approved an energy conservation contract under § 990.107(g)(2), then the PHA is eligible for additional operating subsidy each year of the contract to amortize the cost of the energy conservation measures under the contract, subject to a maximum annual limit equal to the cost savings for that year (and a maximum contract period of 12 years).

(1) Each year, the energy cost savings would be determined as follows:

(i) The consumption level that would have been expected if the energy conservation measure had not been taken would be adjusted for the Heating Degree Days experience for the year, and for any change in utility rate.

(ii) The actual cost of energy (of the type affected by the energy conservation measure) after implementation of the energy conservation measure would be subtracted from the expected energy cost, to produce the energy cost savings for the year. (See also paragraph (c)(2)(ii) of this section for retention of consumption savings.)

(2) If the cost savings for any year during the contract period is less than the amount of operating subsidy to be made available under this paragraph (f) to pay for the energy conservation measure in that year, the deficiency will be offset against the PHA's operating subsidy eligibility for the PHA's next fiscal year.

11. Section 990.120 would be revised to read as follows:

§ 990.120 Audit.

PHA's that receive financial assistance under this part shall comply with the audit requirements in 24 CFR part 44. If a PHA has failed to submit an acceptable audit on a timely basis in accordance with that part, HUD may arrange for, and pay the costs of, the audit. In such circumstances, HUD may withhold, from assistance otherwise payable to the PHA under this part, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the PHA's books and records into auditable condition.

Dated: December 7, 1989.

Michael B. Janis,
General Deputy, Assistant Secretary for
Public and Indian Housing.
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