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Thursday
September 5, 1991

Briefings on How To Use the Federal Register
For information on briefings in Denver, CO and Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

DENVER, CO

WHEN: September 26, at 9:00 am
WHERE: Denver Federal Center, Building 20
(E8 entrance on 2nd Street)
Conference Room B1409, Denver, CO
RESERVATIONS: Federal Information Center
1-800-359-3997

WASHINGTON, DC

WHEN: September 30, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202-523-5240

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 91–48 of August 17, 1991

Determination Under Subsection 402(c)(2)(A) of the Trade Act of 1974, as Amended—Romania

Memorandum for the Secretary of State

Pursuant to subsection 402(c)(2)(A) of the Trade Act of 1974, as amended (the "Act") (19 U.S.C. 2432(c)(2)(A)), I determine that a waiver by Executive order of the application of subsections (a) and (b) of section 402 of the Act with respect to Romania will substantially promote the objectives of section 402.

You are authorized and directed to publish this determination in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, August 17, 1991.

[FR Doc. 91–21412
Filed 9–3–91; 3:05 pm]
Billing code 3195–01–M

Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

RIN 3206-AE00

Civil Service Retirement System Voluntary Contributions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed regulations concerning voluntary contributions under the Civil Service Retirement System (CSRS). These regulations restructure the existing regulations governing these accounts and expand the regulations to address the payment of interest.

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606-0299.

SUPPLEMENTARY INFORMATION:

Comments: On January 25, 1991, we published proposed regulations concerning voluntary contributions under the Civil Service Retirement System. OPM received three comments on the proposed rules.

One commenter raised questions about calculating interest on excess deductions. Excess deductions are mandatory retirement deductions taken from the salary of employees whose service exceeds the amount necessary (usually 41 years and 11 months) to qualify for the maximum annuity (80 percent of average salary). By statute (5 U.S.C. 8342(h)), excess deductions earn 3 percent interest from the date the deductions were taken until the date of retirement or death. Under section 8343(a) of title 5, United States Code, voluntary contributions now generally earn market rate interest. When the employee retires or dies, any excess deductions (plus interest) not necessary to pay service-credit deposits or redeposits are treated as voluntary contributions; that is, the deductions can be used to purchase annuity, or refunded with their earned interest, though the interest rates for the two amounts remain different.

Another commenter suggested that the regulations include a statement that interest on voluntary contributions is tax-deferred. OPM does not issue regulations on tax matters. Taxation of interest is within the purview of the Internal Revenue Service. Information on this subject is available in IRS Publication 721, Tax Guide to U.S. Civil Service Retirement Benefits.

The commenter also suggested that employees covered by CSRS-Offset as well as CSRS employees could make voluntary contributions. CSRS-Offset refers to the retirement coverage of individuals subject to CSRS who will have an offset of their CSRS benefits under section 8349 of title 5, United States Code, due to social security eligibility. Section 831.402 of the regulations defines CSRS as described in subchapter III of chapter 83 of title 5, United States Code. Subchapter III includes the offset in its description of CSRS, and specific reference to CSRS-Offset employees is therefore unnecessary.

The commenter also requested that we add an explanation about continued accrual of interest on voluntary contributions of employees who have transferred from CSRS to FERS. This information is already provided in § 831.405(c)(3).

A final comment requested the regulation include a definition of the term "natural person" as used in § 831.407(b), and questioned its necessity. "Natural person" is a commonly used legal term that refers to a human being, as opposed to an "artificial person," which refers to a legal entity, such as a corporation or other partnership. For the purposes of these regulations, which establish that a "natural person" may be designated to receive a survivor benefit, the legal term is appropriate. Additional information is available in guidance published by OPM for use in counseling employees.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is revising subpart D (§§ 831.401-831.407) of 5 CFR part 831 to read as follows:

PART 831—RETIREMENT

Subpart D—Voluntary Contributions

Sec.

831.401 Purpose and scope.
831.402 Definitions.
831.403 Eligibility to make voluntary contributions.
831.404 Procedure for making voluntary contributions.
831.405 Interest on voluntary contributions.
831.406 Withdrawal of voluntary contributions.
831.407 Purchase of additional annuity.

Authority: 5 U.S.C. 8343 and 8347.

Subpart D—Voluntary Contributions

§ 831.401 Purpose and scope.

This subpart describes the procedures that employees and Members must follow in making voluntary contributions under the Civil Service Retirement System (CSRS). This subpart also describes the procedures that the Office of Personnel Management (OPM) will follow in accepting voluntary contributions, crediting interest on voluntary contribution accounts, and paying benefits based on voluntary contributions.

§ 831.402 Definitions.

In this subpart:

Applicant for retirement means a person who is currently eligible to retire under CSRS on an immediate or deferred annuity, and who has filed an application to retire that has not been finally adjudicated.

Balance means the amount of voluntary contributions deposited and not previously withdrawn, plus earned interest on those voluntary contributions, less any amount paid as additional annuities (including any amount paid as survivor annuity) based on the voluntary contributions.

CSRS means the Civil Service Retirement System as described in subchapter III of chapter 83 of title 5, United States Code.

Eligible individual means a person eligible to make voluntary contributions under § 831.403.

Voluntary contributions means contributions to the Civil Service Retirement and Disability Fund under section 8343 of title 5, United States Code.

§ 831.403 Eligibility to make voluntary contributions.

(a) Voluntary contributions may be made only by—

(1) Employees or Members currently subject to CSRS, and

(2) Applicants for retirement.

(b) Voluntary contributions may not be accepted from an employee, Member, or applicant for retirement who—

(1) Has not deposited amounts covering all creditable civilian service performed by him or her; or

(2) Has previously received a refund of voluntary contributions and who has not been reemployed subject to CSRS after a separation of more than 3 calendar days.

(c) An employee or Member covered by the Federal Employees Retirement System (FERS), including an employee or Member who elected to transfer or was automatically placed in FERS, may not open a voluntary contributions account or make additional contributions to an existing voluntary contribution account.

§ 831.404 Procedure for making voluntary contributions.

(a) To make voluntary contributions to the Civil Service Retirement and Disability Fund, an eligible individual must first apply on a form prescribed by OPM. OPM will establish a voluntary contribution account for each eligible individual who elects to make voluntary contributions and notify the individual that a voluntary contribution account has been established. An eligible individual may not make voluntary contributions until notified by OPM that an account has been so established.

(b) After receiving notice from OPM under paragraph (a) of this section, an eligible individual may forward voluntary contributions to the Office of Personnel Management, at the address designated for that purpose. Voluntary contributions must be in the amount of $25 or multiples thereof, by money order, draft, or check payable to OPM.

(c) The total voluntary contributions made by an employee or Member may not exceed, as of the date any contribution is received, 10 percent of the aggregate basic pay received by the eligible individual.

(1) Employees are responsible for not exceeding the 10 percent limit.

(2) When the employee retires or withdraws the voluntary contributions, OPM will check to determine whether the 10 percent limit has been exceeded.

(3) If the total of voluntary contributions received from the employee exceeds the 10 percent limit, OPM will refund without interest any amount that exceeds the 10 percent limit.

§ 831.405 Interest on voluntary contributions.

(a) Interest on voluntary contributions is computed under § 831.105.

(b) Voluntary contributions begin to earn interest on the date deposited by OPM.

(c) Except as provided in paragraph (d) of this section, voluntary contributions stop earning interest on the earliest of—

(1) The date when OPM authorizes payment to the individual of the balance as a withdrawal (831.406);

(2) The date when the employee or Member separates or transfers to a position not subject to CSRS or FERS; or

(3) The date when the employee transfers to a retirement system other than CSRS or FERS.

(d) If an employee separates with entitlement to a deferred annuity and either dies without withdrawing his or her voluntary contributions or uses his or her voluntary contributions to purchase additional annuity, voluntary contributions stop earning interest on the earlier of—

(1) The date the former employee or Member dies; or

(2) The commencing date of the former employee's or Member's deferred annuity.

§ 831.406 Withdrawal of voluntary contributions.

(a) Before receiving additional annuity payments based on the voluntary contributions, a person who has made voluntary contributions may withdraw the balance while still an employee or Member, or after separation.

(b) A person entitled to payment of lump-sum benefits under the CSRS order for precedence set forth in section 8342(c) of title 5, United States Code, is entitled to payment of the balance, if any, on the death of—

(1) An employee or Member;

(2) A separated employee or Member who has not retired;

(3) A retiree, unless a survivor benefit is payable based on an election under § 831.407; or

(4) A person receiving a survivor annuity based on voluntary contributions.

§ 831.407 Purchase of additional annuity.

(a) At the time of retirement CSRS (or under FERS, if transferred from CSRS), a person may use the balance of a voluntary contribution account to purchase one of the following types of additional annuity:

(1) Annuity without survivor benefit; or

(2) Reduced annuity payable during the life of the employee or Member with one-half of the reduced annuity to be payable after his or her death to a person, named at time of retirement, during the life of the named person.

(b) Any natural person may be designated as survivor under paragraph (a)(2) of this section.

(c) If the applicant for retirement elects an annuity without survivor benefit, each $100 credited to his or her voluntary contribution account, including interest, purchases an additional annuity at the rate of $7 per year, plus 20 cents for each full year, if any, he or she is over age 55 at date of retirement.

(d) If the applicant for retirement elects an annuity with survivor benefit, each $100 credited to his or her voluntary contribution account, including interest, purchases an additional annuity at the rate of $7 per year, plus 20 cents for each full year, if any, he or she is over age 55 at date of retirement, multiplied by the following percentage:

(1) Ninety percent of such amount if the named person is the same age or older than the applicant for retirement, or is less than 5 years younger than the applicant for retirement;

(2) Eighty-five percent if the named person is 5 but less than 10 years younger;

(3) Eighty percent if the named person is 10 but less than 15 years younger;

(4) Seventy-five percent if the named person is 15 but less than 20 years younger;

(5) Seventy percent if the named person is 20 but less than 25 years younger;

(6) Sixty-five percent if the named person is 25 but less than 30 years younger; and

(7) Sixty percent if the named person is 30 or more years younger.

[FR Doc. 91-21176 Filed 9-4-91; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Parts 831 and 842

RIN 3206-AE13

Retirement Credit for Service and Alternative Forms of Annuity

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting as final its interim rules to implement section 7001 of Public Law 101-508, The Omnibus Budget Reconciliation Act of 1990. The new law changes the way in which an annuity is computed for certain employees under the Civil Service Retirement System (CSRS); suspends the alternative annuity option for a 5-year period for most employees; and modifies the payment schedule of the alternative annuity lump sum (for those still eligible to receive it).

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Rosenblatt, (202) 606-0775, extension 207.

SUPPLEMENTARY INFORMATION: OPM published interim rules to implement section 7001 of Public Law 101-508, The Omnibus Budget Reconciliation Act of 1990, on February 19, 1991 (56 FR 6549). We received two responses to our request for comments. As a result, we have made appropriate changes to the regulations to correct several typographical errors. Other changes suggested by the commenters were not possible because they would require statutory amendments.

In addition, one of the commenters suggested that we clarify the effect, if any, that the new service credit provision of Public Law 101-508 has upon the computation of survivor benefits. We did not specifically address that matter because survivor benefits are not affected (except insofar as those benefits are increased by the additional service credited). Section 831.303 of the interim rules provides that the reduction in annuity resulting from an unpaid pre-October 1, 1990, redeposit applies only to "the beginning monthly rate payable to a retiree." Survivor benefits are not reduced.

Another comment recommended that we amend the regulations to show how the new service credit provision affects (1) employees who acquired automatic coverage under FERS, but who had a period of refunded CSRS service, and (2) employees who transferred to FERS, and whose CSRS component service includes refunded service. Such amendments are unnecessary. The new provision affects only annuities computed under CSRS rules. Anyone who became subject to FERS coverage automatically (and, therefore, has no service that would be treated under CSRS rules) would have to pay a deposit for any refunded CSRS service in order to receive credit for it.

On the other hand, persons who elected to transfer to FERS, and have a component of service computed under CSRS rules, would benefit from the new provision in accordance with the general rules for treatment of CSRS service described at 5 CFR 846.304(b).

E.O. 12991, Federal Regulation

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

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal employees and retirees.

List of Subjects in 5 CFR Part 831 and 842

Administrative practice and procedure, Air traffic controllers, Claims, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is adopting its interim rules published on February 19, 1991, at 56 FR 6549, as final rules with the following changes:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.204 also issued under sec. 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Public Budget Reconciliation Act of 1990, Public Law 101-508; § 831.303 also issued under sec. 7001(b) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508; § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under sec. 1(3), E.O. 11228, 3 CFR 1964-1965 Comp.; § 831.621 also issued under sec. 201(d) of the Federal Employees Benefits Improvement Act of 1986, Public Law 99-251; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and sec. 6001, Public Law 100-203; § 831.2203 also issued under sec. 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

Subpart V—Alternative Forms of Annuities

2. In § 831.2206 paragraph (c) is revised to read as follows:

§ 831.2206 Election to pay deposit or redeposit for civilian service.

* * * * *

(c) For the purpose of paragraph (a) of this section, "redeposit" does not include a redeposit owed for service for which credit is allowed pursuant to § 831.303(c)(1).

3. In § 831.2208 paragraph (a)(2) is revised to read as follows:

§ 831.2208 Partial deferred payment of the lump-sum credit if annuity commences after December 2, 1989, and before October 1, 1995.

(a) * * *

(2) Fifty percent is payable, with interest determined under section 8334(e)(3) of title 5, United States Code, 1 year after the time of retirement, except if the payment date of the amount specified in paragraph (a)(1) of this section was after December 4, 1989, payment with interest will be made in the calendar year following the calendar year in which the payment specified in paragraph (a)(1) of this section was made.

* * * * *

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

4. The authority citation for part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 831.703 also issued under sec. 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-

508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; subpart H also issued under 5 U.S.C. 1104.

Subpart G—Alternative Forms of Annuities

5. In § 842.703 paragraph (d)(2)(v) is corrected to read as follows:

§ 842.703 Eligibility.

* * * * *

(d) * * *

(2) * * *

(v) Any individual in a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

* * * * *

[FR Doc. 91–21177 Filed 9–4–91; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Parts 831 and 842

RIN 3206–AE38

Retirement Coverage for NAF Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its interim rules on retirement coverage under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 as final rules with minor changes. These regulations are necessary to implement the retirement provisions of the Act. They establish rules governing elections by Department of Defense and Coast Guard employees to continue retirement coverage under the Civil Service Retirement System, Federal Employees Retirement System, or a nonappropriated fund instrumentality's retirement plan.

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0775, extension 207.

SUPPLEMENTARY INFORMATION: The Portability of Benefits for Nonappropriated Fund Employees Act of 1990 was enacted as section 7202 of the Omnibus Budget Reconciliation Act of 1990, Public Law 100–508. It provides that certain employees of nonappropriated fund (NAF) instrumentalities in the Department of Defense and Coast Guard may retain coverage under a retirement plan for NAF employees when they are moved into civil service jobs, and that certain employees with civil service jobs may retain retirement coverage under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) when they move into jobs with NAF instrumentalities.

On February 7, 1991, we published (at 56 FR 4929) interim regulations to establish the process for electing to continue coverage, and we also requested comments on the interim regulations. We received two comments.

One commenter recommended that an election to continue coverage under a NAF plan be documented in the employee's Official Personnel Folder (OPF). These regulations are limited to determinations of retirement coverage. However, we and the Department of Defense have established procedures for documenting the employee's retirement coverage in the OPF. The Department of Defense or Coast Guard places three documents in the OPF to show the employee has elected to retain NAF coverage. The first document is the employee's written election to retain coverage under the NAF plan. The second document is a notice to personnel offices stating that the employee is covered by a NAF retirement plan and providing instructions to employing agencies for obtaining further information for submitting retirement deduction to the Department of Defense. The third document is an SF–50, a notice of personnel action, showing the employee's retirement coverage.

The other commenter asked us to emphasize in the supplementary information that once an employee has elected FERS, later service cannot be covered by CSRS. This clarification is appropriate.

We have added a paragraph to both the CSRS and FERS regulations to protect the survivors of employees who die during the election period. The election period ends 30 days after the change in employment; this period may be extended by the Department of Defense or Coast Guard for good cause. The new paragraphs provide that whenever an employee dies during the election period, the employee is deemed to have elected to retain that coverage. As a result of the deemed election, and because employees may elect to continue coverage only if vested in the plan, an eligible survivor will receive benefits as if the employee had remained covered in the plan at death. If, on the other hand, the new plan covered the employee at death, he or she would generally not have enough service to qualify for survivors benefits. A similar deemed election is provided in OPM regulations at §§ 831.2203(f) and 842.704(c) of title 5, Code of Federal Regulations. Under those provisions, we provide for a deemed election of the alternative form of annuity in order to benefit the retiree's survivor whenever an eligible retiring former employee dies during the election period. In very unusual circumstances, where the survivors will qualify for benefits regardless of whether the employee made the election before death, the regulations allow the survivors to choose not to accept the deemed election.

E.O. 12291, Federal Regulations

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations will only affect retirement coverage of Federal employees.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is adopting its interim rules under 5 CFR parts 831 and 842 published on February 7, 1991, at 56 FR 4929 as final rules with the following changes:

PART 831—RETIREMENT

Subpart B—Coverage

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.204 also issued under sec. 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508; § 831.303 also issued under sec. 7001(b) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508; § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under sec. 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 831.621 also issued under sec. 201(d) of the Federal Employees Benefits Improvement Act of 1986, Public Law 99–251; subpart S also issued

under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and sec. 6001, Public Law 100–203; § 831.2203 also issued under sec. 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508.

2. In § 831.204, paragraph (f) is added to read as follows:

§ 831.204 Elections of retirement coverage under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990.

* * * * *

(f)(1) When a person eligible to make an election under paragraph (a) or (b) of this section dies before the time limit (under paragraphs (d) and (e) of this section) for making the election expires, the person is deemed to have made the election and to be covered, at the time of death, by the retirement plan that covered the person before the move.

(2) The deemed election under paragraph (f)(1) of this section does not apply if the eligible survivor elects to have it not apply. An election by the survivor to decline the deemed election must be in writing and filed no later than 30 days after the employing agency notifies the survivor of the right to decline the deemed election.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

3. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508; subpart H also issued under 5 U.S.C. 1104.

Subpart A—Coverage

4. In § 842.106, paragraph (f) is added to read as follows:

§ 842.106 Elections of retirement coverage under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990.

* * * * *

(f)(1) When a person eligible to make an election under paragraph (a) or (b) of this section dies before the time limit (under paragraphs (d) and (e) of this section) for making the election expires, the person is deemed to have made the election and to be covered, at the time of death, by the retirement plan that covered the person before the move.

(2) The deemed election under paragraph (f)(1) of this section does not apply if the eligible survivor elects to have it not apply. An election by the survivor to decline the deemed election must be in writing and filed no later than 30 days after the employing agency notifies the survivor of the right to decline the deemed election.

[FR Doc. 91–21178 Filed 9–4–91; 8:45 am]
BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies; Miscellaneous Subjects

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This rule reflects recent developments in the development company industry and facilitates the operation of the programs and of the development companies because it (1) permits lease purchase arrangements for development projects; (2) substitutes estimates instead of actual figures for the reporting of job opportunities during the first two years of a 503 company project; (3) provides for a minimum service charge (0.5%); (4) permits weighted blendings of maturities for multiple third party loans for 503 projects; and (5) clarifies several existing regulations, including a requirement related to the effect of business relocation on an area's labor market.

DATES: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: LeAnn M Oliver, Deputy Director for Program Development, Small Business Administration, Office of Economic Development, 409 3rd Street SW., 8th Floor, Washington, DC 20416 (202) 205–6485.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on May 22, 1991 (56 FR 23524) and provided interested parties an opportunity to comment. Three (3) comments were received, all related to proposed § 108.3. One comment suggested that the term "relocation" used in proposed § 108.3(a) be specifically defined. The other two (2) comments questioned the efficiency of the proposed 30 day review period for determining whether the loan would result in significant unemployment in the area from which a business was moving. A review of the existing regulation revealed that guidance regarding the definition of "relocation" is provided in the next subparagraph of the regulation. This was not published in the proposed rule since it is not being amended; it outlines conditions under which a substantial increase in unemployment is presumed.

After careful consideration of the 30 day review period, we concluded that the certification should be part of the loan application process where it becomes a condition of the loan. This is the same process used for other certifications required by various laws. Accordingly, the 30 day approval period before an application may be submitted is omitted from this final regulation.

This rule makes clear that unemployment caused by the relocation of small business operations is of concern not only in the State and local development company programs, but equally so in the section 503 and 504 programs. A certification in this regard is to be filed with the district office for the relocation area. (§ 108.3(a) (1) and (c)).

This rule provides a cross-reference from the self-dealing prohibition in all development company programs, to the special self-dealing provisions for the 503 program (§ 108.4(d)(3)(i)).

This rule adds lease purchase to the permissible forms of financing the acquisition of property for development projects. Under this form of lease the lessee acquires ownership of the leased property by means of the lease payments over the lease period (§ 108.8(e)).

Under the previous regulation the achievement of job opportunity by a 503 company was measured by the average of job opportunities actually provided within 2 years after completion of a project. This rule bases the average on estimated job opportunities until a project has been completed for two years; and thereafter substitutes the number of actual job opportunities provided (§ 108.503(c)). In order to facilitate monitoring of these achievements, 503 companies are required to include in their annual reports relevant figures, computed in the manner described above. The reporting and record-keeping requirements herein set forth have been approved by the Office of Management and Budget under control number 3245–0074 (§ 108.503(d)).

This rule imposes a minimum periodic service charge of 0.5% of the outstanding balance of the 503 loan, while a charge

in excess of 1.5% in rural areas, as defined, and of 1% in other areas will require SBA approval (§ 108.503–6(a)(3)). This requirement is imposed because SBA is concerned about the ability of 503 companies to cover their operating expenses and to service their portfolio adequately. Also, there is the possibility that a loan portfolio may be transferred from a 503 Company not in good standing to one that is in good standing. In that event the transferee company should be adequately compensated.

The previous rule did not contemplate more than one loan as third-party financing of a given project, and required minimum maturities for such loans. In actuality the third-party financing sometimes consists of more than one loan from the same or separate lenders. This rule treats multiple third-party loans as one, and allows for a blending of their maturities so that overall the desired maturity is achieved, even if the component loans do not each reflect such maturity (§ 108.503–8(b)(1)).

This rule makes clear that the subordination of seller financing to the 503 loan is required only within the context of permanent financing, and not also for interim financing (§ 108.503–8(b)(2)).

The previous regulation permitted the assumption of a 503 loan by another small concern with SBA's approval. Experience has shown, however, that the limitation to assumption by a small concern is too narrow where a distress situation is involved. Since SBA approval is required in any event, this rule permits assumptions by anyone acceptable to all parties and to SBA (§ 108.503–13(g)).

Finally, this rule permits deferments of up to an aggregate of five years. The previous regulation required that the small concern bring the loan current in five years. Under this rule if the small concern is unable to bring its loan current within five years, the option of reamortizing the loan over the remaining maturity is available. This should preclude the need for an extension of the maturity which remains impermissible. Experience has shown that greater flexibility in such work-out situations is desirable (§ 108.503–13(h)).

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

For purposes of Executive Order 12291, SBA has determined that this rule is not a major one, since the total impact on the National economy cannot amount to $100 million. In this regard, the amendments to the Policy, Procedure and Operations sections are editorial and have no significant economic impact. We estimate that the leasehold-improvement and lease-purchase regulation will at most stimulate $7.5 million in additional projects. The job opportunity regulation and the related monitoring rule merely change the computation method for program evaluation purposes without economic impact. The service charge regulation also has little impact, as almost all certified development companies now charge at least 0.5% of the outstanding loan balance each year; the impact would be well below $50,000. The third-party financing proposal does not affect the overall maturity of such financings and is incapable of impacting the economy. The subordination requirement is a clarification of the present provision, without economic impact, as is the assumption provision. Lastly, the deferment provision, by permitting a stretch-out of more than 5 years, may have an impact of $2 million. Thus, the maximum total impact is less than $10 million.

For the purposes of Executive Order 12612, SBA certifies that this rule does not have Federalism implications warranting the preparation of a Federalism Assessment.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et, seq.*, SBA has determined that this rule does not have a significant economic impact on a substantial number of small entities because these rules update certain sections to: Conform to procedural legislative changes, introduce the lease-purchase as an acceptable financing method, improve the method by which the section 503 program participants are evaluated, and introduce several clarifications deemed useful.

The legal bases for these rules are sections 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6) a and 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c).

It is not possible to estimate the number of small entities to which these rules may apply, but we estimate that they affect less than 50% of the (approximately) 1400 development company loans annually except for the procedural rules which may affect most such loans, either at the development company or the borrower level.

For purposes of the Paperwork Reduction Act, 44 U.S.C. ch. 35, SBA certifies that this rule does not impose any reporting or recordkeeping requirements not already approved by the Office of Management and Budget. There are no relevant Federal rules which might duplicate, overlap or conflict with these rules. There are no significant alternatives to the rules which would accomplish their objectives, while minimizing their already minimal impact on small entities.

List of Subjects in 13 CFR Part 108

Loan programs/business, Small business.

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

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

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

Authority. 15 U.S.C. 687(c), 695, 696, 697, 697a, 697b, 697c, 102 Stat. 2989 (1988).

2. Section 108.3(a)(1) is revised to read as follows:

§ 108.3 Procedures for loan applications.

(a) *Relocation.* * * *

(1) In cases where the small business concern to be assisted by a development company is relocating its operations, said concern shall certify, at the time of filing an application with the development company for a section 502, 503, or 504 loan, or before disbursement by a State development company of the proceeds of a section 501 loan previously granted, that its relocation will not result in a substantial increase of unemployment in the area from which it is moving. Said certification shall be submitted by the development company to the SBA field office serving the area to which applicant is moving (see § 101.3–1 of this chapter).

* * * * *

3. Section 108.4(d)(3)(i) is amended by adding at the end a parenthetical as follows:

§ 108.4 Operational requirements.

* * * * *

(d) *Prohibition of self-dealing.* * * *

(3) * * *

(i) * * * (See also § 108.503–3(g).)

* * * * *

4. Section 108.8(e) is revised to read as follows:

§ 108.8 Borrower requirements and prohibitions.

* * * * *

(e) *Third-party leases*—(1) *Leasehold improvements.* A development company may make a loan to acquire, construct or modify a plant on leased land owned by an unrelated lessor (i.e. other than under paragraph (d) of this section or under § 108.503–9(a)(9) of this part) to be leased to the borrower, if:

(i) The remaining term of the lease (including options to renew, exercisable

exclusively by the lessee) equals or exceeds the greater of the useful life of such property or the term of the debenture; and,

(ii) Such loan is secured by a mortgage on such property sufficient to secure SBA's exposure; or

(iii) Sufficient other collateral is offered to protect SBA's exposure fully.

(2) *Lease-purchase.* A development company may make a loan to acquire, construct or modify a plant, owned by an unrelated lessor (i.e., other than under paragraph (d) of this section or under § 108.503-9(a)(9) of this part), to be leased to the borrower pursuant to a plan under which the aggregate lease payments pay for such property and the lessee has the option to acquire such property at the end of the lease for the outstanding balance, if any, plus a nominal amount (not to exceed one percent (1%) of the agreed value of the plant at the inception of the lease), if:

(i) The term of the lease (including options to renew, exercisable exclusively by the lessee) equals the maturity of the related debenture; and

(ii) The development company loan is secured by a mortgage on such property sufficient to secure SBA's exposure; or

(iii) Sufficient other collateral is offered to protect SBA's exposure fully.

* * * * *

5. The last sentence of § 108.503(c) is revised to read as follows:

§ 108.503 Program objective.

* * * * *

(c) *Job opportunity average* * * * Such average shall be based on the estimated job opportunities to be provided pursuant to § 108.503(b)(1) for projects on which SBA has issued an Authorization and Debenture Guarantee, SBA Form 1248, until two years after the completion of such projects, at which time the actual job opportunities provided shall be substituted for the estimated job opportunities. The job opportunity average will be measured at the end of the 503 company's fiscal year and job opportunities associated with canceled Forms 1248 shall be eliminated from such average.

* * * * *

6. Section 108.503(d) is revised to read as follows:

§ 108.503 Program objectives.

* * * * *

(d) *Monitoring.* Each 503 company shall monitor the job opportunities provided by its 503 loans. Each 503 company shall report in its annual report the job opportunities actually provided or estimated to be provided by each project, as the case may be, computed in accordance with paragraph (c) of this section, and shall justify a dollar investment average in excess of that permitted by paragraph (c) of this section, setting forth measures to reduce such average (See § 108.503-3(f)(2)). Unless SBA permits otherwise in writing, the 503 company shall obtain, and have available in its records for SBA inspection, a certification from the small business concern(s) assisted, based on its (their) employment data or job opportunity estimates, computed in accordance with paragraph (c) of this section, which support the 503 company's job opportunity figures.

* * * * *

7. Section 108.503-6(a)(3) is revised to read as follows:

§ 108.503-6 Costs which may be charged to the small concern by the 503 company.

(a) *Charges and Fees.* * * *

(3) A periodic service charge of not less than one-half of one percent (0.5%) nor more than two percent (2%) per annum on the outstanding balance of the 503 loan measured at 5 year anniversary intervals: *Provided, however,* That a service charge in excess of one and one-half percent (1½%) in a rural area (see definition in § 108.2-55 FR 9111) and a service charge of one percent (1%) in other areas shall require the prior written approval of SBA, based on evidence of substantial need, satisfactory to SBA.

* * * * *

8. Section 108.503-8(b)(1) is amended by adding after the second sentence a new sentence to read as follows:

§ 108.503-8 Third-party financing.

* * * * *

(b) *Terms of third-party financing.*

(1) * * * Where third-party financing includes more than one loan, the required maturity may be achieved by a weighted blending of the maturities of such loans, taking into account both the respective maturities and amounts of such loans. * * *

* * * * *

9. Section 108.503-8(b)(2) is revised to read as follows:

§ 108.503-8 Third-party financing.

* * * * *

(b) * * *

(2) Where any part of the permanent financing of a project is supplied by the seller of property for such project, such financing shall be subordinate to the 503 loan.

* * * * *

10. Section 108.503-13(g) is revised to read as follows:

§ 108.503-13 Servicing loans and debentures.

* * * * *

(g) *Assumption of a 503 loan.* A 503 loan may be assumed by another person or concern with SBA's prior written approval, such approval not to be unreasonably withheld.

* * * * *

11. Section 108.503-13(h) is amended by revising the third sentence and adding a new sentence after the existing third sentence to read as follows:

§ 108.503-13 Servicing loans and debentures.

* * * * *

(h) *Deferments.* * * * Such deferment periods shall not exceed five years in the aggregate: *Provided,* That the final maturity of the loan may not be extended. If the small concern is unable to make payments sufficient to bring the loan current within five years, the loan may be reamortized over the remaining maturity but no balloon payments shall be permitted. * * *

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

Dated: August 2, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-21233 Filed 9-4-91; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 121

Small Business Size Regulations; Time of Size for Compliance With Prime Contractor Performance of Work Requirements

AGENCY: Small Business Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: The Small Business Administration hereby amends its size regulations to clarify the time at which size is determined for purposes of determining compliance with the performance of work requirements set forth in 15 U.S.C. 637(o)(1) (for small business set aside contracts) and 15 U.S.C. 644(a)(14) (for 8(a) contracts). For negotiated procurements, whether small business set aside or 8(a), compliance with the performance of work requirements will be determined as of the date of best and final offers. For sealed bid procurements, whether small business set aside or competitive 8(a), compliance with the performance of work requirements will continue to be the date that the bid was submitted.

DATES: This interim final rule is effective immediately. Comments must be received on or before October 7, 1991.

ADDRESSES: Written comments should be addressed to: Associate Administrator for Procurement Assistance, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Catherine B. Thomas, Procurement Analyst, Office of Procurement Policy and Liaison, (202) 205-6465.

SUPPLEMENTARY INFORMATION: Section 921 of the Defense Authorization Act of 1987, Pubic Law 99-661, established performance of work requirements for companies receiving Federal contracts as prime contractors on service and supply contracts, and directed the Small Business Administration (SBA) to establish performance requirements for construction contracts (both for general and specialty trade construction). This provision is codified in section 15(o)(1) of the Small Business Act (the Act), 15 U.S.C. 644(o)(1), for small business set-aside contracts and section 8(a)(14) of the Act, 15 U.S.C. 637(a)(14), for 8(a) contracts. As to service and supply contracts, the statute requires that the concern perform itself not less than 50 percent of the contract. The subcontracting limitations for service, supply and construction contracts are currently contained in Federal Acquisition Regulation (FAR) clause 52.219-14, title 48 of the Code of Federal Regulations.

SBA's Office of Hearings and Appeals (OHA) recently ruled that compliance with 15 U.S.C. 644(o)(1) is determined on the date the firm self-certifies itself to be small in connection with its initial offer including price, whether in connection with a sealed bid procurement or a negotiated procurement. *Size Appeal of Alaska Cargo Transport, Inc.*, No. 3437 (March 20, 1991). This ruling contradicted a policy memorandum that SBA's Office of Procurement Assistance has just issued on February 11, 1991, to SBA's ten Assistant Regional Administrators for Procurement Assistance.

The policy memorandum provided guidance to SBA field personnel on determining size in connection with the statutory performance of work requirements mentioned above. It stated that "in a negotiated procurement, compliance with the subcontracting limitation requirements should be determined as of the date the concern submits its best and final offer, and not the date of self-certification." The specific issue relating to the time of size for compliance with the performance of work requirements in connection with a negotiated procurement had not been addressed prior to this time. The policy memorandum was intended to be a first-time interpretation of this specific issue. This policy recognizes that in negotiated procurements, it is quite possible that a concern has not finalized its subcontracting plans at the time it submits its initial offer or that the subcontracting plans will be revised during the process of negotiation. SBA felt that the general time of size criteria (i.e., the date that the firm submits its initial offer which includes price) was inappropriate and inapplicable to this situation and that time of size for compliance with the performance of work requirement had not been addressed in the size regulations. The policy memorandum was intended, therefore, to clarify the ambiguity of SBA's regulations concerning size in connection with the performance of work requirements.

The OHA ruling mentioned above has thus, created a situation of confusion concerning time of size for determining compliance with the performance of work requirements in the context of a negotiated procurement set aside for small business. The confusion exists among the small business community and Federal procuring agencies, as well as SBA's own personnel charged with the responsibility for determining size. In addition, because the same statutory and regulatory language exists for the 8(a) program as for the small business set-aside program (albeit different statutory and regulatory citations), OHA's ruling also adds confusion to the procurement process in the 8(a) context. SBA believes that a final regulation is immediately needed to clarify SBA's intent in implementing the performance of work requirements so that inconsistent size determinations are avoided and small businesses can submit with certainty subcontracting plans that comply with the requirements of 15 U.S.C. 644(o)(1) and 15 U.S.C. 637(a)(14).

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act (55 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. chap. 35)

SBA certifies that this rule will not be considered a major rule within the meaning of Executive Order 12291 and will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule sets policy for calculating when size will be determined in connection with the statutory performance of work requirements mentioned above. It has no impact on the size decision itself and does not affect the substantive reqirements which direct whether an entity may be considered a small business concern. This interim final rule is procedural in nature, and in and of itself does not impose costs upon the businesses which might be affected by it. Because the rule will have no affect on the amount or dollar value of any contract requirement or the number of requirements reserved for the small business set-aside and 8(a) programs, it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purpose of the Paperwork Reduction Act, 44 U.S.C. ch. 35, SBA certifies that this rule contains no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For the reasons set forth above, title 13, Code of Federal Regulations (CFR), is amended as set forth below.

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for 13 CFR part 121 continues to read as follows:

Authority: Sections 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6)), 644(a), and Pub. L. 100-656, 102 Stat. 3853 (1988).

2. Section 121.904 is amended by adding a new paragraph (d) to read as follows:

§ 121.904 Time at which size is determined.

* * * * *

(d) For purposes of determining compliance with the prime contractor performance of work requirements set forth in 15 U.S.C. 644(o)(1), the size of a concern shall be determined as of the following dates—

(1) In a sealed bid procurement, compliance shall be determined as of the date the bid was submitted;

(2) In a negotiated procurement, compliance shall be determined as of the date the concern submits its best and final offer. If a concern is determined not to be in compliance at the time it submits its best and final offer, it may not thereafter come into

compliance for that procurement by revising its subcontracting plan.

3. Section 121.1103 is amended by adding a new paragraph (d) to read as follows:

§ 121.1103 Time at which size is determined.

* * * * *

(d) For purposes of determining compliance with the prime contractor performance of work requirements set forth in § 124.317 of these regulations and 15 U.S.C. 637(a)(14), the size of a concern shall be determined as of the following dates:

(1) In a sealed bid procurement, compliance shall be determined as of the date the bid was submitted;

(2) In a negotiated procurement, compliance shall be determined as of the date the concern submits its best and final offer. If a concern is determined not to be in compliance at the time it submits its best and final offer, it may not thereafter come into compliance for that procurement by revising its subcontracting plan.

Dated: June 25, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-21234 Filed 9-4-91; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 163

Defense Contract Financing Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This document removes 32 CFR part 163, "Defense Contract Financing Regulations". The Defense Acquisition Regulations (DAR) appendix E, was replaced by the Federal Acquisition Regulation (FAR), codified at title 48, Code of Federal Regulations, chapter 1. The DoD Federal Acquisition Regulation Supplement (DFARS) are codified at title 48, Code of Federal Regulations, chapter 2, effective April 1, 1984. Notice of the FAR replacement of the DARS was published on September 19, 1983 (48 FR 42103). DAR appendix E continued to apply only to those contracts entered into prior to the adoption of the FAR. Due to an administrative oversight, 32 CFR part 163 was not removed. This part has served the purpose for which they were intended and are no longer required.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. C. Naugle, telephone (703) 697-7266.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 163

Armed forces; Government procurement.

PART 163—[REMOVED]

Accordingly, under the authority of 10 U.S.C. 133, 32 CFR part 163 is removed.

Dated: August 30, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-21239 Filed 9-4-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-91-11]

Drawbridge Operation Regulations; Falgout Canal, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the operation of the swing span bridge on LA 315, across Falgout Canal, mile 3.1, near Theriot, Terrebonne Parish, Louisiana, by permitting the draw to remain closed to navigation from 7 a.m. to 8 a.m. and from 3 p.m. to 4 p.m. on weekdays only, except holidays, and only during the months when local schools are in session. The primary purpose of this regulation is to provide school bus traffic undelayed passage during the school year. Presently, the draw opens on signal at all times.

This section will accommodate the needs of local school bus traffic and should still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On June 7, 1991, the Coast Guard published a proposed rule (56 FR 26358) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated June 21, 1991. In each notice interested parties were given until July 22, 1991 to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and Lt J.A. Wilson, project attorney.

Discussion of Comments

Three letters were received in response to Public Notice No. CGD8-10-91 issue on 21 June 1991. The Houma-Terrebonne Chamber of Commerce, the National Marine Fisheries Service and the Federal Emergency Management Agency each offered no objection to the proposed regulation.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this regulation has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the regulated period will not delay their passage through the bridge and should involve little or no additional expense to them. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking document.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.444 is added to read as follows:

§ 117.444 Falgout Canal

The draw of the LA 315 bridge across Falgout Canal, mile 3.1, shall open on signal; except that from 15 August to 5 June, the draw need not be opened from 7 a.m. to 8 a.m. and from 3 p.m. to 4 p.m., Monday through Friday except holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

Dated: August 21, 1991.

J.M. Loy,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 91-21230 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[RI2-2-5093; FRL-3991-8]

Designation of Areas for Air Quality Planning Purposes; Rhode Island; Carbon Monoxide Redesignation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this Notice is to redesignate Providence, Rhode Island from non-attainment to attainment for carbon monoxide. On July 12, 1989, November 28, 1990, and May 15, 1991, the State of Rhode Island submitted requests for this redesignation. These submittals included monitoring and modeling information that documents how Rhode Island's request meets EPA's requirements. This action is being taken in accordance with section 107 of the Clean Air Act, 42 U.S.C. 7407 (1991).

EFFECTIVE DATE: This action will become effective November 4, 1991, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Thomas Wholley, (617) 565-3233; FTS 835-3233.

SUPPLEMENTARY INFORMATION: On July 12, 1989, the State of Rhode Island submitted a request to redesignate Providence, Rhode Island from non-attainment to attainment for carbon monoxide (CO). This submission was revised and resubmitted on November 28, 1989. The **Federal Register** Notice approving this redesignation request was in the process of being published when the Clean Air Act Amendments of 1990 (CAAA) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. sections 7401-7671q (1991). On May 15, 1991, Rhode Island submitted a revised request that addressed additional CAAA requirements. These submissions include monitoring and modeling information that support the State's request. The Agency has reviewed this request for conformance with the provisions of the 1990 CAAA, particularly a new requirement that the State develop a maintenance plan to provide for maintenance of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide for at least 10 years after the redesignation. Because EPA received the State's request prior to enactment of the 1990 CAAA, and because the Agency has not yet developed guidance in final form on the requirement the State was required only to comply with the minimum requirements specified in the Act. EPA has determined that, in the absence of such guidance, the State's demonstration of attainment 10 years after redesignation and its commitment to correct any violation after redesignation are sufficient to satisfy the new 1990 CAAA requirement of a maintenance plan. EPA has also determined that the State's submittal meets all pre-enactment requirements for redesignations. Different criteria may apply for redesignation requests submitted after enactment, in particular, the criteria for maintenance plans as required by the 1990 CAAA.

The Providence carbon monoxide monitoring site is located at a downtown intersection and began operating in 1973. This monitoring site measured numerous violations of the eight hour carbon monoxide National Ambient Air Quality Standard. As a result, Rhode Island requested that Providence be designated non-attainment. EPA approved this designation on March 3, 1978 (43 FR 8963). Rhode Island's 1979 carbon monoxide State Implementation Plan (SIP) (46 FR 25446) for the Providence nonattainment area consists of an attainment demonstration based on reductions that were to be achieved under the Federal Motor Vehicle Emission Control Program (FMVECP) and New Source Review (NSR) requirements. The State will continue to achieve the reductions required by the FMVECP. Upon redesignation to attainment, the area will comply with the Prevention of Significant Deterioration (PSD) provisions of the SIP with regard to carbon monoxide in place of the new source review requirements.

Section 107(d)(3)(E) of the Clean Air Act, as amended, establishes five requirements that must be met in order to redesignate an area from nonattainment to attainment: (1) The area must have attained the NAAQS (for that pollutant); (2) the area must have a fully approved State Implementation Plan; (3) the improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from the SIP and other federally enforceable air pollution control regulations; (4) the area must have a fully approved maintenance plan as required by section 175A of the Act; and (5) the State containing the area must have met all the requirements applicable under section 110 and part D of the Act. Rhode Island has met these five requirements for redesignating the Providence nonattainment area to attainment.

First, to demonstrate that the area has attained the NAAQS, the State must have at least eight consecutive quarters of data showing no violations of the NAAQS. Subsequent to the last violation recorded in 1985, the Providence area has had twelve consecutive quarters of data with no recorded violations of the carbon monoxide NAAQS.

Rhode Island has met the second requirement of having a fully approved

SIP and the third requirement that the improvement in air quality was due to permanent and enforceable reductions in emissions. On May 7, 1981 (46 FR 25446) and July 6, 1983 (48 FR 31026), EPA approved Rhode Island's carbon monoxide SIP. At that time, EPA adopted those SIP rules satisfied that they were enforceable. Since that time, EPA has remained satisfied with the rules and, therefore, has not issued a SIP call finding them to be inadequate. Moreover, the evidence indicates that these rules are the source of the reductions that have occurred in the Providence area and that they are sufficient to maintain the standard. The MOBILE4 emission model indicates how the FMVECP, which will remain in place after redesignation to attainment, will maintain reduced CO emissions.

Fourth, Rhode Island has submitted a maintenance plan that meets the requirements of section 175A. Because EPA has not yet established through final rule or guidance what constitutes an acceptable maintenance plan under section 175A, the Agency has determined that at a minimum, the plan must contain a demonstration that the area will maintain the standard for ten years following the date of approval and that the State must submit a contingency plan. On May 15, 1991, Rhode Island submitted a revised maintenance plan demonstrating maintenance of the standard for ten years. This plan included the modeling analysis, discussed above, which demonstrates maintenance of the standard through 2001. The State submitted a contingency plan providing what actions the Providence area will need to take if it violates the standard. The contingency plan provides that in the event that any new violations of the carbon monoxide standard are measured in the future, the State will submit within two months of notice of the violation a schedule to implement a plan to correct the violation within eighteen months.

Pursuant to the fifth requirement, the Providence area must have fulfilled the applicable requirements of section 110 and part D. The area has met the requirements of section 110 by submitting and having in place a fully-approved SIP. As to part D, since the Providence area was not classifiable at the time of enactment of the Clean Air Act Amendments of 1990, the State need only meet the requirements of subpart 1 of part D, specifically those requirements enumerated in section 172(c).

Several of the section 172(c) requirements are necessarily met by an area that had a fully-approved SIP under the pre-amended Act. Although section 172(c) was completely amended, it encompasses various requirements that were included in other parts of the pre-amended Act and which were prerequisites to SIP approval. Therefore, EPA necessarily determined that many of these requirements were met when the Agency approved the SIP. The remaining requirements in section 172(c), although not required under the pre-amended Act, have been met by Rhode Island.

The SIP must require that Reasonably Available Control Measures (RACM) be implemented as expeditiously as practicable and provide for attainment of the NAAQS. At the time EPA granted full approval of the Providence CO nonattainment plan, the Agency determined that the plan was consistent with the Reasonably Available Control Technology (RACT) and RACM requirements of the Act. The CO SIP did provide for attainment of the CO standard and the Providence area has demonstrated continued attainment over twelve consecutive quarters. EPA recognizes that Rhode Island has met the applicable RACM and attainment requirements.

The Reasonable Further Progress (RFP) requirement loses any continued force and importance once an area has demonstrated attainment and maintenance of the standard. Under its SIP, the State must require RFP toward the goal of attainment. The concept of RFP only has importance in regard to attaining the NAAQS; once an area reaches attainment, the goal is met, and no further progress remains to be made toward that goal. Rhode Island provided for RFP in its SIP. Since the Providence area has now attained the NAAQS, it no longer needs to demonstrate RFP.

Similarly, the requirements relating to nonattainment new source review also disappear upon redesignation to attainment. Once an area, such as Providence, is redesignated to attainment, nonattainment NSR requirements are not necessary because the area will be subject to the prevention of significant deterioration (PSD) requirements of the Act. Both NSR and PSD provide preconstruction review for new or modified sources, NSR for sources in nonattainment areas, PSD for sources in attainment areas. Once the Providence area is redesignated to attainment, the Rhode Island PSD program will become effective immediately.

The contingency plan requirement is not something required under the previously-approved SIP. However, the amended Act now requires a contingency plan for purposes of the maintenance plan requirement. Therefore, the requirement that the State adopt contingency measures to ensure that RFP and attainment are reached and maintained has been met by the contingency measures under section 175A.

Finally, the State must have submitted an emissions inventory. This requirement may be satisfied by the emissions inventory requirement of the maintenance plan. Rhode Island elected to fulfill the emission inventory requirement by conducting a modeling analysis which was based on EPA's emission model (MOBILE4) and intersection model (CAL3QHC). The modeling analysis demonstrated that the monitoring site meets National Air Monitoring Stations (NAMS) siting criteria and is located where one would expect to see the highest carbon monoxide values. Moreover, the input data used in the modeling (such as years of analysis, temperature, wind speed, wind direction, stability class, traffic data, percent hot-cold starts, background, speeds and emission factors) are acceptable as representing the worst case conditions. The modeling analysis confirmed that the monitoring site would not be expected to record violations of the carbon monoxide standards during the 10 years following redesignation. Rhode Island has met the emission inventory requirement through submission of its modeling analysis.

Summary of SIP Revision

This action amends title 40 of the Code of Federal Regulations, part 81 to indicate that Providence, Rhode Island is in attainment for the carbon monoxide standards. EPA is approving the redesignation of Providence and incorporating the redesignation into the Rhode Island SIP.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this

action will be effective on (60 days from today).

Final Action: EPA is approving Rhode Island's request to redesignate Providence to attainment for carbon monoxide.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 4, 1991. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 21, 1991.

Julie Belaga,

Regional Administrator, Region I.

40 CFR part 81, subpart 340, is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642, unless otherwise noted.

2. In § 81.340 the attainment status designation table for Carbon Monoxide is revised to read as follows:

§ 81.340 Rhode Island

* * * * *

RHODE ISLAND—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Entire State		X

* * * * *

[FR Doc. 91-21259 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 266

[FRL-3990-4]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Burning of Hazardous Waste in Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency.

ACTION: Administrative stay of applicability and amendment to final rule.

SUMMARY: The Environmental Protection Agency is today announcing an administrative stay of the permitting standards for boilers and industrial furnaces adopted pursuant to the Resource Conservation and Recovery Act (56 FR 7206, Feb. 21, 1991) as they apply to coke ovens burning certain hazardous wastes from the coke by-products recovery process. The primary effect of the stay is to halt the application of industrial furnace standards to coke ovens when they reprocess these hazardous wastes while the Agency can evaluate comments on a pending regulatory proposal to exclude such wastes from subtitle C jurisdiction when recycled by reprocessing in coke ovens. Section 266.100(a) is amended by adding a note to reflect this administrative stay.

EFFECTIVE DATE: August 21, 1991.

ADDRESSES: The official record for this administrative stay is identified as Docket number F-91-CBS-FFFFF and is located in the RCRA Docket, room M2427, 401 M Street, SW., Washington, DC, 20460. The public may make an appointment in order to review docket materials by calling (202) 260-9327. The docket is open for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund Hotline, toll free, at (800) 424-9346, or at (703) 920-9810. For technical information concerning this notice, contact Mr. Ron Josephson, Environmental Engineer, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-4770.

SUPPLEMENTARY INFORMATION: The contents of today's notice are listed in the following outline:

I. Background
II. Justification for Administrative Stay
  A. Process Description
  B. Agency Action
III. Effect of the Administrative Stay
  A. Effect on Industry
  B. Public Interest
IV. Conclusion
V. Effect on State Authorization
VI. Paperwork Reduction Act

I. Background

In the final rule establishing permitting standards for boilers and industrial furnaces burning hazardous waste (BIF rule, February 21, 1991; 56 FR 7206), the Agency promulgated an exclusion from the definition of solid waste for coke and coal tar produced from EPA Hazardous Number K087 (decanter tank tar sludge from coking operations) and for the process of producing coke and coal tar by recycling this waste in coke ovens. See 56 FR 7203. In the final BIF rule, the Agency also raised the issue of other hazardous wastes from the coke by-products recovery process that may be processed in the coke oven so the Agency could, if necessary, modify the exclusion. *Id.* at n. 94.

The issue of other wastes being processed in a coke oven was raised again by the Agency on July 26, 1991 (56 FR 35758–35788) when we proposed new listings of wastes generated by the coke by-products industry. In the notice, the Agency proposed to add exclusions from the definition of solid waste (under 40 CFR 261.4(a)) for additional coke by-products wastes recycled into the coke oven or mixed with coal tar.

In both the BIF rule and the coke by-products proposed listings, the Agency summarized the reasons for the exclusions as follows:

(i) The wastes being recycled have many constituents similar to the raw material (coal) for the coking process,

(ii) The non-K087 wastes are very similar to K087 and no incremental environmental risk would result from their recycling by coking,

(iii) Recycling of K087 via the coke oven is already excluded (§ 261.4(a)(10),

56 FR 7206), and recycling of these wastes appears similar, and

(iv) Regulation of coke oven emissions under RCRA would interfere with the regulatory scheme the Agency is developing under sections 112(d)(8) and 112(i)(8) of the Clean Air Act. (See 56 FR 7208, 56 FR 35778–80.)

The comment period on the proposed additional exclusions ended on August 16, 1991. EPA is presently considering these comments in the course of developing final rules. However, the BIF rule takes effect on August 21, and absent some type of administrative action, this would mean that any coke oven reprocessing a by-product hazardous waste except K087 could only do so by complying with the BIF standards.

II. Justification for Administration Stay

The Agency has studied this industry extensively over the past few years and has presented the results in various publications such as the 1980 Background Document to the K087 listing, the proposed and final BIF rule, the National Emission Standards for Hazardous Air Pollutants (NESHAP) for coke ovens under old section 112 of the Clean Air Act (54 FR 38044, September 14, 1989), the NESHAP for benzene waste operations (55 FR 8346, March 7, 1990), and the new coke by-products listing proposal. With such information, EPA can briefly summarize technical and policy reasons for issuing this administrative stay.

A. Process Description

Coke used in the iron and steel industry is manufactured in coke ovens via the thermal destructive distillation of coal. In a typical process, 60–70% of the coal is made into coke, while the remainder of the original mass is converted into "coke oven gas." The gas undergoes successive cooling and distillation steps, ending up as a "cleaned" gas that is used, among other things, for providing heat to the coke ovens. The cooling and distillation steps lead to the production of coal tar, light oil, and naphthalene, which in turn are sent to tar refiners or organic chemical distillers for the production of end use chemicals.

The recovery of coal tar at a coke oven is accomplished by a process that also involves the generation of hazardous waste, most of which is decanter tank tar sludge (EPA Hazardous Waste No. K087). Other tar recovery wastes are sump sludges and tar storage tank bottoms, proposed to be listed as K141 and K142 in the July 26, 1991 notice. In addition, the process for light oil and naphthalene recovery involve the generation of various residuals (proposed K143, K144, and K145 in the July 26, 1991 proposal). The refining leads to the generation of tar storage tank bottoms and certain other distillation residues (proposed K147 and K148 in the July 26, 1991 proposal). The non-listed (proposed K141–K145, K147, and K148) residuals are similar in composition to K087 waste, and many of them exhibit the Toxicity Characteristic for benzene.

Recycling of the wastes to the coke ovens is done by pumping or otherwise transporting the wastes to a tank or similar structure where the waste is heated and often mixed with a diluent organic fluid to facilitate uniformity, consistency, and proper viscosity of the waste or mixture. As a part of this process, the facilities (or their on-site contractors) process the wastes in ball mills and other devices to aid in providing requisite waste consistency to facilitate its eventual reinsertion into the coke oven. Temporary storage of the material to be recycled is often accomplished in "heated boxes" adjacent to the point at which the wastes are combined with the coal feed. The waste(s) is then usually sprayed or combined with coal as it is being conveyed into the coke ovens. The industry has found that waste recycling does not affect the quality of the product (coke), any of the by-products, or the emissions from the process. The coke by-products proposed listing notice (56 FR 35777–35781, July 26, 1991) describes the recycling practices in greater detail.

B. Agency Action

EPA has decided to issue an administrative stay of the BIF rule insofar as it would apply to a coke oven reprocessing non-K087 hazardous wastes generated by the coke byproducts recovery process. This means that on August 21, coke ovens may continue to process residues from the byproducts recovery process that exhibit the TC without the coke oven having to comply with the BIF regulations. As explained below, the Agency is taking this step in order to allow proper evaluation of the comments on the proposed rule, to avoid disrupting beneficial recycling practices that pose no incremental environmental risk over current practice, to preserve the current regulatory status quo, and to avoid undermining the detailed regulatory scheme for coke ovens recently enacted under the amended Clean Air Act.

As explained in the July 26, 1991 proposal, the TC-hazardous wastes from coke byproducts recovery are practically identical to K087 in terms of composition and constituent concentrations, and are handled identically to K087. Reprocessing the wastes is just like reprocessing K087 waste. The process involves the same equipment and chemical additives, and for practical purposes is one and the same.

The Agency is always concerned that removing one environmental risk will increase another. Therefore, the Agency does not want another environmental medium to incur increased pollutant loading as a result of a recycling activity. This will probably not be the result of staying the BIF rule's applicability to non-K087 coke byproducts hazardous waste. After considering the processes involved, the Agency believes that air emissions will not increase in amount or toxicity as a result of this activity. The waste added to the raw material is a small fraction of the coking process feed and the process itself can successfully consume (by thermal destructive distillation) the combined raw material and waste. Indeed, the TC byproducts wastes comprise a small percentage of the total feed even in comparison with decanter tank tar sludge (K087). It appears anomalous if burning this small amount of waste which is practically identical to K087, and is co-processed with K087, would subject the coke oven to regulation under the BIF rule when burning K087 waste itself does not.

The Agency is also concerned that RCRA regulations do not disrupt other regulatory programs and Congressional mandates. See RCRA section 1006. In this regard, the amended Clean Air Act establishes an elaborate scheme for regulating air emissions from coke ovens, consisting of technology-based and (eventually) risk based standards implemented under a phased schedule. CAA sections 112 (d)(8) and (i)(8). For many coke ovens, compliance with risk-based standards is deferred until 2020. Compliance with the initial technology-based standards commences in 1993 with upgraded standards for certain ovens to occur in 1998. Imposing the risk-based and technology-based BIF standards on such units now could effectively abrogate this carefully-considered scheme by requiring compliance with a different, potentially inconsistent set of standards in 1991. The Agency questions whether this disruption of the Clean Air Act process is warranted given that coke oven emissions will be identical whether or not these TC coke byproducts wastes are reprocessed. The Agency certainly is convinced that this potential disruption is unwarranted while a regulatory

proceeding evaluating these issues is pending.

III. Effect of the Administrative Stay

It appears that regulating coke ovens processing TC coke byproducts wastes would probably cause industry to stop recycling these materials (or subject the units to regulation under the BIF rule). Current information available to the Agency indicates that the industry is currently recycling many of these wastes (see 56 FR 35766, July 26, 1991). The Agency in fact believes that the data in the coke by-products proposal are somewhat outdated and tend to understate the extent of recycling activities occurring in the industry.

In addition, the Agency has made a preliminary finding that the wastes are useful to the industry when they are recycled with the raw material (coal). Similarly, the Agency has proposed a finding that the recycled wastes add material value without affecting the coke product and without leading to the generation of increased air emissions from the coking operations.

Industry sources have indicated to the Agency that forcing compliance with BIF rule standards because of recycling will have a negative impact within the industry and to the environment. The disincentive to recycle posed by compliance with the BIF rule will lead to disposal of the wastes instead (not a desirable option in this case largely because of loss of recycling benefits and increased waste transport and handling) and will lead to greater costs for the iron and steel industry to transport and dispose of these wastes as well.

Currently, the benzene NESHAP imposed pursuant to old section 112 of the Clean Air Act standards promulgated by the Agency in 1989 are forcing the industry to construct upgraded equipment at coking facilities. As a result of these activities, tanks and other process equipment are being shut down for cleanout and preventive maintenance, leading to increased generation of the TC byproducts wastes. The cost of handling these wastes would increase significantly if the recycling option were not present as a means of managing these wastes.

EPA also does not anticipate adverse effects on the public as a result of issuing this administrative stay. The information that was before the Agency when it proposed the exclusion on July 26 suggests that there will be no incremental increase in air emissions resulting from the practice. The stay will also protect the resource recovery benefits of reprocessing coke oven byproducts wastes. The Agency notes that this stay will preserve the status quo (the traditional function of a stay) and allow sufficient time to review the public comment on this issue, serving the public interest. The Agency also believes that in assessing ultimate public interest, one must assume that the air emissions compliance schedule reflected in amended section 112 of the CAA reflects Congress' view of the public interest and that interest may best be served by not disrupting the Congressional scheme to control coke oven emissions.

IV. Conclusion

EPA has decided to stay the applicability of the BIF rule to coke ovens burning TC hazardous wastes from the coke byproducts recovery process while EPA reviews the public comments on this issue. The stay will remain in effect while the Agency considers the comments on the proposed rule. The Agency is issuing this administrative stay pursuant to 5 U.S.C. 705 which provides that an agency may postpone the effective date of action taken by it when justice so requires, pending judicial review. (A number of steel industry members have petitioned for review of the BIF rule on this issue.) For the reasons given above, the Agency believes that this standard is satisfied here. In addition, the Agency can take final administrative action on the proposed rule in a relatively short time, and is under court order to issue a final rule no later than July of 1992, and so is in a position to act quickly should it reconsider any feature of this action.

The Agency notes that devices that are a part of the recycling process are already exempt from regulation under 40 CFR 261.6(c)(1). In the specific case of coke by-products wastes, discrete units such as ball mills and processing tanks would meet the provisions of this existing exemption when used to pretreat the coke by-products recovery waste before mixing with coal tar or direct reinsertion to the coke oven. The exemption does not apply to a recycling process that involves land disposal, nor does this exemption necessarily apply when media contaminated with listed wastes are charged to the coke oven (See 55 FR 22671, June 1, 1990). Thus, the administrative stay issued today does not apply to such already-exempt activities.

Commenters to the July 26 proposed rule also have questioned whether the mixture and derived from rules apply to residues from the coke by-products recovery process. The question was raised because the regulatory exclusion promulgated on February 21, 1991 (40 CFR 261.4(a)(10), 56 FR 7206) does not specifically exclude such residues. Clearly, the Agency interprets the exclusion as cutting off applicability of the derived from rule to other coke by-products residues. If the derived from rule applied, it would have been unnecessary for EPA to have proposed listing these wastes in the July 26 proposal (or for Congress to have required EPA to determine whether to list these wastes in section 3001(e)(2)). The language of the rule likewise makes clear that the derived from rule does not apply, as the coke oven process is excluded from regulation, cutting off the derived from rule from that point onward. Thus, the coke by-products wastes proposed for listing in the July 26 notice are not currently covered by the K087 waste code.

V. Effect on State Authorization

The effects of the administrative stay are uniform for all states, as the BIF rule is based on Hazardous and Solid Waste Amendments (HSWA) authority.

As explained in the BIF rule (56 FR 7204, February 21, 1991), EPA considers most of the rule to be based on HSWA authority. HSWA-based permitting standards take effect simultaneously in all states, regardless of authorization status. With respect to these HSWA-based requirements, the effect of the administrative stay is to defer in all states EPA's implementation and enforcement of these requirements as they apply to coking facilities beyond August 21, 1991, in accordance with the administrative stay provisions.

According to the schedule for state program revisions contained in 40 CFR 271.21(e), the February 21, 1991 BIF rule is subject to a July 1, 1992 deadline (July 1, 1993 if a statutory change is required) for states to modify their hazardous waste programs and thereafter seek approval from EPA for the program revision. Since the administrative stay will in all probability not extend any effective date for a very long period of time, EPA considers it unlikely that any state will have received approval from EPA to implement the February 21, 1991 regulation under RCRA authority with earlier or more stringent effective dates as they apply to coke ovens than those set out in this stay. Nevertheless, states may modify their hazardous waste programs to adopt the BIF rule, even as it applies to coke ovens, in the interim. While EPA encourages states to follow the deferral of the effectiveness of the BIF rule as it applies to coke ovens announced in this stay, states may elect to implement the BIF rule with effective date earlier than the Agency would like under this stay, as a matter of state law. Moreover, EPA would approve state

programs with earlier dates because they would be more stringent than the Federal program.

VI. Paperwork Reduction Act

This administrative stay does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980. 44 U.S.C. 3501 *et seq.*

List of subjects in 40 CFR part 266

Energy, Hazardous waste, Petroleum, Recycling, Reporting and recordkeeping requirements.

Dated: August 21, 1991.

F. Henry Habicht,

Acting Administrator.

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: Sections 1006, 2002(a), 3004, and 3014 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6934).

2. Section 266.100 is amended by revising paragraph (a) to read as follows:

§ 266.100 Applicability.

(a) The regulations of this subpart apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in § 260.10 of this chapter) irrespective of the purpose of burning or processing, except as provided by paragraphs (b), (c), and (d) of this section. In this subpart, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of §§ 266.104, 266.105, 266.106, and 266.107 apply to facilities operating under interim status or under a RCRA permit as specified in §§ 266.102 and 266.103.

Note: This provision does not apply to coke ovens processing coke by-products wastes exhibiting the Toxicity Characteristic identified in § 261.24 pending completion of a rulemaking proposed on July 26, 1991 (56 FR 35787). When that rulemaking is complete, EPA will remove this note.)

[FR Doc. 91-20621 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50575B; FRL-3892-8]

Alkane Polyol Phosphate Ester; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking the significant new use rule (SNUR) at 40 CFR 721.288 that was promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the above chemical substance based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is November 4, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC 20460, telephone (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 24, 1990, (55 FR 17376) EPA issued a SNUR establishing significant new uses for alkane polyol phosphate ester. Because of additional toxicity data EPA has received for this substance, EPA proposed to revoke this SNUR in the **Federal Register** of February 27, 1991 (55 FR 8172).

I. Rulemaking Record

The record for the rule which EPA is revoking was established in docket number OPTS-50575 (P-89-448). This record includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this revocation.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of February 27, 1991 (55 FR 8173). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and Rationale of Proposing Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in the proposed revocation of this rule. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated. EPA reviewed the toxicity testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for this substance designated herein is consistent with the revocation of the section 5(e) order. In light of the above EPA is revoking SNUR provisions for this chemical substance. EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: August 28, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

§ 721.288 [Removed]

2. By removing § 721.288.

[FR Doc. 91-21260 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 721

[OPTS-50582D; FRL-3893-3]

Polymer of Maleic Anhydride, Benzenedicarboxylic Acid and Disubstituted Alkylamine; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking the significant new use rule (SNUR) at 40 CFR 721.1645 that was promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the above chemical substance based on receipt of new data. The data indicate that the substance will not present an unreasonable risk of injury to human health and further regulation under section 5 of TSCA is not warranted at this time.

EFFECTIVE DATE: The effective date of this rule is November 4, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC 20460, telephone (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 15, 1990 (55 FR 33296), EPA issued a SNUR establishing significant new uses for polymer of maleic anhydride, benzenedicarboxylic acid, and disubstituted alkylamine. Because of additional toxicity data EPA has received for this substance, EPA proposed to revoke this SNUR in the **Federal Register** of February 27, 1991 (55 FR 8173).

I. Rulemaking Record

The record for the rule which EPA is revoking was established in docket number OPTS-50582 (P-88-1540). This record includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this revocation.

II. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of February 27, 1991 (55 FR 8173). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

III. Objectives and rationale of revocation of the rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make reasoned evaluations of the health effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in the proposed revocation of this rule. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated. EPA reviewed the toxicity testing conducted by the PMN submitter for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and subsequently revoked the section 5(e) consent order. The revocation of SNUR provisions for the substance designated herein is consistent with the revocation of the section 5(e) order. In light of the above, EPA is revoking the SNUR provisions for this chemical substance. EPA will no longer require notice of any company's intent to manufacture, import, or process this substance.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: August 28, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

§ 721.1645 [Removed]

2. By removing § 721.1645.

[FR Doc. 91-21261 Filed 9-4-91; 8:45 am]

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40 CFR Part 799

[OPTS-42030H; FRL 3883-3]

Testing Consent Order for Mesityl Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule announces that EPA has signed an enforceable testing consent order with four of the manufacturers of mesityl oxide (MO; CAS No. 141-79-7), who have agreed to perform certain health effects tests with MO. MO is added to the list of Testing Consent Orders in 40 CFR 799.5000. Accordingly, the export notification requirements of 40 CFR part 707 apply to MO.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, EPA is proposing to revoke the previous TSCA section 4 test rule for this chemical.

I. Regulatory History

In its Fourth Report to EPA, published in the **Federal Register** of June 1, 1979 (44 FR 31866), the Interagency Testing Committee (ITC) recommended that MO be considered for health effects testing. In response to the ITC, EPA issued a two-phase final test rule under section 4(a)(1)(A) of the Toxic Substances Control Act (TSCA). The first phase of the final test rule was published in the **Federal Register** of December 20, 1985 (50 FR 51857). The second phase--test standards and reporting requirements, was published in the **Federal Register** of May 20, 1987 (52 FR 19088). Testing requirements specified in the rule included subchronic toxicity, mutagenicity, and oncogenicity testing if the mutagenicity testing was positive. Prior to EPA issuing the test standards and reporting requirements for MO, several of the manufacturers (Shell Chemical Company, Eastman Kodak Company, Union Carbide Corporation, and Exxon Chemical Americas) submitted a TSCA section 21 petition requesting that EPA withdraw the test rule. Their request was based upon declining use of MO, voluntary changes made in their manufacturing practices, and cessation of merchant sale--all of which, the manufacturers concluded, reduced human exposure. EPA denied the TSCA section 21 petition, finding that the remaining exposures from manufacturing and processing MO both as an intermediate and as a byproduct were still sufficient to support the need for health effects testing under TSCA section 4 (51 FR 30216; August 25, 1986).

The manufacturers also pursued judicial review of the rule, and on August 19, 1987, the US Court of Appeals, for the Fifth Circuit, remanded the rule for reconsideration in light of new information suggesting that human exposure to MO had declined since EPA promulgated the test rule. The Court

stayed the test rule pending EPA's reconsideration on remand (Ref. 1).

EPA, several of the manufacturers, and the Chemical Manufacturers Association (CMA) then independently reassessed worker exposure and current manufacturing practices. The manufacturers and CMA conducted additional work place monitoring and user surveys (Refs. 2 and 9); and EPA evaluated exposure from the manufacture of MO as a byproduct (Ref. 3). Based upon the results of these exposure analyses and surveys, four of the manufacturers (Union Carbide Corporation, Shell Chemical Company, Eastman Kodak Company, and General Electric Company) and EPA agreed that screening level health effects testing would be appropriate.

II. Use and Exposure

The use and exposure of MO were characterized in the proposed and final test rules (48 FR 30699, 50 FR 51857, and 52 FR 19088, respectively) and in EPA's response to the section 21 petition (51 FR 30216). After the Court remand, several of the manufacturers conducted additional work place monitoring and together with the other manufacturers sponsored a user survey (Refs. 2 and 9). In addition, EPA reevaluated exposures associated with manufacture of MO as a byproduct (Refs. 3 and 6).

The manufacturers reported that, as of February 1990:

1. Exxon Chemical Americas had dismantled its production unit, leaving only three manufacturers that use MO as an intermediate (primarily to make methyl isobutyl ketone).
2. There are now only three sites where MO is used as an intermediate; there were six at the time the test rule was promulgated.
3. Three of the six companies that produced MO as a byproduct no longer do so, and exposures associated with manufacturing facilities of the remaining three companies are "negligible".
4. Work place monitoring in both intermediate and byproduct manufacturing facilities indicates exposures consistently below 0.1 ppm, the lower detection limit.
5. There are fewer than 350 workers exposed during manufacturing activities (both as an intermediate and as a byproduct).
6. Two of the four companies that processed MO as a pesticide inert ingredient no longer do so. The remaining two companies import less than 1 million pounds annually, and only a few workers may be infrequently exposed to low levels of MO.

Prior to industry submitting their survey and monitoring results, EPA estimated occupational exposures to MO resulting from byproduct manufacture (Refs. 3 and 6). EPA did not independently reevaluate the worker exposure profile from manufacturing MO as an intermediate or as a pesticide inert ingredient since EPA believed that manufacturing practices had not changed substantially since EPA reviewed the section 21 petition.

Based upon EPA's analysis and calculations, approximately 50 workers may be exposed to MO as a byproduct produced during isophorone manufacture. During sampling of isophorone, inhalation of MO is estimated to be 0.4 mg/day and dermal exposure estimates range from 570 to 1,100 mg/day. Inhalation exposure to MO during drumming of isophorone is estimated to range from 13 to 26 mg/day, while dermal exposures may range from 740 to 2,200 mg/day. Additionally, 8 to 16 workers are estimated to be exposed to MO as a byproduct produced during the manufacture of vitamin C. MO exposures during sampling of vitamin C were estimated to be 0.1 mg/day for inhalation and 130 to 390 mg/day for dermal, while drumming of wastes containing MO may result in additional exposures of 80 mg/day for inhalation and 130 to 390 mg/day for dermal. Between 72 to 360 workers may also be exposed to MO as a byproduct produced during the dry extrusion of cellulose acetate. Estimated MO exposures are: 0.001 mg/day for inhalation and 0.06 to 0.19 mg/day for dermal.

III. Health Effects

The known health effects of MO were discussed in the proposed and final test rules (48 FR 30699, 50 FR 51857, and 52 FR 19088 respectively). In summary, exposure to MO may cause mutagenic effects. EPA believes MO may react as an alkylating agent and as such has the potential to interact with the informational molecules of human cells (DNA, RNA, proteins). The reaction products, if not repaired, may result in cellular or genetic damage that may be expressed as mutagenic and possibly carcinogenic effects. MO may also induce leukopenia (reduction of the number of white blood cells in the body) and cause hypertrophy of the liver, kidney, and spleen. There are no studies on the developmental (teratogenic) or reproductive effects of MO.

IV. Testing Consent Order Negotiations

After receipt of the exposure update from the manufacturers, CMA and EPA discussed the need for testing MO. On September 12, 1990, CMA, representing the manufacturers, requested that EPA develop a testing consent order (Ref. 4). EPA agreed to consider negotiating a consent order with the manufacturers and issued a notice, published in the **Federal Register** of October 2, 1990 (55 FR 40234), announcing the decision. This notice also announced the time and location of a public meeting to initiate testing negotiations pursuant to 40 CFR part 790. The notice requested that all "interested parties" who wanted to participate in negotiations identify themselves to EPA by October 18, 1990. Four manufacturers and CMA identified themselves as interested parties. Prior to the public meeting, CMA submitted proposed protocols for three health effects tests. The protocols were modelled after the Organization for Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) draft guidelines. EPA reviewed CMA's draft protocols and developed a draft consent agreement. Both were discussed during the October 18, 1990 public meeting. On December 27, 1990, the following manufacturers agreed in principle to EPA's proposals regarding the agreement: Eastman Kodak Company, Shell Chemical Company, Union Carbide Corporation, and General Electric Company (Ref. 5). On (insert date) these four manufacturers, and CMA as an interested party, signed the Testing Consent Order for MO. The manufacturers agreed to perform a microbial mutagenesis test in salmonella using the mammalian microsome plate incorporation assay, an *in vivo* mammalian bone marrow assay, and a combined repeat dose and reproductive/developmental toxicity screening test in the rat. The manufacturers developed the test protocols which were reviewed and modified by EPA and incorporated as the test standards for the Consent Order. In the event that testing under the consent order is invalid, not conducted, or EPA determines that additional testing is necessary, EPA will initiate rulemaking procedures. As part of any such rulemaking proceedings, EPA would make statutory findings pursuant to section 4 of TSCA.

V. Testing Program

Four of the manufacturers have agreed to test MO for health effects using test protocols comparable to those developed by the United States and OECD for the SIDS testing program. The three-test battery will screen MO for mutagenic, subchronic, developmental and reproductive effects. MO will be tested for mutagenic activity using five strains of salmonella (with and without exogenous metabolic activation) and the

in vivo mammalian bone marrow micronucleus assay. For the micronucleus assay, MO will be administered to mice by intraperitoneal injection; bone marrow will be harvested; and the ratio of polychromatic to normochromatic erythrocytes and frequency of micronucleated cells examined. Subchronic (including effects to the blood, liver, spleen and kidneys), developmental, and reproductive effects will be evaluated using a combined test. Rats will be exposed by inhalation to MO for 6 hours per day, 7 days per week. Males will be exposed throughout the entire study, approximately 40 to 53 days. Females will be exposed only until day 20 of gestation; the study will last approximately 35 to 48 days. Full histopathology will be conducted on both male and female rats. EPA has reviewed the three test protocols developed by CMA and the manufacturers and found them acceptable (Refs. 7 and 8). The Salmonella and micronucleus tests should provide equally reliable results as the EPA test guidelines published at 40 CFR part 798. The combined repeat dose developmental/reproductive effects test is a new protocol and is a modification of the test jointly developed by EPA and OECD for the SIDS program. The SIDS protocol calls for oral dosing and histopathology of only one sex. For MO, inhalation was selected as a more relevant route of human exposure and histopathology will be conducted on both sexes. EPA will use the data generated by these tests to evaluate the risk of adverse health effects associated with the manufacture, processing, use, and disposal of MO.

VI. Standards and Methodologies for Conducting Tests

Testing shall be conducted in accordance with the test protocols submitted by the manufacturers and CMA on December 27, 1990 and August 9, 1991 which were set forth as appendices 1, 2, and 3 of the consent order (collectively the "test standards"). Through CMA the four manufacturers will consult EPA in a good faith effort to determine if further test standard modifications are necessary. Modifications to the Consent Order shall be governed by 40 CFR 790.68.

VII. Reporting Requirements

The Salmonella and micronucleus tests shall be submitted to EPA 9 months after the effective date of the consent order. The combined repeat dose and reproductive/developmental toxicity screening test in the rat shall be submitted to EPA 12 months after the effective date of the consent order. In addition, interim status reports for each test are due at 6 month intervals, with the first status report due 6 months from the effective date of the consent order until all three tests are completed under this order.

VIII. Export Notification

The issuance of this Testing Consent Order subjects any person who exports or intends to export MO to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed in 40 CFR part 707. Chemicals subject to consent orders are listed at 40 CFR 799.5000. This listing serves as notification to persons who export or who intend to export chemical substances or mixtures which are the subject of Testing Consent Orders that 40 CFR part 707 applies.

IX. Rulemaking Record

EPA has established a record for this rule under docket no. OPTS-42030H. This record contains the information EPA considered in developing this Consent Order and includes the following information.

A. Supporting Documentation

(1) Testing consent order for MO.

(2) **Federal Register** notices pertaining to this notice and consent order consisting of:

(a) Notice announcing a public meeting for October 18, 1990, and soliciting interested parties to develop a consent order for MO, (55 FR 40234, October 12, 1990).

(b) Final rule for MO (establishing testing requirements) (50 FR 51857, December 20, 1985).

(c) Final rule for MO (establishing test standards and reporting requirements) (50 FR 19088, May 20, 1987).

(d) Section 21 petition response (50 FR 30216, August 25, 1986).

(3) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

B. References

(1) *Shell Chemical Co. v. EPA*, 826 F. 2d 295 (5th Cir. 1987)

(2) Chemical Manufacturers Association (CMA). Results of a worker exposure survey conducted by the Ketones Panel of CMA using mesityl oxide as an intermediate and for operations where mesityl oxide is formed as a byproduct or impurity (non-CBI version). (February 28, 1990)

(3) EPA. Occupational exposure to mesityl oxide resulting from incidental formation. Kin Wong, Chemical Engineering Branch, Economics andTechnology Division, Office of Toxic Substances. (June 10, 1988).

(4) CMA. Letter on proposed mesityl oxide consent agreement. From: Barbara Francis, CMA. Manager, Ketones Panel. Washington, DC 20037. To: Robert Jones, Existing Chemicals Assessment Division, EPA. (September 12, 1990).

(5) CMA. Letter agreeing in principle to test mesityl oxide under a consent order. From: Barbara Francis, CMA. To: Robert Jones, EPA.(December 27, 1990).

(6) PEI Associates, Inc. (PEI). Assessment of incidental production of mesityl oxide. Contract No. 69-02-4248, for EPA, Office of Pesticides andToxic Substances. (December 15, 1987).

(7) EPA. Letter with comments on CMA testing protocols. From Robert Jones, EPA, to Barbara Francis, CMA. (December 6, 1990).

(8) EPA. Letter requesting final protocol changes and letter of agreement in principle to enter into the consent order. From Robert Jones, EPA, to Barbara Francis, CMA. (December 11, 1990).

(9) CMA. Rhone-Poulenc AG Company, Institute Plant, Industrial Hygiene Sampling Results. (March 4, 1991).

Confidential Business Information (CBI) while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted is available for inspection in the OPTS Reading Rm. NE-G004, 401 M St., SW., Washington, DC, from 8:00 a.m. to 12 noon and 1:00 to 4:00 p.m., Monday through Friday, except legal holidays.

X. Other Regulatory Requirements

OMB has approved the information collection requirements contained in this final rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control 2070-0033.

Public reporting burden for this collection of information is estimated to average 40 hours per response. The estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Management and Budget, Paperwork Reduction Project (2070-0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: August 26, 1991.

Vicotor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I, subchapter R, part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding mesityl oxide to the table in CAS Number order, to read as follows:

§ 799.5000 Testing consent orders for Substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS Number	Substance or mixture name	Testing	FR citation
* * * * *			
141-79-7	Mesityl Oxide	Health effects	[Insert FR date]
* * * * * * *			

* * * * *

[FR Doc. 91-21262 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067-AB68

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule

SUMMARY: This final rule amends the National Flood Insurance Program (NFIP) regulations for the "Write Your Own" (WYO) Program under which private sector insurers may issue and service policies of flood insurance backed by the Government. The amendments involve addition of a paragraph on the new Mortgage Portfolio Protection Program (MPPP), revision of the commission allowance provisions, revision to the loss adjustment fee schedule, revision to the membership of the WYO Standards Committee, and other technical and/or editorial changes to the Financial Assistance/Subsidy Arrangement and the Financial Control Plan. This final rule is necessary to (1) clarify that abiding by the MPPP guidelines and requirements is part of a WYO company's responsibility under the Financial Assistance/Subsidy Arrangement if it elects to utilize the MPPP, (2) eliminate the administrative burden experienced by WYO companies due to the paperwork and record-keeping required by use of the current variable commission allowance provision, (3) make permanent the loss adjustment fee schedule which most WYO companies elected as an option for Arrangement Year 1990-1991, and (4) increase the size and change the composition of the WYO Standards Committee to meet changing demands. These changes are intended to provide a greater administrative and fiscal effectiveness in the operation of the NFIP and lessen the burdens on those private sector companies who participate in the WYO Program.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472; telephone (202) 646-3419.

SUPPLEMENTARY INFORMATION: On May 16, 1991, the Federal Emergency Management Agency (FEMA) published in the **Federal Register** (Vol. 56, Page 22670) a proposed rule containing amendments to the National Flood Insurance Program (NFIP) regulations dealing with the "Write Your Own" (WYO) Program (44 CFR 62, subpart C) which are authorized pursuant to section 1345 of the National Flood Insurance Act of 1968, as amended (Pub. L. 90-488, 42 U.S.C. 4001, *et seq.*). In the summary of the proposed rule, FEMA invited the public to submit comments during the 32-day period which closed on June 17, 1991. FEMA also requested comments on the estimates for the recordkeeping and reporting burden in connection with the Mortgage Portfolio Protection Program (MPPP) and invited the public to submit comments to FEMA and/or the Office of Management and Budget (OMB) on the paperwork issues including the burden estimates and any aspects of the information collection requirements. Neither FEMA nor OMB received any comments during the comment period and the final rule is essentially the same as the proposed rule. However, this final rule does include a revision of appendix A of part 62, in the second paragraph of article I, where reference is incorrectly made to section 1310, to correctly refer to section 1345, which due to an editorial oversight was not included in the proposed rule. The proposed rule contained a correction of this section reference in § 62.23 but not in appendix A.

FEMA has determined that this final rule will have no effect on environmental quality and therefore, in accordance with 44 CFR 10.8(c)(2)(i), is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

This final rule will not have a significant economic impact on a substantial number of small entities and has not undergone a regulatory flexibility analysis.

This final rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1991, and, hence, no regulatory analysis has been prepared.

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*), as follows:

(1) Public reporting and recordkeeping burden for the new collection, Monthly Reconciliation-Net Policy Service Fees, is estimated to average 3 minutes per response. Burden for the currently approved reporting and recordkeeping requirements under the WYO Financial Control Plan and the WYO Accounting Procedures average 30 minutes per WYO company per monthly report.

Send comments regarding the burden estimate for the new collection or any aspect of the WYO Program information collection requirements, including suggestions for reducing the burden, to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472; and to the Office of

Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 3067–169, Washington, DC 20503.

(2) Public reporting and recordkeeping burden for the Mortgage Portfolio Protection Program is estimated as follows: A one-time burden estimate to be in a range of 120–640 man hours per WYO company to set up an initial operation under the MPPP; 30 minutes per lender to sign an agreement with a WYO company to participate in the program; 30 minutes per WYO company to send notices to each mortgagor (3 notices at 10 minutes per notice); and 30 minutes for each mortgagor to respond to the notices and ask any questions.

Send comments regarding the burden estimate for the MPPP or any aspect of the MPPP program information collection requirements, including suggestions for reducing the burden, to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 3067–0229, Washington, DC 20503.

List of Subjects in 44 CFR Part 62

Claims, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR chapter I, subchapter B, is amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for part 62 continues to read as follows:

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

§ 62.23 [Amended]

2. Section 62.23 is amended as follows:

a. By removing in paragraph (a) the phrase "section 1310" and adding in place thereof, the phrase "section 1345".

b. By removing in paragraph (h)(4) (both times that it appears) the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting the Processing Plan".

c. By removing in paragraph (i)(1) the word "its" and adding in its place the word "is".

d. By removing in paragraph (j)(5) (both times that it appears) the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan".

e. By adding a new paragraph (l) as follows:

* * * * *

(l)(1) WYO Companies may, on a voluntary basis, elect to participate in the Mortgage Portfolio Protection Program (MPPP), under which they can offer, as a last resort, flood insurance at special high rates, sufficient to recover the full cost of this program in recognition of the uncertainty as to the degree of risk a given building presents due to the limited underwriting data required, to properties in a lending institution's mortgage portfolio to achieve compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. Flood insurance policies under the MPPP may only be issued for those properties which:

(i) Are determined to be located within special flood hazard areas of communities that are participating in the NFIP, and

(ii) Are not covered by a flood insurance policy even after a required series of notices has been given to the property owner (mortgagor) by the lending institution of the requirement for obtaining and maintaining such coverage, but the mortgagor has failed to respond.

(2) WYO Companies participating in the MPPP must provide a detailed implementation package to any lending institution which, on a voluntary basis, chooses to participate in the MPPP to ensure the lending institution has full knowledge of the criteria in that program and must obtain a signed receipt for that package from the lending institution. Participating WYO Companies must also maintain evidence of compliance with paragraph (l)(3) of this section for review during the audits and reviews required by the WYO Financial Control Plan contained in appendix B of this part.

(3) The mortgagor must be protected against the lending institution's arbitrary placing of flood insurance for which the mortgagor will be billed by being sent three notification letters as described in paragraphs (l) (4) through (6) of this section.

(4) The initial notification letter must:

(i) State the requirements of the Flood Disaster Protection Act of 1973,

(ii) Announce the determination that the mortgagor's property is in a special flood hazard area as delineated on the appropriate FEMA map, necessitating flood insurance coverage for the duration of the loan,

(iii) Describe the procedure to follow should the mortgagor wish to challenge the determination,

(iv) Request evidence of a valid flood insurance policy or, if there is none, encourage the mortgagor to promptly obtain a Standard Flood Insurance Policy (SFIP) from a local insurance agent (or WYO Company),

(v) Advise that the premium for an MPPP policy is significantly higher than a conventional SFIP policy and advise as to the option for obtaining less costly flood insurance, and

(vi) Advise that an MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgagor's (insured's) behalf, together with the Declarations Page,

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be canceled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act.

(Approved by the Office of Management and Budget under OMB Control Number 3067–0229.)

Appendix A to Part 62—[Amended]

3. Appendix A to part 62, Financial Assistance/Subsidy Arrangement, is amended as follows:

a. In the second introductory paragraph, which discusses the Accounting Data, delete the phrase "under Treasury Department Circular No. 1075, Revised,".

b. Article I—Findings, Purpose, and Authority, the second paragraph is amended by removing the phrase "section 1310" and adding in place thereof the phrase "section 1345".

c. Article II—Undertakings of the Company, section A., paragraph 2.0, is revised to read as follows:

* * * * *

2.0 Claims processing in accordance with general Company standards and the Financial Control Plan. The Write Your Own Claims Manual, the Federal Emergency Management Agency Adjuster Manual, the FIA National Flood Insurance Program Policy Issuance Handbook, the Write Your Own Operational Overview, and other instructional material also provide guidance to the Company.

* * * * *

d. Article II—Undertakings of the Company, section A., paragraph 3.1, is amended by removing the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan".

e. Article II—Undertakings of the Company, section B., paragraph 1.9, the last paragraph is amended by adding after the word "Program" and before the period the following: "or other action, e.g., limiting the Company's authority to write new business".

f. Article II—Undertakings of the Company, section G. is amended by adding after the word "operation" and before the period the following: ", provided that there is adherence to Program statutes, regulations and explicit guidelines, e.g., for the Mortgage Portfolio Protection Program".

g. Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds, section B. is amended by removing in the second paragraph the figure "14.0%" and adding in its place the figure "15%", by removing in the second paragraph the word "basic", by removing all of the second paragraph after the first sentence, and by deleting the third and fourth paragraphs.

h. Article IV—Undertakings of the Government, the first paragraph of section A is amended in the first sentence by removing the phrases "A Treasury Financial Communication System", and "Federal Reserve Letter of Credit" and by removing in the last sentence the word "costs" and adding in its place the word "expenses".

i. Article IV—Undertakings of the Government, the second paragraph of section A is amended by removing the word "against" and adding in its place the word "by".

j. Article V—Commencement and Termination, section E. is amended by deleting the word "their" the second time it appears.

k. Article XI—Offset, the first paragraph is amended in the last sentence by removing the word "or" the second time it appears and adding in its place the word "of".

l. Article XI—Offset, the second paragraph is amended in the first sentence by removing the word "of" the first time it appears and adding in its place the word "or".

m. Exhibit A is revised as follows:

EXHIBIT A.—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment	$40.00
Closed Without Payment	125.00
Minimum for Upton-Jones Claims	800.00
$0.01 to $600.00	150.00

EXHIBIT A.—FEE SCHEDULE—Continued

Range (by covered loss)	Fee
$600.01 to $1,000.00	175.00
$1,000.01 to $2,000.00	225.00
$2,000.01 to $3,500.00	275.00
$3,500.01 to $5,000.00	350.00
$5,000.01 to $7,000.00	425.00
$7,000.01 to $10,000.00	500.00
$10,000.01 to $15,000.00	550.00
$15,000.01 to $25,000.00	600.00
$25,000.01 to $35,000.00	675.00
$35,000.01 to $50,000.00	750.00
$50,000.01 to $100,000.00	1,000.00
$100,000.01 to $150,000.00	1,300.00
$150,000.01 to $200,000.00	1,600.00
$200,000.01 to limits	2,000.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $500) and limited to the amount of insurance purchased.

n. The remainder of Appendix A, beginning with the Optional Addendum, is removed.

Appendix B to Part 62—[Amended]

4. Appendix B to part 62, A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program, is amended as follows:

a. The introductory section at the beginning of appendix B is amended in the first paragraph by removing the phrase "§§ 61.13 and 62.63" and adding in place thereof the phrase "§§ 61.13 and 62.23".

b. The introductory section at the beginning of appendix B is amended in the fourth paragraph by removing the second sentence and adding in place thereof the following: "The Standards Committee consists of four (4) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of the Comptroller, one (1) member designated by the Administrator who is not directly involved in the WYO Program, and one (1) member from each of six (6) designated WYO Companies, pools or other entities."

c. The introductory section at the beginning of appendix B is amended in the fifth paragraph by removing, in subparagraphs numbered 4 and 6 (each time it appears), the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan".

d. In the introductory section at the beginning of appendix B, in the listing of parts 1 through 10, the entry for part 2 is revised to read "Transaction Record Reporting and Processing Plan Reconciliation Procedures" and the entry for part 9 is revised to read "Transaction Record Reporting and Processing Plan (Incorporated by Reference)".

e. Part 1—Model Self-Audit Program's Minimum Standards is amended in numbered paragraph 3 of the Self-Audit Program Objectives by deleting the misspelled word "government" and adding in its place the word "government".

f. Part 1—Model Self-Audit Program's Minimum Standards is amended in numbered paragraph 4 of the Underwriting Audit Outline by deleting the word "Through" and adding in its place the word "Thorough".

g. Part 1—Model Self-Audit Program's Minimum Standards is amended by removing the title "Statistical Plan Audit Outline" and adding in place thereof the title "Transaction Record Reporting and Processing Plan Audit Outline".

h. Part 2—Statistical Plan Reconciliation Procedures is amended by removing, in the title, the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan" and by removing the title "Statistical Plan Reconciliation Objectives" and adding in place thereof the title "Transaction Record Reporting and Processing Plan Reconciliation Objectives".

i. Part 2—Statistical Plan Reconciliation Procedures is amended by adding, at the end of Exhibit "A" and before the beginning of part 3, the following report:

Monthly Reconciliation—Net Policy Service Fees

Company Name _____
Month/Year Ending _____
Co. NAIC No. _____
Date Submitted _____

Monthly Financial Report

Net Policy Service Fees (Income Statement Line 170):
$ _____

Unprocessed statistical:
(+) Prior Month's _____
(−) Current Month's _____

Other—Explain:
(1) _____
(2) _____
Total _____

Comments:

Monthly Statistical Transaction Report

Record Count: _____
Fee Amount: _____
Total: _____

(Approved by the Office of Management and Budget under OMB control number 3067-0169).

j. Part 3—Underwriting/Policy Administration Operation Review Procedures is amended by removing in the first paragraph of the Notice section the misspelled word "profide" and adding in its place the word "provide", and by removing in subparagraph numbered 2 of the Notice section the

phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan".

k. Part 4—Claims Operation Review Procedures is amended by removing in subparagraph numbered 2 of the Claims Operation Review Objectives section the phrase "Statistical Plan" and adding in place thereof the phrase "Transaction Record Reporting and Processing Plan".

l. Part 4—Claims Operation Review Procedures is amended in the first paragraph of the Notice section by removing the word "and" and adding in its place the word "an".

m. Part 4—Claims Operation Review Procedures is amended in numbered paragraph 2 of the WYO-FIA Claims Operation Review Outline by removing the word "inquiries" and adding in its place the word "inquires".

n. Part 4—Claims Operation Review Procedures is amended in the first section of exhibit D by removing the title, "Analysis of Losses by Size of Loss", and adding in place thereof, the title "Analysis of Claims by Size of Claim", and in the contents coverage column of both "Analysis" sections of exhibit D by removing, in the heading of the last column, the word "losses" and adding in place thereof the word "claims".

o. Part 5—Claims Reinspection Program is amended in numbered paragraph 2 by adding after the word "loss," and before the word "class" the word "or".

p. Part 7—Reports Certifications is amended at A. Certification Statement for Monthly Financial and Statistical Reconciliation Reports by removing in the first paragraph the misspelled word "accompaning" and adding in place thereof the word "accompanying".

Dated: August 20, 1991.

C.M. "Bud" Schauerte,

Federal Insurance Administrator.

[FR Doc. 91-20740 Filed 8-30-91; 3:42 pm]

BILLING CODE 6718-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-468; RM-7380]

Radio Broadcasting Services; Wickenburg and Lake Havasu City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 287C1 for Channel 287C2 at Wickenburg, Arizona, and modifies the license for Station KRDS-FM to specify operation on the higher powered channel, as requested by Interstate Broadcasting System of Arizona, Inc. Additionally, in order to accommodate the modification at Wickenburg, Channel 283C2 is substituted for Channel 286C2 at Lake Havasu City, and the license issued to Mad Dog Wireless, Inc. for Station KZUL-FM is modified accordingly. See 55 FR 45624, October 30, 1990. Coordinates for Channel 287C1 at Wickenburg are 34-14-02 and 112-50-13. Coordinates for Channel 283C2 at Lake Havasu City are 34-29-10 and 114-13-06. Since Wickenburg and Lake Havasu City are located within 320 kilometers (199 miles) of the United States-Mexico border, concurrence of the Mexican government was obtained. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 15, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-468, adopted August 16, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 287C2 and adding Channel 287C1 at Wickenburg; and by removing Channel 286C2 and adding Channel 283C2 at Lake Havasu City.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21167 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-118; RM-7689]

Radio Broadcasting Services; Cedar Key, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 274C3 for channel 274A at Cedar Key, Florida, and modifies the construction permit (BPH-881115MD) to specify operation on the higher class channel, at the request of Karen Voyles. See 56 FR 19827, April 30, 1991. Channel 274C3 can be allotted to Cedar Key in compliance with the Commission's minimum distance separation requirements at the site specified in the construction permit, with a site restriction of 8.0 kilometers (5.0 miles) south of the community. The coordinates are North Latitude 29-12-24 and West Longitude 83-00-51. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 15, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-118, adopted August 7, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 274A and adding Channel 274C3 at Cedar Key.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-21169 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-397; RM-6632]

Radio Broadcasting Services; Princeton, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 251A for Channel 252A at Princeton, Illinois, and modifies the license for Station WZOE(FM) to specify operation on Channel 251A at the request of WZOE, Inc. See 54 FR 40141, September 29, 1989. Channel 251A can be allotted to Princeton in compliance with the Commission's minimum distance separation requirements of the Commission's Rules with a site restriction of 8 kilometers (5 miles) east of the community in order to avoid a short spacing to Channel 251C1, Station KHAK(FM), Cedar Rapids, Iowa. The coordinates are North Latitude 41-21-09 and West Longitude 89-22-370 With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective October 15, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-397, adopted August 16, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 252A and adding Channel 251A at Princeton.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21166 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-457; RM-6307]

Radio Broadcasting Services; New Albany, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 234A to New Albany, Indiana, as that community's first local FM service, in response to a petition for rule making filed on behalf of Roch Communications Company. Coordinates used for Channel 234A at New Albany are 38-18-48 and 85-53-57. With this action, the proceeding is terminated.

DATES: Effective October 15, 1991; the window period for filing applications on Channel 234A at New Albany, Indiana, will open on October 16, 1991, and close on November 15, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-457, adopted August 15, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Channel 234A, New Albany.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21168 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-109; RM-7646]

Radio Broadcasting Services; Natchitoches, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Cane River Communications, Inc., licensee of Station KDBH(FM), Channel 249A, Natchitoches, Louisiana, substitutes Channel 247C3 for Channel 249A at Natchitoches, and modifies Station KDBH(FM)'s license to specify operation on the higher powered channel. See 56 FR 16051, April 19, 1991. Channel 247C3 can be allotted to Natchitoches in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter site specified in Station KDBH(FM)'s license. The coordinates for Channel 247C3 are North Latitude 31-45-47 and West Longitude 93-03-47. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 15, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 654-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-109, adopted August 14, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 249A and adding Channel 247C3 at Natchitoches.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21170 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 90-356; FCC 91-260]

Amendment of the Amateur Radio Service Rules To Make the Service More Accessible to Persons With Handicaps

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This action denies the petitions for reconsideration of the American Optometric Association (AOA) and Dennis C. Brown (Brown). This action also grants in part the petition for reconsidation of David B. Popkin (Popkin) by amending the amateur service rules to state that a severe handicap is one which extends for more than 365 days beyond the date of the physician's certification that certifies that the examinee has such a handicap and, therefore, is unable to pass a 13 or 20 words per minute telegraphy examination. The rule change is necessary in order to define the term "severe handicap" for physicians and the amateur community. The effect of the rule change is to set a uniform standard with respect to the term "severe handicap" as it is used in the amateur service. Popkin's petition for reconsideration is otherwise denied.

EFFECTIVE DATE: October 31, 1991.

FOR FURTHER INFORMATION CONTRACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, adopted August 12, 1991, and released August 29, 1991. The complete text of this Commission action, including the rule amendment, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street NW., Washington, DC. The complete text of this Memorandum Opinion and Order, including the rule amendment, may also be purchased from the Commission's copy contractor, Downtown Copy Center (DCC), (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

Summary of Memorandum Opinion and Order

1. The petition for reconsideration filed by Brown alleged that the issue in this proceeding was improperly stated, that reasonable alternatives to exemption were not considered, that no changed facts or circumstances were presented, and that there was a partial derogation of the international Radio Regulations. The Commission responded to these allegations by stating that the issue was greater accessibility for the handicapped to the amateur service and that they not be denied access to frequency privileges available to persons without handicaps, that restrictions for handicapped amateur operators were not necessary, that changed facts or circumstances are not required if the changes regarding handicapped individuals are supported by valid reasons, and that the international Radio Regulations have been complied with because all of the subject handicapped licensees have demonstrated compliance with such regulations by passing slow speed telegraphy examinations. Brown's petition for reconsideration was denied.

2. The petition for reconsidation filed by Popkin requested, among other things, restoration of a disabilities list, inclusion of a reference to FCC Fact Sheet Number 205, February, 1991, on application Form 610, and amendment of the amateur service rule to include a requirement that the "severe handicap" be permanent in nature. The Commission said that it would reinstate a disabilities list because to do so would prejudge the outcome as to whether there was a severe handicap. It also said that a reference to the Fact Sheet would not be put on Form 610. Applicants, volunteer examiners, and volunteer-examiner coordinators can be relied on to make the Fact Sheet available to physicians. The suggestion to clarify the term "severe handicap" was adopted by the Commission. The amateur service rules, therefore, are amended to add a requirement that, to be considered a "severe handicap" for the purpose of being exempted from the higher speed Morse code requirement, the disability must extend for more than 365 days beyond the date of the certification. Popkin's petition for reconsideration was otherwise denied, except for adoption of the suggestion that "severe handicap" be clarified.

3. In its petition for reconsideration, the AOA requested that optometrists also be permitted to execute disability certifications for persons with the severe handicap of blindness or vision impairment. The Commission denied AOA's request holding that the certifiers should be persons who could assess the overall physical and mental health of the whole person, rather than a health care provider who specializes in any one aspect of a person's health and well-being.

4. The amended rules are set forth at the end of this document.

5. The amended rules are issued under the authority of 47 U.S.C. 303(r).

List of Subjects in 47 CFR Part 97

Handicapped amateurs, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amended Rule

Part 97 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.505(a)(5)(i) is revised to read as follows:

§ 97.505 Element credit.

(a) * * *

(5) * * *

(i) A physician's certification stating that because the person is an individual with a severe handicap, the duration of which extends for more than 365 days beyond the date of certification, the person is unable to pass a 13 or 20 words per minute telegraphy examination; and

* * * * *

[FR Doc. 91-21162 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

[DA 91-1079]

47 CFR Part 97

Nonsubstantive Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects the line entry for the 1.25 m band in the

frequency table in § 97.301(a) of the Commission's Rules, 47 CFR 97.301(a). In that line entry, under the column headed "Sharing requirements," the reference should be to paragraph (a) only of § 97.303 of the Commission's Rules, 47 CFR 97.303, instead of to paragraphs (a) and (e). The error appeared in the Appendix to an Order adopted July 29, 1991, and released August 12, 1991 (DA 91-946).

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

SUPPLEMENTARY INFORMATION: The correction shown in the attached Erratum should be made in FR Doc. 91-19511, filed August 15, 1991, and published in the **Federal Register** on August 16, 1991, at 56 FR 40800.

Erratum

Released: August 29, 1991.

In the Matter of Nonsubstantive Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Service.

The line entry for the 1.25 m band in the frequency table in § 97.301(a) of the Commission's Rules, 47 CFR 97.301(a), is not correct. In that line entry, under the column headed "Sharing requirements," the reference should be to paragraph (a) only of § 97.303 of the Commission's Rules, 47 CFR 97.303. The correct line entry reads as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(a) * * *

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements. See § 97.303, paragraph
VHF	MHz	MHz	MHz	
*	*	*	*	*
1.25 m		222-225		(a).
*	*	*	*	*

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 91-21163 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 910784-1184]

Interpretation of Existing Regulations Regarding the Applicability of the Marine Mammal Protection Act to Captive-Born Marine Mammals

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

ACTION: Interpretation of regulations.

SUMMARY: NMFS interprets existing regulations regarding the applicability of the Marine Mammal Protection Act (MMPA) to marine mammals born in captivity. NMFS intends to act in accordance with the terms of the MMPA and existing agency regulations and to no longer follow an unofficial 1975 NOAA policy purporting to exempt marine mammals born in captivity to marine mammals taken prior to December 21, 1972, from the provisions of the MMPA (these offspring being commonly referred to as "pre-Act progeny"). NMFS has determined that the unofficial 1975 NOAA policy does not give appropriate consideration to the purposes and policies of the MMPA.

NMFS interprets the language of the MMPA and the agency's existing regulations to apply to all captive-born marine mammals, except for those in captivity as of December 21, 1972. This interpretation is consistent with longstanding policy of the U.S. Fish and Wildlife Service (FWS), which has applied the MMPA to marine mammals born in captivity after December 21, 1972. Consequently, pursuant to § 102(a)(4) of the MMPA, purchase, sale, and transport of these marine mammals without express and prior authorization from NMFS is considered a violation of the MMPA.

EFFECTIVE DATE: This interpretation of agency regulations is effective September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Director, Office of Protected Resources (F/PR), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910, telephone (301) 427-2333.

SUPPLEMENTARY INFORMATION: Section 102(e) of the MMPA states: "This Act shall not apply with respect to any marine mammal taken before the effective date of this Act, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammals taken before such date." Pursuant to that provision, NMFS promulgated regulations found at 50 CFR 216.25 that state, in relevant part: "(a) The provisions of the Act and these regulations shall not apply: (1) To any marine mammal taken before December 21, 1972 * * *". This regulation is consistent with FWS regulations found at 50 CFR 18.25 which state, in relevant part: "(a) The provisions of the Act and these regulations shall not apply: (1) To any marine mammal taken before December 21, 1972 * * *". NMFS and FWS are both directed by the MMPA to administer and enforce its provisions; NMFS and FWS regulations have been in existence since December 21, 1972 (37 FR 28177; 37 FR 28173). NMFS notes that, based on the statutory language and its own regulations, FWS has consistently held, as a matter of agency policy, that marine mammals born in captivity after December 21, 1972, are subject to the prohibitions of the MMPA.

In 1975, a NOAA memorandum concluded that the MMPA did not confer jurisdiction over captive-born marine mammals in general, and that marine mammals born to legitimate pre-Act marine mammals (i.e., those captured from the wild before December 21, 1972), commonly referred to as "pre-Act progeny," also were exempted from the provisions of the MMPA by section 102(e) of the MMPA. In spite of the statutory language and implementing regulations in existence since December 21, 1972, NMFS has followed the policy contained in the NOAA memorandum since 1975. After extensive review of that policy by NOAA's Office of the General Counsel, it has been determined that it did not give appropriate consideration to the purposes and policies of the MMPA.

NOAA's Office of the General Counsel has determined that the conclusion of the 1975 memo does not logically follow from the language of the MMPA or the legislative history. In contrast to the clear statutory language

found in section 102(e) of the MMPA exempting marine mammals taken prior to December 21, 1972 from provisions of the MMPA, there is absolutely no language in the MMPA or its legislative history to suggest that the Act does not apply to marine mammals born in captivity, regardless of their parentage. To the contrary, the legislative history of the MMPA is replete with statements of congressional intent that NMFS and FWS should regulate public display and captive scientific research activities.

In addition to giving inadequate consideration to the purposes and intent of the MMPA, the 1975 NOAA policy purporting to exempt captive-born and "pre-Act" progeny from the MMPA conflicts with the express language of the statute. In the context of public display and captive scientific research activities, section 102(a)(4) of the MMPA makes it unlawful to purchase, sell, or transport any marine mammal (which would include those born in captivity) unless such activity is authorized under section 104. There are no exceptions for captive-born marine mammals from the section 102(a)(4) prohibitions against purchasing, selling, or transporting marine mammals, regardless of the pre- or post-Act status of the parent marine mammals. The only marine mammals exempted by section 102(e) are those "taken before the effective date of this Act." Marine mammals born in captivity after December 21, 1972, cannot be considered to have been "taken" prior to that date. The narrow pre-Act exemption does not mean, by implication, that the MMPA applies only to marine mammals "taken" after the effective date of the Act. By exempting only those marine mammals "taken" (e.g., captured from the wild) prior to December 21, 1972, the MMPA encompasses all other marine mammals not included in that small group of pre-Act animals. Except for marine mammals "taken" prior to the effective date of the Act, the MMPA applies to all other marine mammals and activities involving them after December 21, 1972, regardless of whether a "taking" is involved.

Therefore, NMFS interprets its existing regulations consistent with the plain language of the MMPA, and consistent with longstanding policy of FWS: Any person or facility that seeks to purchase, sell, or transport any marine mammal born in captivity after December 21, 1972, must obtain prior authorization from NMFS to do so.

Classification

Pursuant to sections 553 (b) and (d) of the Administrative Procedure Act, this interpretation of existing regulations is exempt from the requirements to publish general notice of proposed rulemaking and to delay its effective date for 30 days.

The Assistant Administrator for Fisheries, NOAA, determined that this interpretation of existing regulations is not a "major rule" requiring a regulatory impact analysis under Executive Order (E.O.) 12291.

This interpretation of existing regulations is exempt from the procedures of the Regulatory Flexibility Act because it is issued without opportunity for prior public comment.

This interpretation of existing regulations does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612. This interpretation of existing regulations does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

For the reasons set forth in the preamble, 50 CFR part 216 is revised as follows:

PART 216—[AMENDED]

1. The authority citation for 50 CFR part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 et seq.

2. Section 216.25 is amended by adding a new footnote to paragraph (a)(1) to read as follows:

§ 216.25 [Amended]

(a) * * *

(1) To any marine mammal taken before December 21, 1972,[1] or

Dated: August 29, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 91-21222 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-22-M

[1] In the context of captive maintenance of marine mammals, the only marine mammals exempted under this section are those that were actually captured or otherwise in captivity before December 21, 1972.

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50 CFR Part 661

[Docket No. 910498-1098]

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

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

ACTION: Notice of reopening.

SUMMARY: NOAA announces the reopening of the commercial salmon fishery for all salmon species in the exclusive economic zone (EEZ) from Horse Mountain, California, to the U.S.-Mexico border, effective 0001 hours local time, August 12, 1991. This fishery was closed at midnight, August 2, 1991, for all salmon species, then immediately reopened for all salmon species except coho salmon. The Director, Northwest Region, NMFS (Regional Director), determined that the separate catch quota of 5,000 coho salmon reserved preseason for the commercial fishery in this subarea was not attained during the 2-day opening for all salmon species on August 1-2, 1991, and that sufficient coho salmon remain to allow reopening of the fishery for all salmon species. This action is intended to maximize the harvest of coho salmon in this subarea without exceeding the ocean share of salmon allocated to the commercial fishery.

DATES: 0001 hours local time, August 12, 1991. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23. Public comments are invited until September 16, 1991.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal, Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: Joe Scordino at 206-526-6140 or Rodney R. McInnis at 213-514-6199.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR part 661 specify at § 661.21(a)(2) that "If a fishery is closed under a quota before the end of a scheduled season based on overestimate of actual catch, the Secretary will reopen that fishery in as timely a manner as possible for all or part of the remaining original season provided the Secretary finds that a reopening of the fishery is consistent with the management objectives for the affected species and the additional open period is no less than 24 hours."

In its emergency interim rule and preseason notice of 1991 management measures (56 FR 21311, May 8, 1991), NOAA announced that the commercial salmon fishery for all salmon species in

the EEZ from Horse Mountain, California, to the U.S.-Mexico border would open on August 1 and continue through the earliest of September 30 or the attainment of the coho salmon quota. Upon attainment of the coho salmon quota, the fishery would reopen in this subarea for all salmon species except coho salmon and continue through September 30.

The commercial fishery in this subarea opened for all salmon species on August 1-2, 1991, based on the projection that the separate subarea catch quota of 5,000 coho salmon reserved preseason would be caught within 2 days. The regularly scheduled commercial fishery in this subarea reopened for all salmon species except coho salmon on August 3, 1991. Subsequent evaluation of landing data indicates that the closure of the fishery for all salmon species was based on an overestimate of actual catch.

According to the best available information on August 6, 1991, commercial catches for the 2-day opening totaled about 1,700 coho salmon, leaving 3,300 coho salmon available for harvest in the subarea coho reserve. This amount of available coho salmon has been determined to be sufficient for additional fishing for coho salmon. Therefore, the Regional Director has determined that the commercial fishery from Horse Mountain, California, to the U.S.-Mexico border should reopen for all salmon species on August 12, 1991, for the remainder of the original season which is scheduled to close the earlier of September 30, 1991, or the attainment of the subarea reserve quota of 5,000 coho salmon. This action is consistent with the management objectives for coho salmon in this subarea.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen of this action was given prior to the time listed above by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the California Department of Fish and Game, and the Oregon Department of Fish and Wildlife regarding this action. The State of California will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action. This notice does not apply to other fisheries which may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through September 16, 1991.

Other Matters

This action is authorized by 50 CFR 661.21 and 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: August 29, 1991.

David S. Crestin,

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

[FR Doc. 91-21253 Filed 8-30-91; 4:19 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 910498-1098]

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

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

ACTION: Notice of in-season adjustments and closure.

SUMMARY: NOAA announces that the commercial salmon fishery for all salmon species in the exclusive economic zone (EEZ) from Leadbetter Point, Washington, to Cape Falcon, Oregon, opened for two days on August 10-11, 1991, with a modified possession and landing limit for coho salmon and a modified landing boundary. The Director, Northwest Region, NMFS (Regional Director), determined that since the guideline of 19,500 coho salmon for the commercial fishery in this subarea would be caught within 2 days, the possession and landing limit should be 100 coho salmon for the opening and vessels should be allowed to land their catch south of Cape Falcon, Oregon. The modified landing limit was intended to dampen catch rates on coho salmon to avoid exceeding the coho guideline. The modified landing boundary was intended to accommodate fishermen's needs without substantially or adversely affecting the implementation of the 1991 management measures. The closure is necessary to conform to the preseason notice of 1991 management measures and is intended to ensure conservation of coho salmon.

EFFECTIVE DATES: Modification of the coho salmon possession and landing limit and the leading boundary for the commercial fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon, was effective at 0001 hours local time, August 10, 1991. Closure of the EEZ in this subarea to commercial fishing was effective at 2400 hours local time, August 11, 1991. Actual notice to affected fishermen was given prior to those times through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989). *Comments*: Public comments are invited until September 16, 1991.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Regional Director.

FOR FURTHER INFORMATION CONTACT: Joe Scordino at 206-526-6140.

SUPPLEMENTARY INFORMATION: In its emergency interim rule and preseason notice of 1991 management measures (56 FR 21311, May 8, 1991), NOAA announced that the commercial fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon, would open on August 10, 1991, for a period of 3 days and would continue under a cycle of 3 days open, 3 days closed, until August 31, 1991, or the attainment of a guideline of either 19,500 coho salmon or 2,000 chinook salmon. Preseason possession and landing limits per opening were established at 150 coho salmon and 10 chinook salmon. By earlier notice, NOAA announced that 4,000 chinook salmon were transferred to the two commercial fisheries opening in August and the possession and landing limit for chinook salmon would be removed for these two fisheries (56 FR 36111, July 31, 1991). Of the 4,000 chinook salmon being transferred, 2,500 fish were added to the commercial fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon, for a total guideline of 4,500 chinook salmon.

Unlike fisheries managed under quotas that require closure upon the projected attainment of the quota, fisheries managed under harvest guidelines do not require closure upon the projected attainment of the guideline. However, it was determined that the commercial fishery from Leadbetter Point, Washington, to Cape

Falcon, Oregon, would be managed to keep catches near the guideline levels.

Based on the best available information on August 8, 1991, the commercial fishery in the subarea from Leadbetter Point, Washington, to Cape Falcon, Oregon, was projected to catch the 19,500 coho salmon guideline within 2 days of the August 10 opening. Furthermore, high effort and coho availability were anticipated during this fishery. Therefore, measures to dampen coho catch rates were implemented by reducing the possession and landing limit for coho salmon from 150 to 100 fish per opening effective 0001 hours local time, August 10, 1991, and the commercial fishery in this subarea was closed effective 2400 hours local time, August 11, 1991. Closure of this fishery is authorized by regulations at § 661.21(b)(1)(i). In-season modification of limited retention regulations is authorized by regulations at § 661.21(b)(1)(ii).

The preseason regulations state that "All salmon caught in the area must be landed and delivered in the area or in adjacent closed areas within 24 hours of each closure" (Table 1, Note D.3. at 56 FR 21322). With the commercial fishery from Cape Falcon to Cape Arago, Oregon, being open for all salmon species except coho, vessels would not be able to land south of Cape Falcon. Commercial fishermen with home ports south of Cape Falcon requested that they be able to return to their home ports to land their catch. With the ability to properly account for such catches, the preseason requirement could be removed. Therefore, the landing boundary for this fishery was modified to allow landings south of Cape Falcon, Oregon, effective 0001 hours local time, August 10, 1991. In-season modification of landing boundaries is authorized by regulations at § 661.21(b)(1)(v).

Based on the best available information on August 13, 1991, commercial catches from Leadbetter Point, Washington, to Cape Falcon, Oregon, totaled 28,200 coho salmon, exceeding the coho guideline by 8,700 fish. Therefore, the commercial fishery in this subarea will remain closed for the remainder of its scheduled season.

In accordance with the inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen of these actions was given prior to the times listed above by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding these actions affecting the commercial fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon. The State of Washington and Oregon will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action. This notice does not apply to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through September 16, 1991.

Other Matters

This action is authorized by 50 CFR 661.21 and 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: August 29, 1991.

David S. Crestin,

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

[FR Doc. 91-21254 Filed 8-30-91; 4:19 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 172
Thursday, September 5, 1991

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Motor Vehicle Dealers (New and Used) Industry

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to amend its size standard regulation for Standard Industrial Classification (SIC) code 5511—the industry of Motor Vehicle Dealers (New and Used) from the present $11.5 million in annual receipts of $17.0 million. This action reflects findings by the SBA that businesses in this industry are much larger on average than firms in most other retail trade industries. Businesses in this industry are also more heavily capitalized relative to other retail trade industries and this also suggest the need for a relatively high size standard. A size standard of $17.0 million is, therefore, proposed to better define small businesses within this industry.

DATES: Comments must be submitted on or before October 7, 1991.

ADDRESSES: Send comments to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street, SW., 5th FL., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Economist, Size Standards Staff, Tel: (202) 205-6618.

SUPPLEMENTARY INFORMATION: Comments received by the Small Business Administration in recent months have observed that due to the size standard of $11.5 million for concerns engaged in the retail sale of new automobiles or new and used automobiles (SIC code 5511) no longer accurately reflects the level of annual receipts for small concerns in the industry. To appraise this view, SBA has analyzed the structure of the industry and compared it with the structure of other retail trade industries, as discussed below.

In evaluating the appropriateness of a size standard, SBA evaluates an industry using five primary factors. The primary factors include: industry competition, average firm size, start-up costs, distribution of firms by size and the impact on SBA's programs. Each of these factors will be reviewed below.

Factors Influencing the Size Standard Decision Process

As an indicator of industry competition, SBA first looks at competition within the industry as measured by the share of industry sales controlled by producers above a certain size.

If an industry's output is controlled by relatively large firms, especially when compared to other similar industries, the influence of this factor is to move the size standard upward. The result is to provide assistance to firms in a broad range of sizes that are competing with dominant firms in an industry. If an industry's output is more evenly distributed, however, SBA tends to set a lower size standard to assist relatively small firms.

Average firm size is the second factor considered by SBA. For equity reasons, SBA tends to set high size standards in industries with high average firm size and low size standards in industries with low average firm size. Average firm size can be expressed in terms of receipts or employees, but the usual pattern is to compare industries by average receipts per firm if a receipt-based size standard is being evaluated and average employment per firm if an employee-based size standard is under review. For the motor vehicle dealers industry, therefore, receipts will be the unit of comparison for average firm size as its size standard is expressed in receipts.

Indexes of start-up costs are the third factor to evaluate size standards. High start-up costs affect a firm's initial size because potential entrants into an industry must have sufficient capital to start a business. These costs often extend beyond expenditures on production equipment and the physical establishment itself, to include overhead equipment, marketing, research, distribution and follow-up services. High average start-up costs within an industry suggest the need for a relatively high size standard, while low average start-up costs are usually associated with low size standards.

The fourth factor—firm size distribution—relates the proportion of industry sales, employment and other economic activity accounted for by firms of different sizes within an industry to its size standard. For example, if the preponderance of an industry's output is by the smaller firms, that is, those at the low end of the distribution, this would tend to support a lower size standard. The opposite would be the case for an industry in which firm size distribution indicates that output is controlled by large firms.

The fifth and final factor to be considered is the impact of the proposed size standard revision on SBA's programs. In the case of motor vehicle dealers, it is claimed that the present size standard does not include firms that are generally considered small within the industry. These smaller firms often need and seek out SBA's assistance only to be excluded due to the size standard. This size standard, it is alleged, is much lower than the size standard of other retail industries when consideration is given to the special structure of the motor vehicle dealers industry.

Evaluation of Factors

Two tables present data on the factors discussed above. Table 1 compares the motor vehicle dealers industry with other retail trade industry groups based on two factors—economic competition (measured here by the share of industry sales generated by firms with $25.0 million or more in sales) and start-up costs (measured here by (1) average asset level in an industry as calculated by the Internal Revenue Service and, (2) average sales per employee in the industry). Table 2 compares the motor vehicle dealers industry with other retail trade major groups based on two additional primary factors—the average firm size in sales (receipts) and the size distribution of firms (measured by (1) the sales share of firms of, respectively, $5.0 million and $10 million or more in sales and (2) the percent of firms exceeding these size breaks).

Competition

Table 1 indicates that economic activity in the motor vehicle dealers industry (SIC code 5511) is about average in concentration of economic

activity among large firms when contrasted with most industry groups in the retail trade industries. Forty-one percent of sales (or receipts) in the industry are generated by firms of $25.0 million or more in sales, a figure which is about average when contrasted with other retail trade industries. General merchandise stores at 96 percent and food stores at 67 percent, both exceed the motor vehicles dealers' share by wide margins. Overall, this factor by itself does not suggest the need for a higher size standard for motor vehicle dealers relative to other retail trade industries.

TABLE 1.—MOTOR VEHICLE DEALERS (SIC CODE 5511) CONTRASTED WITH OTHER RETAIL TRADE GROUPS BY COMPETITION AND ENTRY BARRIER INDICES

SIC	Description	Measure of [1] competition (Percent of sales by firms of $25.0M or more in sales)	Indexes of start-up costs	
			Assets per IRS return (millions)	Sales per employee [2] (millions)
Division G	Retail Trade	51.3	$.9	$.08
Major Group 52	Building Materials and Garden Supplies	34.8	1.2	.12
Major Group 53	General Merchandise Stores	95.7	16.2	.09
Major Group 54	Food Stores	67.2	1.1	.11
SIC code 5511	New and Used Car Dealers	41.3	1.7	.30
SIC code 5541	Gasoline Service Stations	34.1	.4	.15
Major Group 56	Apparel and Accessory Stores	57.7	.6	.07
Major Group 57	Furniture and Homefurnishings Stores	31.2	.6	.11
Major Group 58	Eating and Drinking Places	29.5	.5	.03
Major Group 59	Miscellaneous Retail	40.9	.4	.09

Note: High values support a high size standard and vice versa.
[1] Based on firms operating entire year.
[2] Based on all firms in the industry.
Source: Sales information from 1987 Census of Retail Trade, U.S. Bureau of the Census.
Asset information from Internal Revenue Service Source Book, Statistics of Income 1986.

Start-Up Costs

Table 1 indicates that there are significant start-up costs which influence the size of new entrants into the motor vehicle dealers industry that exceed the start-up costs for most retail trade industries. The industry's asset base per firm as calculated by the Internal Revenue Service is exceeded only by that of Major Group 53—General Merchandise Stores, a finding supportive of a higher size standard for auto dealers.

The industry's ratio of sales per employee, at $300,000 per employee exceeds every other major group in retail trade by a wide margin. This suggests the presence of substantial imbedded capital requirements in the industry which would affect the size of potential firms entering the industry. A third factor that affects start-up costs of firms entering into the industry is the various distributorship contractual agreements which must be met to obtain approval by automobile manufacturers prior to a prospective concern actually entering into the industry. This additional consideration to entry reinforces the finding of the two cost indexes already reviewed, suggesting that the motor vehicle dealers industry has substantial start-up costs which affects size of new entrants and the need for a relatively high size standard. It may also explain why this industry is not particularly concentrated as decisions made in another industry—automobile manufacturing—limit the degree of concentration.

Average Firm Size

Average firm size of motor vehicle dealers at $10.4 million in 1987 dollars strongly suggests the need for a relatively high size standard in this industry. With the exception of merchandise stores, every other retail trade industry is substantially below the average sales of motor vehicle dealers (see Table 2). For perspective, the average motor vehicle dealer's sales volume is more than ten times the size of the average retailer, and almost exceeds the size standard itself. This criterion strongly suggests the need for a higher size standard in this industry.

TABLE 2.—MOTOR VEHICLES DEALERS (SIC CODE 5511) CONTRASTED WITH OTHER RETAIL TRADE INDUSTRY GROUPS BY AVERAGE FIRM SIZE AND DISTRIBUTION OF FIRMS

SIC	Description	Average [1] firm size in sales (millions)	Size Distribution of Firms [2]			
			Sales share of firms (In percent)		Percent of firms	
			Above $5.0M in sales	Above $10.0M in sales	Above $5.0M in sales	Above $10.0M in sales
Division G	Retail Trade	$1.4	69.8	62.8	4.8	3.4
Major Group 52	Building Materials and Garden Supplies	1.4	55.4	45.3	3.7	1.5
Major Group 53	General Merchandise Stores	14.0	97.4	96.8	4.5	3.0
Major Group 54	Food Stores	2.3	78.8	73.6	3.8	1.7
SIC code 5511	New and Used Car Dealers	10.4	92.1	78.1	57.9	36.4
SIC code 5541	Gasoline Service Stations	1.3	49.0	42.1	2.7	1.1
Major Group 56	Apparel Accessory Stores	1.1	68.2	63.4	1.7	0.9
Major Group 57	Furniture and Homefurnishing	.9	46.8	39.1	2.0	0.8
Major Group 58	Eating and Drinking Places	.5	41.1	35.1	0.9	0.3
Major Group 59	Miscellaneous Retail	.8	51.8	46.5	1.2	0.5

Note: 1. Based on data for all firms in the industry.
2. Both sales share and percent of firms based on firms operated entire year.
Source: 1987 Census of Retail Trade, U.S. Bureau of the Census.

Distribution of Firms

Two factors relating to the size distribution of firms are presented to Table 2. The first measure—the sales by firms of first $5.0 million or more in sales and second $10.0 million or more in sales—strongly points to the need for a higher motor vehicle dealers size standard. The sales share of the larger motor vehicle dealers is exceeded in the retail industries only by general merchandise stores and easily exceeds the sales share for all of retail trade.

The second size distribution factor—the percent of firms in excess of first $5.0 million or more in sales and second $10.0 million in sales—provides readily available indicators of the distribution of firms within an industry using two size breaks. By varying the unit of measurement from sales distributions to firm distributions, a useful change of perspective can be gained on the distribution of economic activity within industries. Moreover, at these size breaks, substantial differences are obvious between industries.

For all of retail trade only 5 percent of firms exceed $5.0 million in sales and only 3 percent exceed $10.0 million in sales. This contrasts with figures of 58 percent and 36 percent, respectively, for motor vehicle dealers. This indicator, similar to the sales distribution indicator, strongly suggests the need for a relatively high size standard for motor vehicle dealers. No other major group in retailing even begins to approach the motor vehicle dealers' share of firms above these size breaks.

Program Needs

Among the SBA's finance programs, the major program of concern is the Guaranteed Loan Program, in which loans to motor vehicle dealers average about 85 per year lower than expected loan demand and to total approximately $21 million. This figure is low given the relative importance of this industry in the U.S. economy, a phenomenon which is probably related to the industry's relatively low size standard. Thus a higher size standard for motor vehicle dealers would reflect SBA's desire that smaller dealers not be excluded from access to its financial assistance because of a size standard that does not accurately reflect the size of firms within the industry.

Because the Federal government purchases from nonmanufacturers are classified under wholesale trade, there is no measurable impact on SBA's procurement programs from revising the size standard or most retail trade industries (including motor vehicle dealers) and it is not reviewed in this rule.

Review of Factors

Five factors affecting industry structure and SBA programs were evaluated for this rule. These include:

(1) Industry competition (measured by the percent of sales in an industry by firms with $25.0 million or more in sales),

(2) Start-up costs (measured by average assets per IRS return and average sales per employee).

(3) Average firm size in sales.

(4) Size Distribution of Firms (measured by the sales share and distribution of firms of $5.0 million or more and $10.0 million or more in sales.

(5) Program Impact (measured by SBA guaranteed loan activity to firms in the motor vehicle dealers industry).

Each measurement for these five factors was specifically structured such that if an industry or an industry group had a larger index for any factor, that higher index would point to a higher size standard and vice versa. The relationship of motor vehicle dealers to major groups in retail trade using these measurements is summarized in Table 3.

TABLE 3.—SUMMATION OF FACTORS

Factor	Finding	Implication
Degree of competition in the industry as measured by the percent of sales to firms of $25.0 million or more in annual sales.	The motor vehicle dealers industry's degree of concentration among firms with $25.0 million or more in sales is about average when compared with other major groups in retail trade.	This finding does not point to a higher or lower size standard relative to other size standards in retail trade.
Start-up costs as measured by average capital requirements per film in an industry. A second index of average sales per employee was also utilized to compare start-up costs between industries.	The motor vehicle dealers industry has significantly higher start-up costs than most retail trade industries.	High start-up costs indicate, in isolation, that a relatively high size standard is warranted for this industry.
Average firm size in an industry as measured in sales.	Average firm size of motor vehicle dealers is more than ten times the average firm size in all of retail trade.	High average firm size suggests that a relatively high size standard is warranted in this industry.
Firm size distribution of economic activity as measured by the percent of sales and of firms by firms with $5 million and $10 million or more in sales.	The motor vehicle dealers industry has a significantly higher proportion of sales by firms above the standardized thresholds of $5.0 million and $10 million in sales than most retail trade industries. It also has a higher proportion of firms in excess of these size breaks.	Both the distribution of sales and of firms among larger size dealers points to the need for a higher size standard.
Program impact as measured by the magnitude of guaranteed loan activity in the industry.	The motor vehicle dealers industry has a low level of SBA guaranteed loan activity relative to its importance in the economy.	A low level of guaranteed loan activity relative to its importance in the economy suggests that this industry's size standard is too low.

The finding that four of the five factors cited above point to the need for a higher size standard for motor vehicle dealers is reinforced by the magnitude of some of the indexes used in comparing industries. Motor vehicle dealers, for example, are ten times the size of the average retail firm and their sales per employee are four times as high.

Almost 36 percent of motor vehicle dealers have $10 million or more in sales versus 3 percent for all of retail trade. These differences reflect the economic characteristics of the motor vehicle dealer industry as an industry comprised of some of the largest firms in all of the retail industries, and indicate that a size standard of $17.0 million would be appropriate for this industry.

To sum up, SBA is proposing a $17.0 million size standard to better reflect its view of the industry structure of the

motor vehicle dealer industry and to reflect program needs.

SBA specifically invites comment on the appropriateness of this proposed size standard or on alternative standards (either higher or lower). Comments suggesting other standards should address the questions of:

(1) The interaction of this size standard with SBA's programs;

(2) The relative levels of participation at different size standards;

(3) The effect of this proposed size standard or other alternative size standard on the businesses within the industry and;

(4) The prospect of significant new entries into these businesses in response to this program.

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

SBA certifies that this proposed rule would not, if promulgated in final form, have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601. *et seq.* An increase from an $11.5 million to a $17.0 million size standard would raise the number of firms eligible for SBA program assistance from 16,400 to 20,200 (out of a total of 24,200), a 3,800 firm increase. While this increase appears to be significant, it would include only 83 percent of firms within the industry as small, a much lower figure than for most other industries. Further, SBA expects that only a small percentage of these newly eligible concerns will seek assistance from the Agency.

Because virtually all Federal procurement in the automobile industry is either directly from the manufacturer or through a nonmanufacturer wholesaler, there are no procurement programs affected by a higher size standard for retail motor vehicle dealers. Thus, almost the entire program impact of a higher size standard for motor vehicle dealers would relate to SBA's business loans program.

Over the 1987–89 period, SBA guarantee loans in the motor vehicle dealer industry averaged 85 per year and averaged $250,000 per loan. In the average year, about $21 million in SBA loan guarantees are awarded in this industry.

In estimating the impact on its loan program of a size standard increase to $17.0 million, SBA applied two adjustments to the average yearly loan amount to project loan guarantee demand if SBA were to revise its size standard in the motor vehicle dealers industry as contemplated. The first factor applied a 24 percent increase in the number of eligible firms from the present size standard to reflect greater loan demand as a result of the larger pool of eligible firms. The second factor (size of loan factor) assumes that these loans will, on average, be larger by about 30 percent than previous loans because the pool of eligible firms is composed of somewhat larger firms (30 percent larger on average), and it is assumed that there is a positive correlation between size of firm and size of loan.

Applying these two factors to the average yearly loan amount of $20.9 million in this industry produced an estimated yearly guaranteed demand of $33.7 million, about $13 million more in total SBA lending activity in this industry over the course of a year.

SBA certifies that this proposed rule would not, if promulgated in final form, be a major rule within the meaning of Executive Order 12291, because it is not expected to have an annual economic impact of $100 million or more, as previously discussed.

The size standard is proposed to better match the motor vehicle dealers' size standard with the structure of the industry. The regulation would not likely result in a major increase in cost or prices or have a significant adverse effect on the United States economy.

SBA certifies that this proposal, if promulgated in final form, would not impose any requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C., chapter 35.

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

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is proposed to be amended as follows:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6) of the Small Business Act, as amended 15 U.S.C. 632(a) and 634(b)(6), 644(a), and Public Law 100–656, 102 stat. 3853 (1988).

(2) In § 121.601 for Major Group 55, is amended by revising SIC code 5511 to read as follows:

§ 121.601 Standard Industrial Classification Codes and Size Standards.

* * * * *

SIC	Description (N.E.C.=Not Elsewhere Classified	Size standards in number of employees or millions of dollars
5511	Motor Vehicle Dealers (New and Used).	$17.0

* * * * *

Dated: July 3, 1991.

June Nichols,

Deputy Administrator, U.S. Small Business Administration.

[FR Doc. 91–21235 Filed 9–4–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

22 CFR Parts 120 and 121

[Public Notice 1456]

Ammendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, it would create a new category of defense articles and related technical data involving spacecraft by combining articles from several existing categories into a single, new category XV. At the same time, existing parts of § 121.1 of the regulations covering articles in the new Category XV would be deleted. This proposed rule is intended to reduce the burden on munitions exporters in two ways: First, by clarifying what spacecraft and related equipment are on the U.S. Munitions List (USML), and second, by creating general parameters which, in conjunction with a State chaired interagency working group, will result in the removal of those spacecraft and related items from the USML where it would not significantly jeopardize U.S. national security interests.

DATES: Comments must be submitted on or before October 7, 1991.

ADDRESSES: Written comments should be sent to: Kenneth M. Peoples, Office of Defense Trade Controls, SA–6, room 228, U.S. Department of State, Washington, DC 20522–0602, fax # 703–

875-6647. Public comments will be made available for public inspection.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Peoples, Office of Defense Trade Controls, Department of State, tel. 703-875-6644, or Peter Rensema, Office of Advanced Technology, Department of State, tel. 202-647-2433.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President include the following:

"By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized."

(Memorandum of Disapproval of H.R. 4653, 26 Weekly Compilation of Presidential Documents 1839).

In implementation of the President's directive of November 16, 1990, regarding the United States Munitions List (USML), the Department of State has proposed comprehensive changes to the USML, which is part of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130). The ITAR implements section 38 of the Arms Export Control Act (22 U.S.C. 2778). The proposed rule that follows amends § 121.1 of the ITAR.

The proposed amendments adds a new category XV entitled "Spacecraft Systems and Associated Equipment." The articles included in the new category have been moved to Category XV from other categories of the USML. This action is intended to have the effect both of specifying and clarifying what constitutes defense articles under this category and of providing parameters which will provide guidelines for removing from the USML articles associated with spacecraft which do not need to be controlled under the ITAR for reasons of U.S. national security. At the same time, the proposed rule deletes from other categories of the USML previous references to spacecraft and related equipment and systems which have been moved to Category XV.

The Department reviewed, in whole or in part, COCOM ILs 1465, 1501, 1531, 1460, 1465, 1205, 1485, 1416, 1531, 1205, 1565, and 1371. COCOM IL 1465 specifically covers all spacecraft, both military and non-military, and all "space launch vehicles." Because "space launch vehicles" are identical to large ballistic missiles (covered under Category IV of the U.S. Munitions List), the Department intends that, for reasons related to significant U.S. national security interests, all "space launch vehicles" and their specifically designed or modified components, parts, and attached or associated equipment will remain on the USML, Category IV (b), (d), and (h). In addition, those spacecraft systems which the U.S. national security agencies regard as "military enabling" or as "force multipliers" appear to continue to require the level of control found under the provisions of the IRAR, again for reasons related to significant U.S. national security interests. Those articles are also intended to remain on the USML and be consolidated into a new category. The working group reviewing space-related equipment recognized that some hardware designed for spacecraft, and possibly some entire spacecraft, may not meet the criteria established in § 120.3 and thus, could be transferred to the export licensing jurisdiction of the U.S. Department of Commerce under the Export Administration Regulations. It is not the intent of the Department in the future to impose controls on dual-use items which are not controlled by the COCOM IL unless significant national security interests would be jeopardized.

However, in the time allotted for this exercise, specific items could not be determined. Therefore, in further implementation of the Presidential directive, the Department of State is chairing an interagency technical working group to identify CoCom IL articles that may overlap with items in USML Category XV. The interagency technical working group will review identified overlap items for possible retention on the USML, in accordance with the President's directive. It is through this process that additional items will be moved to the jurisdiction of the Department of Commerce. Completion of this review will result in the publication in the **Federal Register** of a notice of proposed rulemaking and a subsequent final rule, for the new Category XV. We anticipate publication of a proposed rule change no later than the first quarter of 1992. Comments on this procedure and the substantive issues will be welcomed in the course of the list review.

In our review, it became apparent that the line between civil and military space equipment is not clearly identified in the COCOM Industrial List (IL) and the Department of Commerce's Commodity Control List (CCL). The Department of Commerce has identified various ILs/Export Commodity Control Numbers (ECCNs) that may include overlap with items proposed for retention on the USML under this proposed rule. These are: 1131, 1133, 1142, 1205, 1362, 1391, 1465, 1485, 1501, 1502, 1516, 1519, 1520, 1522, 1527, 1529, 1531, 1533, 1537, 1548, 1555, 1556, 1558, 1561, 1564, 1567, 1568, 1571, 1572, 1585, 1586, 1595, 2120, 2319, 2018, 2410, 6599G. We are reviewing these entries to determine which, if any, need to be added, retained, or excluded, in whole or in part, from the USML. In addition, public comment to clarify the proposed rule as well as the applicability of the ILs/ECCNs listed above is welcomed.

This amendment involves a foreign affairs function of the United States and thus is excluded from the major rule procedures of Executive Order 12291 (46 FR 13191) and the procedures of 5 U.S.C. 553 and 554. Nevertheless, this amendment is being published as an advanced notice of proposed rulemaking in order to provide the public with an opportunity to comment and provide advice and suggestions regarding the proposal. The period for submission of comments will close 30 days after publication of this advanced notice of proposed rulemaking. In addition, this rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and will serve to reduce the burden on exporters in that respect. The relevant information collection is to be reviewed by the Office of Management and Budget under control no. 1404-0013.

List of Subjects in 22 CFR Parts 120 and 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth in the preamble, it is proposed that title 22, chapter I, subchapter M (consisting of parts 120 through 130) of the Code of Federal Regulation, be amended as set forth below:

PART 120—PURPOSE, BACKGROUND AND DEFINITIONS

1. The authority citation for part 120 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 120.19, *Significant military equipment,* paragraph (b) is amended by adding in numerical order the following phrase: "XV (a) and that technical data described in (d) which relates directly to hardware which has been designated as Significant Military Equipment".

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

§ 121.1 [Amended]

2. In section 121.1 paragraph (b) is amended by making the following amendments:

a. In Category IV, paragraph (h) is redesignated as paragraph (i).

b. In Category IV—*Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines,* add the following new paragraph (h):

* * * * *

(h) Launching and recovery equipment specifically designed or modified for use with spacecraft.

c. In Category VIII, revise the heading, remove paragraphs (b)(1), (b)(2), and (f), redesignate paragraphs (c), (d), (e), (g), (h), (i), and (j) as paragraphs (b), (c), (d), (e), (f), (g), and (h) respectively, and revise newly designated paragraphs (b), (c), (d), and (h) as follows:

Category VIII—Aircraft and Associated Equipment.

* * * * *

(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category.

(c) Cartridge-actuated devices utilized in emergency escape of personnel and airborne equipment (including but not limited to airborne equipment) specifically designed or modified for use with the aircraft and engines of the types in paragraphs (a) and (b) of this category.

(d) Launching and recovery equipment for the articles in paragraph (a) of this category, if the equipment is specifically designed or modified for military use. Fixed land-based arresting gear is not included in this category.

* * * * *

(h) Component parts, accessories, attachments, and associated equipment (including ground support equipment) as specifically designed or modified for the articles in paragraphs (a) through (g) of this category, excluding aircraft tires and propellers used with reciprocating engines.

d. In Category XI, revise the heading to read "Military Electronics". In addition, remove paragraph (b).

e. In Category XII, add the following sentence to the end of paragraph (b) of the current ITAR: "See also Category XV (a)(4), (5), and (6)."

f. In Category XIII—*Auxiliary Military Equipment,* paragraph (a) of the current ITAR, remove the words "space cameras,". In addition, at the end of the paragraph, add "See also Category XV (a)(1)."

g. In Category XIII, add the following to the ends of paragraphs (d) and (e) of the current ITAR: "See also Category XV (a)(3)."

h. In Category XIII, add the following to the end of paragraph (f) of the current ITAR: "See also Category XV (a)(5)."

i. Category XV is added to read as follows:

CATEGORY XV—SPACECRAFT SYSTEMS AND ASSOCIATED EQUIPMENT

*(a) Spacecraft and associated hardware, including both ground and space elements, which are either specifically designed or modified for military applications. This includes but is not limited to the following:

(1) Remote sensing satellite, earth observation and surveillance satellites, space observation satellites, and their major systems and subsystems which may be used for intelligence and targeting applications, including (but not limited to) cameras and other sensors and their major components (e.g. optics, focal planes, cryocoolers, radars, lasers, imaging radiometers, large aperture antennas, receivers, tuners) specifically designed or modified for use in a spacecraft; space qualified signal processors, and data compression and mass storage devices specifically designed or modified for satellites; associated equipment for the timely transmission, exploitation and dissemination of data from such satellites.

(2) Communications satellites and their major systems and subsystems specifically designed or modified to provide secure anti-jam capability, including (but not limited to) communications security (COMSEC) and transmission security (TRANSEC) equipment; interference cancellation devices; nulling or steerable spot-beam antennas; spread spectrum or frequency agile signal generation or processing equipment; spaceborne baseband processing equipment; equipment for satellite crosslink; and spaceborne atomic clocks. See also Categories XI (b) and XIII (b).

(3) Equipment specifically designed or modified to enhance space system survivability (both ground and space elements), including nuclear, laser, radio-frequency, and kinetic hardening (beyond levels needed for commercial life in the natural environment); microelectronic integrated circuits radiation hardened for space application; decoys; active and passive countermeasures; and warning receivers. See also Category XI (a)(8) and Category XIII (d) and (e).

(4) Equipment specifically designed or modified for precision navigation capabilities, including receivers incorporating NAVSTAR GPS PPS features or employing encryption/decryption capabilities; differential GPS equipment; null steering antennas; GPS user equipment suitable for use in missiles or remotely piloted vehicles; and GPS satellite simulators.

(5) Equipment specifically designed or modified for space and strategic defense weapons systems (ground-to-space, space-to-space, space-to-ground), including attitude and positive determination, control, and pointing subsystems with precision and stability suitable for weapons direction; high torque attitude control actuators; magnetic suspension devices; spaceborne lasers; high power microwave devices; high power pulsed power supplies; chemical release devices; explosive ordnance other than those suitable only for deployment of stowed appendages or other deployable devices; ECM and ECCM subsystems; and subsystems for command and control of such weapons. See also Categories XII(a), XIII(f), and VIII(e).

(b) All other satellites and associated equipment specifically designed or modified for such satellites not enumerated in paragraph (a) of this category, regardless of their missions, unless specifically removed in accordance with the provisions of § 120.5 of this subchapter.

(c) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) and (b) of this Category.

(d) (1) Technical data (as defined in § 120.21) and defense services (as defined in § 120.8) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category. (See Section 125.4 for exemptions.) Technical data directly related to any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME.

(2) Technical data as defined in § 120.21 for the design, development, production, or manufacture of spacecraft systems and associated equipment (both military and non-military), regardless of which U.S. Government agency has jurisdiction for the export of the hardware. (See § 125.4 for exemptions.) Technical data directly related to any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated as SME.

Dated: August 13, 1991.

Charles A. Duelfer,

Director, Center for Defense Trade, Bureau of Politico-Military Affairs.

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22 CFR Part 121

[Public Notice 1457]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations implementing section 38 of the Arms Control Export Act, which governs the export of defense articles and defense services. Specifically, it would revise and clarify Category XI(c) by defining more precisely which types of articles are subject to control under the United States Munitions List (USML).

DATES: Comments must be submitted on or before October 7, 1991.

ADDRESSES: Written comments should be sent to: Daniel L. Cook, Office of Defense Trade Controls, SA-6, room 228, Department of State, Washington, DC 20522-0602, fax # 703-875-6647. Public comments will be made available for public inspection.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President include the following:

By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the Cocom dual-use list unless significant U.S. national security interests would be jeopardized. (Memorandum of Disapproval of H.R. 4653, 26 Weekly Compilation of Presidential Documents 1839).

In implementation of the President's directive of November 16, 1990, regarding the United States Munitions List (USML), the Department of State has proposed comprehensive changes to the USML, which is part of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The ITAR implements section 38 of the Arms Export Control Act (22 U.S.C. 2778). The proposed rule that follows amends part 121.1, Category XI(c) of the ITAR.

It is the intent of the Department that this proposed rule change shall continue coverage on the USML of items specially designed, modified, or configured for military application or items justified for retention by significant national security interests. It is not the intent of the Department in the future to impose controls on dual-use items which are not controlled by the COCOM IL unless significant national security interests would be jeopardized. The Department particularly welcomes comments from the exporting community addressing any current overlap which we have not identified.

In implementation of the President's directive, the Department reviewed, in whole or in part, COCOM ILs 1501, 1516, 1517, 1526, 1527, 1529, 1531, 1533, 1537, 1544, 1545, 1558, 1566, 1568, 1572, 1574, and 1586. Overlaps were identified in five ILs: 1516, 1517, 1527, 1533, and 1565—panoramic/digitally controlled radio receivers, radio transmitters, cryptographic and ancillary equipment, spectrum analyzers, and computing equipment designed to limit electromagnetic radiation, respectively. The new wording of category XI is intended to eliminate the overlap with IL 1516, 1517, 1527, 1533, and 1565 and to retain only those radio receivers and/or analyzers, and computing equipment, that meets the criteria defined in § 121.1, currently existing category XI(c).

In addition, the amendment would delete the word "intended" from the language in the current XI(c) and more accurately describe the electronic systems and equipment that are being retained on the USML for national security purposes under the coverage of this category.

Finally, this amendment would add a cross-reference to encryption and space related equipment, and renumber Category XI paragraph (c) as paragraph (b).

This amendment involves a foreign affairs function of the United States and thus is excluded from the major rule procedures of Executive Order 12291 (46 FR 13193) and the procedures of 5 U.S.C. 553 and 554. Nevertheless, this amendment is being published as a proposed rule in order to provide the public with an opportunity to comment and provide advice and suggestions regarding the proposal. The period for submission of comments will close 30 days after publication of this proposed rule. In addition, this rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and will serve to reduce the burden on exporters in that respect. The relevant information collection is to be reviewed by the Office of Management and Budget under control no. 1405–0013.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth in the preamble, it is proposed that title 22, chapter I, sub-chapter M (consisting of parts 120 through 130) of the Code of Federal Regulations, be amended as set forth below:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

AUTHORITY: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 F.R. 4311; 22 U.S.C. 2658.

2. In section 121.1, Category XI, paragraph (c) of the existing ITAR is redesignated as paragraph (b) and revised to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

(b) * * *

Category XI—Military and Space Electronics.

* * * * *

*(b) Electronic systems or equipment specifically designed, modified, or configured for intelligence, security, or military purposes for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum and electronic systems or equipment designed or modified to counteract electronic surveillance or monitoring. A system meeting this definition is controlled under this subchapter even in instances where any individual pieces of equipment constituting the system may be subject to the controls of another U.S. Government agency. Such systems or equipment described above include, but are not limited to, those:

(1) Designed or modified to use cryptographic techniques to generate the spreading code for spread spectrum or hopping code for frequency agility. This does not include fixed code techniques or spread spectrum.

(2) Designed or modified using burst techniques (e.g. time compression techniques) for intelligence, security or military purposes.

(3) Designed or modified for the purpose of information security to suppress the compromising emanations of information-bearing signals. This covers TEMPEST suppression technology and equipment meeting or designed to meet government TEMPEST standards. This definition is not intended to include equipment designed to meet Federal Communications Commission (FCC) commercial electro-magnetic interference standards or equipment designed to suppress extra low frequency radiation for health and safety.

Encryption and Space related articles are in Categories XIII(b) of the current ITAR and XV (a) (1), (2), and (4), which will be created in a separate notice of rule making.

* * * * *

Dated: August 13, 1991.

Charles A. Duelfer,

Director, Center for Defense Trade; Bureau of Politico-Military Affairs.

[FR Doc. 91-21047 Filed 9–4–91; 8:45 am]

BILLING CODE 4710-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42030I; FRL 3927-5]

RIN 2070-AB94

Revocation of Mesityl Oxide Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document announces EPA's proposal to revoke the Mesityl Oxide Final Test Rule at 40 CFR 799.2500 (MO; CAS No. 141–79–7). The MO Final Test Rule was remanded by the U.S. Court of Appeals for the Fifth Circuit to EPA to consider exposure information which became available after issuance of the final rule. EPA is proposing to revoke this rule because four of the manufacturers of MO have agreed to enter into a consent order with EPA to perform certain health effects tests. EPA believes testing will be

achieved more quickly, and EPA resources will be used more effectively under a consent order, compared with testing under the test rule cited above.

DATES: Submit written comments on or before November 4, 1991. If persons request an opportunity to submit oral comments by October 21, 1991. EPA will hold a public meeting on this proposed revocation in Washington, DC. For further information on arranging to speak at the meeting, see Unit V. of this preamble.

ADDRESSES: Submit written comments, identified by the docket number (OPTS-42030I), in triplicate to: TSCA Public Docket Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, rm. NE-G004, 401 M St., SW., Washington, DC 20460. A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The manufacturers of MO have agreed to test MO under a consent agreement. Therefore, the previously issued final test rule is no longer necessary. EPA believes that, under a consent order, health effects testing will be achieved more quickly, and EPA resources will be used more effectively than if EPA reissued the test rule.

I. Background

On December 20, 1985 (50 FR 51857) EPA issued a test rule under TSCA that required manufacturers of MO to conduct health effects testing. The manufacturers challenged the final rule under TSCA section 19(a)(1)(B) in the 5th Circuit Court of Appeals (Ref. 1). The Court remanded the rule (40 CFR 799.2500) to EPA directing reconsideration of testing in light of information not included in the docket which may have had a bearing upon the case. Specifically, this included information submitted by the manufacturers under a section 21 petition (Ref. 3), on worker exposure from MO manufactured as a byproduct (Refs. 4 and 7), and an exposure survey conducted by the manufacturers of MO (Ref. 2). EPA believes that, even with the new exposure information, it can support the TSCA section 4(a)(1)(A) findings for the stayed test rule. In light of the manufacturers agreeing to the testing consent order, however, EPA has decided to revoke the stayed test rule.

Since the MO Final rule was promulgated, the Organization for Economic Cooperation and Development (OECD) adopted a screening information data set (SIDS) to be used for an international cooperative testing program. SIDS focuses on developing the test data needed to screen and set priorities on international high production volume (HPV) chemicals. The SIDS/HPV list includes HPV chemicals of potential health or environmental concern which have little if any test data publicly available for their assessment. The OECD list of HPV chemicals includes MO. After analysis of this exposure information, the manufacturers and EPA agreed that screening level health effects testing is appropriate for MO. The manufacturers have also agreed to perform the testing under an enforceable consent order using protocols modified after SIDS.

EPA plans to use the results of the SIDS testing for MO and other information to determine if additional testing of MO (i.e. oncogenicity) is necessary.

For more details about the regulatory history, use and exposure, health effects, and testing program, refer to the Testing Consent Order for MO published elsewhere in this issue of the **Federal Register**.

II. Testing Program

The testing requirements specified in the MO Final Rule (40 CFR 799.2500) included an inhalation subchronic toxicity test, salmonella reverse mutation assay, gene mutation cells in culture assay, sex-linked recessive lethal test in *Drosophila, in vitro* cytogenetics test, and the *in vivo* cytogenetics test. The heritable translocation assay and mouse specific locus assay could be triggered depending on the outcome of the other mutagenicity tests. Oncogenicity testing could also be triggered.

The MO Consent Order protocols were modelled after the OECD SIDS draft guidelines. The manufacturers have agreed to test MO for health effects using test protocols comparable to those developed by the United States and OECD for the SIDS testing program. The three-test battery will screen for mutagenic, subchronic, developmental and reproductive effects. MO will be tested for mutagenic activity using five strains of salmonella (with and without exogenous metabolic activation) and the *in vivo* mammalian bone marrow micronucleus assay. For the micronucleus assay, MO will be administered to mice by intraperitoneal injection; bone marrow will be harvested; and the ratio of polychromatic to normochromatic erythrocytes and frequency of micronucleated cells examined. Subchronic effects including effects to the blood, liver, spleen and kidneys, developmental (teratogenic) effects and reproductive effects will be evaluated using a combined test. Rats will be exposed by inhalation for 6 hours per day 7 days per week. Males will be exposed throughout the entire study, approximately 40 to 53 days. Females will be exposed only until day 20 of gestation, approximately 35 to 48 days. Full histopathology will be conducted on both male and female rats.

EPA has reviewed the three test protocols developed by CMA and the manufacturers and found them acceptable (Refs. 5, 6, 8, 9 and 10). The salmonella and micronucleus tests should provide equally reliable results as the EPA test guidelines published at 40 CFR part 798. The combined repeat dose developmental/reproductive effects test is a new protocol and is a modification of the test jointly developed by EPA and OECD for the SIDS program. The SIDS protocol calls for oral dosing and histopathology of only one sex. For MO, inhalation was selected as a more relevant route of human exposure and histopathology will be conducted on both sexes.

EPA believes that, even with the new exposure information, it can support the TSCA section 4(a)(1)(A) findings for the stayed test rule. In light of the manufacturers agreeing to the testing consent order, however, EPA has decided to revoke the stayed rule. EPA believes that the level of testing required by the consent order is appropriate. The consent order requires testing for two endpoints, developmental and reproductive effects, that were not required in the final test rule; however, it does not contain the triggered oncogenicity testing or the second or third tier mutagenicity testing that the test rule contains. Under the stayed test rule second and third tier mutagenicity and oncogenicity testing would be required only if the results of certain mutagenicity tests were positive. EPA has broad discretion to make policy choices on the menu of testing it believes appropriate for a particular substance provided that the tests are to:

develop data with respect to the health and environmental effects for which there are insufficient data and experience and which are relevant to a determination that the

manufacture, distribution in commerce, processing, use, or disposal of such substance ... does or does not present an unreasonable risk of injury to health or the environment.

[15 U.S.C. 2603 (a)].

In this case, EPA has decided as a matter of policy that it is not necessary to have an automatic trigger for oncogenicity or second and third tier mutagenicity testing included in the consent order. Instead, EPA will look at all results from the SIDS screening tests required by the consent order in conjunction with all available exposure information, including information on the manufacturing scenario at the time the tests are completed, before deciding whether or not to require this or other testing. If EPA then determines that oncogenicity or any other additional testing is necessary, EPA will initiate rulemaking, or negotiate an additional consent order to require such testing. If testing under the consent order is invalid or not conducted, EPA will initiate rulemaking. As part of any such rulemaking proceedings, EPA would make statutory findings pursuant to section 4 of TSCA.

III. Proposed Revocation of Final Test Rule and Issues for Comment

Based upon the reasons stated above, EPA is proposing to revoke the final test rule on MO (40 CFR 799.2500). The decision to allow the manufacturers to conduct screening level testing (SIDS) to obtain a base set of data on MO and other high production volume chemicals should allow EPA to better identify chemicals that are candidates for more in-depth testing and is an attempt by EPA to deal with limited resources (both private and public) to meet increasing demands for testing. EPA solicites comments on this approach for MO and other high production volume chemicals.

IV. Public Meeting

If requested, EPA will hold a public meeting in Washington, DC after the close of the public comment period. Persons who wish to attend or to present comment at the meeting should call Mary Louise Hewlett, Chemical Testing Branch (202) 475–8162 by (insert date 45 days after date of publication in the **Federal Register**). The meeting is open to the public, but active participation will be limited to EPA representatives and those who requested to comment. Participants are requested to submit copies of their statements by the meeting date. These statements and a transcript of the meeting will become part of EPA's rulemaking record.

V. Rulemaking Record

EPA has established a record for this proposed revocation under docket no. OPTS–42030I. This record contains the information EPA considered in developing the Consent Order and includes the following information.

A. Supporting Documentation

(1) Testing Consent Order for Mesityl Oxide.

(2) **Federal Register** notices pertaining to this proposed rule and the consent order consisting of:

(a) Notices announcing a public meeting for October 18, 1990, and soliciting interested parties to develop a consent order for MO, (55 FR 40234, October 2, 1990).

(b) Final rule for MO (Establishing testing requirements) (50 FR 51857, December 20, 1985).

(c) Final rule for MO (Establishing test standards and reporting requirements) (50 FR 19088, May 20, 1987).

(d) Section 21 Petition response (50 FR 30216, August 25, 1986).

(3) Communications consisting of:

(a) Written Letters.

(b) Contact reports of telephone conversations.

(c) Meeting Summaries.

B. References

(1) Shell Chemical Co. v. EPA, 826 F.2d 295 (5th Cir. 1987).

(2) Chemical Manufacturers Association (CMA). Results of a worker exposure survey conducted by the Ketones Panel of the Chemical Manufacturers Association using mesityl oxide as an intermediate and for operations where mesityl oxide is formed as a byproduct or impurity (non-CBI version), Washington, DC. (February 28, 1990).

(3) CMA. Ketones Program Panel. Section 21 Petition to Reconsider and Withdraw the Final Phase I Test Rule for Mesityl Oxide. Washington, DC. (April 29, 1986).

(4) EPA. Occupational exposure to mesityl oxide resulting from incidental formation. Kin Wong, Chemical Engineering Branch, Economics and Technology Division, Office of Toxic Substances. Washington, DC, 20460. (June 10, 1988).

(5) CMA. Letter on proposed mesityl oxide consent agreement. From: Barbara Francis, CMA. Manager, Ketones Panel, Washington, DC 20037. To: Robert Jones, Existing Chemicals Assessment Division, EPA. (September 12, 1990).

(6) CMA. Letter agreeing in principle to testing mesityl oxide under a consent order. From: Barbara Francis, CMA. To: Robert Jones, EPA. (December 27, 1990).

(7) PEI Associates, Inc. (PEI). Assessment of incidental production of mesityl oxide. Contract No. 69–02–4248, for EPA, Office of Pesticides andToxic Substances, Washington, DC 20460. (December 15, 1987).

(8) EPA. Letter with comments on CMA testing protocols. From Robert Jones, EPA to Barbara Francis, CMA. (December 6, 1990).

(9) EPA. Letter requesting final protocol changes and letter of agreement in principle to enter into the consent order. From Robert Jones, EPA to Barbara Francis, CMA. WAshington, DC, 20460. (December 11, 1990).

(10) EPA. Memorandum from M. Cimino, Toxic Effects Branch to R. Jones, Chemical Testing Branch, Office of Toxic Substances, Washington, DC, 20460, (August 19, 1991).

Confidential Business Information (CBI) while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted is available for inspection in the OPTS Reading Rm. NE–G004, 401 M St., SW., Washington, DC, from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

VI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this proposed revocation would not be major because it does not meet any of the criteria set forth in section 1(b) of Executive Order 12291; i.e., it would not have an annual effect on the economy of at least $100 million, would not cause a major increase in prices, and would not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. In addition, it would remove some of the testing requirements previously required under TSCA section 4.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., Pub. L. 96–354, September 19, 1980), EPA is certifying that revocation of this test rule would not have a significant impact on a substantial number of small businesses because only the four manufacturers who sign the consent order will be responsible for paying for the testing, and none are small businesses.

C. Paperwork Reduction Act

There are no information collection requirements associated with this proposed revocation covered under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: August 26, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR, chapter I, subchapter R, part 799 is proposed to be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.2500—[Removed]

2. By removing § 799.2500.

[FR Doc. 91-21263 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-315, RM-6308, RM-6532, RM-7561]

Radio Broadcasting Services; Hawesville and Hardinsburg, KY and Bloomfield, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Harold Wayne Newton (RM-6308) requesting the allotment of Channel 234A to Hawesville, Kentucky, because no comments expressing a continuing interest in Channel 234A were filed by the petitioner or any other party. The remaining proposals in this docket will be addressed in a forthcoming action.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's First Report and Order, MM Docket No. 88-315, adopted August 15, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21165 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 56, No. 172
Thursday, September 5, 1991

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

Food Safety and Inspection Service

[Docket No. 91-027N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting

Notice is hereby given that meetings of the National Advisory Committee on Microbiological Criteria for Foods, will be held on Tuesday, Wednesday, and Thursday, September 24-26, 1991, at the Hyatt Regency-San Antonio, Losoya Street, San Antonio, Texas 78205.

The Committee provides advice and recommendations to the Secretary of Agriculture and Secretary of Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

Scheduled sessions are as follows:

(1) Tuesday and Wednesday, September 24-25, 1991, 8:30 a.m. to 4:30 p.m.—Meeting of the Meat and Poultry Subcommittee to further determine red meat and poultry HACCP plans and recommendations.

(2) Thursday, September 26, 1991, the Campylobacter Subcommittee will meet 8:30 a.m. to 12 noon.

The Committee meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to the meeting in order that they may be considered and should be addressed to Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. In submitting comments, please reference the docket number appearing in the heading of this notice. Background materials are available for inspection by contracting Ms. DeRoever on (202) 447-9150.

Done at Washington, DC on: August 30, 1991.

R.J. Prucha,

Administrator, Acting, Food Safety and Inspection Service.

[FR Doc. 91-21277 Filed 9-4-91; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Rocky Timber Sales, Ochoco National Forest, Crook County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for the Rocky Timber Sales. The purpose of the EIS will be to develop and evaluate a range of alternatives for timber harvest and road construction for 2 or more timber sales. The alternative will include a no action alternative, involving no timber harvest or road construction, and additional alternatives to respond to issues generated during the scoping process. The proposed project will be in compliance with the direction in the Ochoco National Forest Land and Resource Management Plan which provides the overall guidance for management of the area and the proposed projects for the next ten years. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by October 15, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Alan Horton, District Ranger, Prineville Ranger District, P.O. Box 687, Prineville, OR 9774.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Dave Owens, District Planning Assistant, Prineville Ranger District, phone (503) 447-9641.

SUPPLEMENTARY INFORMATION: The Prineville Ranger District is beginning the process of implementing the management direction found in the Ochoco National Forest Land and Resource Management Plan for the Rocky Project Area. A major component of this direction will be the harvesting of timber in this area.

Two or more timber sales are anticipated from this area.

Prior to the Oregon Wilderness Act of 1984, a portion of the Rocky Project Area was part of a larger area referred to as the Mill Creek Roadless Area. The Wilderness Act designated 17,400 acres of this area as Mill Creek Wilderness. Approximately 1,500 acres of the original Mill Creek Roadless Area are included within the Rocky Area and remains in an unroaded condition. This unroaded area was included in the second Roadless Area Review and Evaluation (RARE II) process but was not designated as Wilderness in the 1984 Act.

According to the Act "* * * Roadless areas shall be managed for multiple use in accordance with land management plans * * * provided that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans * * *."

The Ochoco National Forest Land and Resource Management Plan made the determination of how lands were to be managed within the Rocky Project Area. This was done by allocating land to specific management areas. A total of five different management areas are represented in the proposed timber sale areas. Their names and management emphasis are as follows:

1. MA-F6 (Old Growth), "Provide habitat for wildlife species dependent on old growth stands".
2. MA-F13 (Developed Recreation, visual influence area for Wildcat Campground), "Provide safe, healthful, and aesthetic facilities for people to utilize while they are pursuing a variety of recreational experiences within a relatively natural outdoor setting".
3. MA-F14 (Dispersed Recreation), "Provide and maintain a near-natural setting for people to utilize while pursuing outdoor recreation experiences".
4. MA-F15 (Riparian), "Manage streamside vegetation and habitat to maintain or improve water quality".
5. MA-F17 (Stein's Pillar Recreation Area), "Maintain a scenic, natural or

natural-appearing setting associated with unique geologic formations, particularly Stein's Pillar. Provide roadless nonmotorized recreation, with various opportunities to enjoy nature".

6. MA-F20 (Winter Range), "Manage for big game winter range habitat".

7. MA-F22 (General Forest), "Produce timber and forage while meeting the Forest-Wide Standards and Guidelines for all resources. In ponderosa pine stands, management will emphasize production of high value (quality) timber".

8. MA-F26 (Visual Management Corridors), "Maintain the natural appearing character of the Forest along major travel routes, where management activities are usually not evident or are visually subordinate to the surrounding landscape.

The make up of the project area, with respect to the type and amount of management areas, is shown below:

	Percent
MA-F6 (Old Growth)	9
MA-F13 (Development Recreation) less than	1
MA-F14 (Dispersed Recreation) less than	1
MA-F15 (Riparian) less than	1
MA-F17 (Stein's Pillar)	22
MA-F20 (Winter Range)	25
MA-F22 (General Forest)	42
MA-F26 (Visual Management Corridors) less than	1

The District has done some preliminary scoping and has developed a tentative list of issues. The issues are:

Scenic Resources

What would the effects be to the visual character of the area?

Recreation

Will harvesting these areas detract from the recreation experience gained from the existing trails? Will harvesting negatively impact the recreation/visual experience from the proposed trails? What level of public access will be provided? What effect will timber harvesting and associated activities have on the eligibility of Mill Creek for Wild and Scenic River status?

Wildlife

What might the effects be to big game habitat effectiveness? What might the effects be on those species which utilize old growth and other unique habitats such as wetlands and talus slopes?

Roadless

What will the impacts be from logging and road construction on the roadless character of the area?

Biological Diversity

Should fragmentation be minimized? What would the trade-offs be with respect to water quality and wildlife?

Water Quality/Soils

How to minimize impacts from logging and/or road building on water quality.

What protective measures need to be taken to protect the soils? What types of logging systems should be used to protect the soils?

Forest Health

The project area contains significant amounts of forest cover types susceptible to depredation by forest pests. Forest pests include western spruce budworm, root disease, Douglas-fir bark beetles and fir engraver beetles. Should silvicultural treatments be applied to these susceptible forest types to reduce tree mortality?

Public participation will be especially important at several points during the analysis. Input from interested persons may be gathered through individual mailings or local meetings. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Ochoco National Forest participate at that time.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed by June 1992. In the final EIS, The Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the proposal. Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR 217).

Dated: August 26, 1991.

William J. Pieratt,

Acting Forest Supervisor.

[FR Doc. 91-21220 Filed 9-4-91; 8:45 am]

BILLING CODE 3410-11-M

Plexus Bornite Project, Willamette National Forest, Marion County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a site-specific proposal to develop and operate a highly mechanized underground copper mine. The proposed project will not be in compliance with the direction in the 1990 Willamette National Forest Land and Resource Management Plan (Forest Plan) which provides the overall guidance for management of the project area. Thus, an amendment to this Forest Plan will be needed.

The project area is located approximately 50 miles east of Salem, Oregon. The site is contained within a broad valley in the Cedar Creek drainage.

The Willamette National Forest invites written comments and suggestions on the scope of the analysis in addition to comments already received as a result of local public participation activities. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by September 30, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to William F. Funk, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Mike Hernandez, Project Coordinator, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360. Or contact by phone at (503) 854-3366.

SUPPLEMENTARY INFORMATION: The Department of Agriculture, Forest Services will prepare an environmental impact statement in order to review, modify and approve the plan of operations for the development of Plexus' Bornite mine project, located on the Detroit District of the Willamette National Forest in Marion County, Oregon.

PLEXUS' proposed Plan of Operation was submitted pursuant to Forest Service locatable mineral regulations 36 CFR 228 subpart A.

Governmental agencies and the public who may be interested in or affected by the proposal are invited to participate in the scoping process. The Forest Service will hold three formal public scoping meetings: Tuesday, Sept. 17, 1991, at the Santiam High School Auditorium, Mill City, Oregon at 7:30 p.m.; Wednesday, Sept. 18, 1991, at the Stayton Community Center in Stayton, Oregon at 7:30 p.m.; and Thursday, Sept. 19, 1991, at the Salem Public Library, Salem, Oregon at 7:30 p.m. A scoping document will be available for public review. Further meetings may be planned at a later date.

Due to budget restraints and possible downsizing of the Forest Service organization, the Forest Service anticipates that the EIS will be contracted out to a third party company. It is estimated that the Forest Service will select the third party contractor by November 1991.

The EIS will consider a range of alternatives based on the issues and concerns associated with the project. The two alternatives that can be specified at present are the No Action alternative and the alternative to approve the project as proposed. Other alternatives may consist of modifications or changes in the various elements comprising the proposal.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by Fall 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early state of several court rulings related to public participation in the environmental review process. First, reviewer of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hoddel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed by Spring/Summer 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Detroit District Ranger, Willamette National Forest, is the responsible official for this project. As the authorized official (36 CFR 228.3(e)), the District Ranger will review the plan, recommend modifications and approve a final plan of operations that will meet the requirements for environmental protection, which minimize adverse environmental impacts to National Forest surface resources (36 CFR 228.8). The responsible official will document the decision and reasons for the decision in the Record of Decision.

The decision will be subject to Forest Service Appeal Regulations (36 CFR 217).

Dated: August 27, 1991.

William F. Funk,

District Ranger.

[FR Doc. 91-21221 Filed 9-4-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. S10814-1214]

Motor Freight Transportation and Warehousing Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census is proposing minor changes to the 1991 Motor Freight Transportation and Warehousing Survey. This ongoing survey is conducted on a sample basis under the authority of title 13, United States Code, sections 131, 182, 224, and 225. The survey provides national estimates of the dollar volume of revenue and expenses for the for-hire trucking and public warehousing industries and inventories of revenue-generating equipment for the trucking industry.

Effective with the 1991 survey, the Census Bureau will discontinue collecting separate revenue data from commissions, terminal operations, lease and rental of trucks without drivers, and merchandise sales. We will continue to include revenue from these sources in our definition of total operating revenue. We also propose to collect several additional categories of operating expenses. We will request from all firms a breakout of employer contributions to legally required and other employee benefit plans. From trucking firms we plan to collect separate data on the cost of drug and alcohol testing and rehabilitation programs, and from warehousing firms separate data on taxes and licenses and the cost of insurance.

DATES: Comments must be submitted on or before October 16, 1991.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: Thomas E. Zabelsky on (301) 763-5528.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13 of the United States Code. This survey provides continuing and timely national statistical data on the for-hire trucking and public warehousing industries for the period between the economic censuses. The next economic census will be conducted for 1992. The data collected in this survey will be within the general scope, type, and character of that which is covered in the economic censuses. Preliminary information and recommendations received by the Bureau of the Census indicate that these data are significantly applicable to the informational needs of government agencies, the public, and the trucking and warehousing industries. These data are otherwise unavailable publicly from other sources on a continuing basis.

The Bureau of the Census needs reports only from a limited sample of trucking and warehousing firms in the United States. The probability of a firm's selection is based on revenue size. This sample is being revised for the 1991 survey year. We will select approximately 3,000 firms to report, about twice the number in our current sample. Revising our samples allows us to relieve most small- and medium-sized firms from the burden of continuing to report (these firms will be replaced by new panel members); to introduce 1987 SIC definitions (our current data reflect 1972 SIC classifications); and to maintain acceptable levels of sampling variability. The sample will provide, with measurable reliability, statistics on the aforementioned industries.

The proposed revision to this survey will be submitted to OMB under OMB control number 0607-0510 in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended.

Copies of the proposed forms and descriptions of the collection methods are available upon request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: August 28, 1991.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 91-21247 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Action Affecting Export Privileges; Alvin C. Schreiner

In the Matter of: Alvin C. Schreiner c/o 7100 North Loop East, Suite 7, Houston, Texas 77028,
Respondent

Order

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), has notified Alvin C. Schreiner (hereinafter referred to as Schreiner) of its intention to initiate an administrative proceeding against him alleging that Schreiner violated the provisions of § 787.3(b) of the Regulations in that, between March, 1986 and continuing through about March, 1989, Schreiner conspired with Dominion Oilfields Supply Company, Limited, Phillip B. Wicker, and others to bring about acts that constituted violations of the Act and the Regulations and that the objective of the alleged conspiracy was to effectuate the export of U.S.-origin industrial, including oil drilling, equipment from the United States to Libya, through the United Kingdom, without obtaining from the Department the validated export licenses or reexport authorizations required by §§ 772.1(b), 774.1, 785.7 and 790.7 of the Regulations;

Whereas, the Department and Schreiner have entered into a Consent Agreement whereby they have agreed to settle all matters between them by Schreiner's paying to the Department a civil penalty of $7,000 and by the Department's denying Schreiner's export privileges for five years (a portion of which is suspended as set forth below);

The terms of the Consent Agreement having been approved by me;

Therefore, it is Ordered:

First, a civil penalty in the amount of $7,000 is assessed against Schreiner which Schreiner shall pay to the Department within 30 days of the date of the entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, Alvin C. Schreiner (hereinafter referred to as Schreiner) c/o 7100 North Loop East, suite 7, Houston, Texas 77028, and all of his successors, assigns, officers, partners, representatives, agents and employees shall, for a period of five years from the date of entry of this Order, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad.

A. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) in

financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

B. After notice and opportunity for comment pursuant to 15 CFR 788.3(c), such denial may be made applicable to any person, firm, corporation, or business organization with which Schreiner is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

C. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data subject to the Act and the Regulations, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Schreiner or any related person, or whereby Schreiner or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any U.S.-origin commodity or technical data exported in whole or in part, or to be exported by, to, or for Schreiner or any related person denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

D. As authorized by § 788.16(c) of the Regulations, the denial period herein provided for against Schreiner shall be suspended for a period of four years and 11 months beginning one month from the date of entry of this Order and shall thereafter be waived, provided that: (1) Schreiner fully cooperates with the reasonable requests of the Department and other appropriate agencies of the United States Government in investigating all facts and circumstances arising from the allegations contained in the proposed Charging Letter, provided that no testimony, statements, documents, or other information provided by Schreiner (or any information directly or indirectly derived from such testimony, statements, documents or other information) may be used against Schreiner or any of his representatives, agents, employees, successors and assigns with the exception of DOSCO, Phillip Wicker, and Ted Datchko, in any criminal, civil, or administrative proceeding, except a prosecution for perjury or giving a false statement occurring from such cooperation. The continued suspension of the period of denial is expressly made contingent upon Schreiner's ongoing cooperation with such investigations, and with any criminal, judicial or administrative litigation arising therefrom, as the United States Government may choose to pursue. Schreiner's failure or refusal to cooperate may result in the revocation of the suspension; and (2) during the period of applicable suspension, Schreiner has not committed any violation of the Act or any regulation, order or license issued under the Act.

Third, that the proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public. A copy of this Order shall be served on Schreiner and published in the **Federal Register**.

This constitutes the final agency action in this matter.

Dated: August 26, 1991.

Kenneth A. Cutshaw,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 91-21179 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 535]

Resolution and Order Approving With Restrictions the Application of the Port of Corpus Christi Authority for a Special-Purpose Subzone at the Koch Refinery in Nueces and San Patricio Counties, TX; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Port of Corpus Christi Authority, grantee of FTZ 122, filed with the Foreign-Trade Zones Board (the Board) on February 11, 1991, and amended on June 5, 1991, requesting special-purpose subzone status for the crude oil refinery of Koch Refining Company, located in Nueces and San Patricio Counties, Texas, within the Corpus Christi Customs port of entry area, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations would be satisfied, and that the amended application would be in the public interest, if approval were subject to certain conditions, approves the amended application subject to the following conditions:

1. Foreign crude oil used as fuel for the refinery shall be dutiable.

2. Koch shall elect privileged foreign status on foreign crude oil and other foreign merchandise admitted to the subzone.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Port of Corpus Christi Authority, grantee of Foreign-Trade Zone No. 122, has made application (filed on February 11, 1991, FTZ Docket 8-91, 56 FR 7660, 2/25/91, and amended on June 5, 1991) in due and proper form to the Board for authority to establish a special-purpose subzone at the crude oil refinery of Koch Refining Company in Nueces and San Patricio Counties, Texas (Corpus Christi area);

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given

subject to the restrictions in the resolution accompanying this action;

Now, Therefore, in accordance with the application filed February 25, 1991, as amended, the Board hereby authorizes the establishment of a subzone at the Koch refinery in Nueces and San Patricio Counties, Texas, designated on the records of the Board as Foreign-Trade Subzone 122L, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the regulations issued thereunder, and to the restrictions in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 28th day of August 1991, pursuant to Order of the Board.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91-21292 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-475-017]

Pads for Woodwind Instrument Keys From Italy; Intent To Revoke Antidumping Duty Order

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

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on pads for woodwind instrument keys from Italy. Interested parties who object to this revocation must submit their comments in writing no later than September 30, 1991.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1984, the Department of Commerce ("the Department") published an antidumping duty order on pads for woodwind instrument keys from Italy (49 FR 37137). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public or our intent to revoke this antidumping duty order.

Opportunity to Object

No later than September 30, 1991, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by September 30, 1991, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by September 30, 1991, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: August 29, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-21293 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-247-003]

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Determination Not To Revoke Antidumping Finding

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

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On May 2, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 20194) its intent to revoke the antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic (28 FR 4507; May 4, 1963).

The Department may revoke a finding if the Secretary concludes that the finding is no longer of interest to interested parties. We had not received a request for an administrative review of the finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4) (1990)).

On May 28, 1991, BoxCrow Cement, Southdown, Inc., Holnam, Inc., Texas Industries, Inc., Gifford-Hill & Co., National Cement Co., Florida Crushed Stone, and Phoenix Cement, U.S.

producers of Portland cement, objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: August 29, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-21294 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-005]

Certain Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina; Termination of Countervailing Duty Administrative Review

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

ACTION: Notice of termination of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) has terminated the countervailing duty administrative review of certain cold-rolled carbon steel flat-rolled products from Argentina, initiated on May 21, 1991.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On April 30, 1991, respondent, Sociedad Mixta Siderurgia Argentina (Somisa), requested a countervailing duty administrative review of the countervailing duty order on certain cold-rolled carbon steel flat-rolled products from Argentina for the period January 1, 1990 through December 31, 1990. No other interested party requested the review. On May 21, 1991, the Department initiated the administrative review for that period (56 FR 23271). Somisa withdrew its request for review on August 16, 1991. Since the withdrawal was timely in accordance with 19 CFR 355.22(a)(3), the Department is terminating this review.

This notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: August 29, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-21295 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-804]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination and Postponement of the Countervailing Duty Public Hearing: Gray Portland Cement and Clinker From Venezuela

AGENCY: International Trade Administration, Import Administration, Commerce.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Beth Graham or Larry Sullivan, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4105 or 377-0114, respectively.

ALIGNMENT OF ANTIDUMPING AND COUNTERVAILING DUTY CASES: On August 21, 1991, we published a preliminary affirmative countervailing duty determination pertaining to gray portland cement and clinker ("cement") from Venezuela (56 FR 41522). The notice stated that, if the investigation proceeded normally, we would make our final countervailing duty determination by October 28, 1991.

On August 19, 1991, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("the Act"), we received a request from petitioner to extend the due date for the final countervailing duty determination to correspond to the date of the final antidumping duty determination in the investigations of cement from Venezuela. Accordingly, we are granting an extension of the final determination in this countervailing duty investigation to not later than January 13, 1992.

In accordance with section 705 of the Act, and 19 CFR 355.20(c)(1)(ii), the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigation on December 19, 1991, which is 120 days from the date of publication of the preliminary determination in the countervailing duty investigation. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after December 19, 1991. The suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to maintain the suspension of any entries suspended between August 21 and December 19, 1991, until the conclusion of this investigation.

PUBLIC COMMENT: In our preliminary determination we stated that, if requested, a public hearing would be held on October 18, 1991. We have rescheduled that public hearing for 10 a.m. on December 16, 1991, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. The deadlines for case briefs and rebuttal briefs are now December 2 and December 9, 1991, respectively.

The U.S. International Trade Commission is being advised of this postponement. This notice is published pursuant to section 705(d) of the Act.

Dated: August 29, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-21296 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DS-M

President's Export Council; Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Export Promotion Resources, Communications and Marketing Subcommittee of the President's Export Council is holding a meeting to review government export financing issues and export promotion programs. The meeting will also include discussion of the work schedules for each of the Subcommittee's task forces. The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. export trade.

DATES: September 17, 1991, from 2 p.m. to 4 p.m..

ADDRESSES: Main Commerce Building, room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Seating is limited and will be on a first come, first serve basis.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Richard President's Export Council, room 3215, Washington, DC 20230.

Dated: August 29, 1991.

Wendy H. Smith,

Staff Director and Executive Secretry, President's Export Council.

[FR Doc. 91-21297 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DR-M

National Technical Information Service Advisory Board; Open Meeting

AGENCY: National Technical Information Service, Commerce.

SUMMARY: The Advisory Board was established by statute (Pub. L. 100–519) on October 24, 1988, and received its charter on September 15, 1989. Its function is to advise the Secretary of Commerce and the Director of the National Technical Information Service on the general policies and operations of the National Technical Information Service (NTIS), including policies in connection with fees and charges for its services.

TIME, PLACE, AND AGENDA: Third Meeting, September 16–17, 1991. Held at the Department of Commerce, Herbert C. Hoover Building, 14th & Constitution Ave., room 5029A, Washington, DC 20230.

Time	Item
Monday, September 16	
8 to 9:30	1. Opening. 1.1. Welcome by Joseph E. Clark, Deputy Director of NTIS. 1.2. Chairman's introduction to the meeting. 1.3. Adoption of the agenda. 1.4. Adoption of the report of the second meeting.
9:30 to 12	2. Roundtable discussion on NTIS service to the small business community.
1:30 to 3:30	3. Strategic technical development issues. 3.1. A model customer-responsive document service.
3:30 to 4	3.2. Public participation.
4:30 to 5:30	3.3. Preliminary discussion on development of recommendations.
Tuesday, September 17	
9 to 11	3. Strategic technical development issues (continued). 3.4. NTIS in relation to the National Research and Education Network (NREN).
11 to 12	4. Development of recommendations.
1:30 to 4	4.1. Recommendations on modernization and development of future services. 4.2. Remarks on the mission and programs of NTIS by the Under Secretary for Technology, Robert M. White. 4.3. Recommendations on the mission, scope, and resources of NTIS.
4 to 5	5. Closing. 5.1. Chairman's Summary. 5.2. Planning for future meetings. 5.3. Adjournment.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Approximately ten seats will be available on a first-come first-served basis. Any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT: Suzanne Hoffman, National Technical Information Service, 5285 Port Royal Road–209F, Springfield, Virginia 22161. Telephone: (703) 487–4734. Fax: (703) 321–8533.

Dated: August 30, 1991.

Joseph F. Caponio,

Director, National Technical Information Service.

[FR Doc. 91–21299 Filed 9–4–91; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 30, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 30, 1991.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6498. 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).

The current limits for Categories 339 and 360 are being increased by application of swing. Also, special shift is being applied to Category 339. The limits for Categories 613/614, 636 and 638/639 are being reduced to account for the increases.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 53322, published on December 28, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 30, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 24, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on August 30, 1991, you are directed to amend further the directive dated December 24, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Pakistan:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
339	884,681 dozen.
360	1,545,983 numbers.
613/614	14,787,783 square meters.
636	92,197 dozen.
638/639	215,726 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–21218 Filed 9–4–91; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 30, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: September 9, 1991.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

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).

Inasmuch as no agreement was reached during recent consultations on a mutually satisfactory solution on Categories 239 and 617, the United States Government has decided to control imports in these categories for the prorated period beginning on August 27, 1991 and extending through December 31, 1991.

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 55 FR 50756, published on December 10, 1990). Also see 56 FR 27947, published on June 18, 1991.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 30, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 9, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the period beginning on August 27, 1991 and extending through December 31, 1991, in excess of the following restraint limits:

Category	Restraint Limit [1]
239	310,384 kilograms.
617	3,021,900 square meters.

[1] The limits have not been adjusted to account for any imports exported after August 26, 1991.

Imports charged to the category limits for the period May 29, 1991 through August 26, 1991 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

For the import period May 29, 1991 through June 19, 1991, you are directed to charge 30 kilograms to the limit established for Category 239 in the directive dated June 13, 1991. There are no charges to be made to Category 617 for this import period.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-21219 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DR-F

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Panama

August 28, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: September 5, 1991.

FOR FURTHER INFORMATION CONTACT: J. Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715. For information on calls for which consultations have been requested, call (202) 377-3740.

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).

Inasmuch as recent consultations held between the Governments of the United States and Panama have not resulted in a mutually satisfactory solution on Categories 347/348, the United States Government has decided to control imports in these categories for the twelve-month period which began on January 31, 1991 and extends through January 30, 1992.

The United States remains committed to finding a solution concerning Categories 347/348. Should such a solution be reached in further consultations with the Government of Panama, further notice will be published in the **Federal Register**.

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 55 FR 50756, published on December 10, 1990). Also see 56 FR 7344, published on February 22, 1991.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 28, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 5, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the period beginning on January 31, 1991 and extending through January 30, 1992, in excess of 350,092 dozen [1].

[1] The limit has not been adjusted to account for any imports exported after January 30, 1991.

Textile products in Categories 347/348 which have been exported to the United States prior to January 31, 1991 shall not be subject to the limit established in this directive.

Textile products in Categories 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

For the import period January 31, 1991 through June 30, 1991, you are directed to charge the following amounts to the limit established in this directive:

Category	Amount to be charged
347	90,696 dozen.
348	53,779 dozen.

Also, the monitoring data for Categories 347/348 shall be retained and charged to the limit.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-21089 Filed 9-4-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Environmental Response Task Force; Meeting

AGENCY: Office of the Assistant Secretary of Defense (Production and Logistics).

ACTION: Notice of business meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a business meeting of the Defense Environmental Response Task Force. The purpose of the meeting is to consider issues related to the improvement of interagency coordination of environmental response actions at military installations scheduled for closure pursuant to Public Law 100-526. The Task Force will also consider consolidation and streamlining of current practices with respect to such actions and consider recommendations regarding changes to existing laws, regulations, and administrative policies. The business meeting will be open to the public.

DATES: September 27, 1991, 9 a.m.-4 p.m.

ADDRESSES: 1616 P Street, NW., Washington, DC, 20036, Thomas L. Kimball Conference Center.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Task Force Executive Director, Office of the Deputy Assistant Secretary of Defense (Environment), suite 206, 400 Army-Navy Drive, Arlington, VA 22202-2884, telephone (703) 695-7007.

Dated: August 30, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-21240 Filed 9-4-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Record of Decision for Disposal and Reuse of Pease AFB, New Hampshire

On August 20, 1991 the Air Force issued the Record of Decision for the Disposal of Pease AFB, New Hampshire.

This Record of Decision documents the Air Force's decisions for disposal of Pease AFB based upon review and consideration of the environmental impacts identified in the Final Environmental Impact Statement, dated June 1991.

The Record of Decision discusses how the property will be divided into parcels for disposal, what organization or agency will receive each parcel and how each parcel will be conveyed or transferred.

Questions regarding this Record of Decision should be directed to: Air Force Public Affairs, room 5C875, Pentagon, Washington, DC 20330.

Patsy J. Conner,

Air Force Federal Register Liasion Officer.

[FR Doc. 91-21180 Filed 9-4-91; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Availability of Final Environmental Impact Statement Base Realignment and Closures, Fort Belvoir, VA

AGENCY: U.S. Army, Department of Defense.

ACTION: Notice of availability of the Final Environmental Impact Statement for the Comprehensive Base Realignment/Closure and Fort Belvoir Development.

SUMMARY: On December 29, 1988, the Defense Secretary's Commission on Base Realignment and Closure recommended that Cameron Station be closed and the major activities relocated to Fort Belvoir, Virginia; elements of the Criminal Investigation Command at Fort Holabird and Fort Meade, Maryland, be consolidated at Fort Belvoir; the corrosion prevention and control related research at the Army Materials Technology Laboratory (AMTL), Massachusetts, be relocated to Fort Belvoir; and the Information Systems Command activity at Fort Belvoir be realigned to Fort Devens, Massachusetts.

This Final Environmental Impact Statement (EIS) considers the impact of the commission's recommendations on Cameron Station and Fort Belvoir and the associated impacts of minor relocations to Fort Myer and Fort McNair. The proposed Fort Belvoir Engineer Proving Ground public/private development is included to provide a cumulative perspective; however, a separate and complete National Environmental Policy Act (NEPA) analysis is being developed for that project. Actions proposed in the initial announcement of this EIS which are no longer under consideration include new construction for Headquarters, U.S. Army Materiel Command and Headquarters, U.S. Army Corps of Engineers at Fort Belvoir, and redevelopment by General Services Administration of a 70-acre parcel of land in Franconia near Springfield, Virginia. The impacts of the Commission's recommendation at Fort Holabird, Fort Meade, AMTL, and Fort Devens are being addressed in other NEPA analyses.

No significant environmental or human health effects are expected from actions at Cameron Station, Fort Myer and Fort McNair. Socioeconomic effects are minimal because the majority of the realigned personnel are neither entering nor leaving the study region.

The most significant effects on Fort Belvoir are an increase in traffic volumes and potential changes in commuter patterns. The Department of the Army is working with the local community to develop a plan to lessen these impacts.

The public comment period for this Final EIS concludes on 23 September, 1991. A copy of the Final EIS may be obtained by contacting Mr. Keith Harris, (301) 962-4999, or writing to Commander, U.S. Army Corps of

Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 91-21181 Filed 9-4-91; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Council on Education Standards and Testing; Meeting

AGENCY: National Council on Education Standards and Testing; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the National Council on Education Standards and Testing. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: September 23, 1991 from approximately 9:30 a.m. to 4:30 p.m.

ADDRESSES: Rayburn House Office Building, Independence Avenue and South Capitol Street, SW., room 2175.

FOR FURTHER INFORMATION, CONTACT: David Stevenson, 1850 M Street NW., suite 1050, Washington, DC 20036. Telephone: (202) 632-1032.

SUPPLEMENTARY INFORMATION: The National Council on Education Standards and Testing is established under section 403 of the Education Council Act of 1991 (20 U.S.C. 1221-1 note). The Council is established to provide advice on whether suitable specific education standards should and can be established and whether an appropriate system of voluntary national tests or examinations should and can be established.

The meeting of the Council is open to the public. The agenda is likely to include discussions on assessment, model state assessment systems, and the National Assessment of Educational Progress (NAEP).

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Council, 1850 M Street, NW., suite 1050, Washington, DC 20036 from the hours of 9 a.m. to 4 p.m.

Diane Ravitch,

Assistant Secretary, Office of Educational Research and Improvement, U.S. Department of Education.

[FR Doc. 91-21291 Filed 9-4-91; 8:45 am]

BILLING CODE 4000-01-M

Fund for the Improvement and Reform of Schools and Teaching Board; Open Meeting

AGENCY: Fund for the Improvement and Reform of Schools and Teaching Board.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of an open meeting of the Fund for the Improvement and Reform of Schools and Teaching Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: September 19, 1991, 9 am-5 pm.; September 20, 1991, 9 am-12 noon.

ADDRESSES: Quality Hotel, Capitol Hill, Executive Room, 415 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Diane Hill, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208-5524, (202) 219-1496.

SUPPLEMENTARY INFORMATION: The Fund for the Improvement and Reform of Schools and Teaching (FIRST) Board was established under section 3231 of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297). The Board was established to advise the Secretary concerning developments in education that merit his attention; identify promising initiatives to be supported under the authorizing legislation; and advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, and on planning documents, guidelines and procedures for grant competitions carried out by the Fund.

The meeting of the FIRST Board is open to the public. On September 19, the Board will introduce its Board members and approve the minutes from the June meeting. Presentations will be made to update the Board on current FIRST funded projects and past project dissemination to be followed by a brief Board discussion. The Board will also discuss their 1992 priorities and how they relate to the National Education Goals.

On September 20, the agenda includes a status report on new Board nominations along with a discussion of the 1991 Report to Congress. The meeting will conclude with a discussion on the upcoming agenda and a date for the next Board meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208-5524, (202) 219-1496 from the hours of 8:30 am to 5 pm.

Dated: August 30, 1991.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 91-21251 Filed 9-4-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award a Grant to East West Center—Resource Systems Institute

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2)(i)(B), it is making a financial assistance award under Grant Number DE-FG01-91IE11052 to the East-West Center, Resource Systems Institute, to assist in the "Pacific Islands' Energy Security Project."

SCOPE: This grant will aid in providing funding in the amount of $300,860 to contribute to regional energy security through enhancing DOE's knowledge of the energy security issues and options in the Pacific Island nations, and through improving their planning and management capabilities. The knowledge gained is essential to our ability to assess current trends in the region, and their implications for U.S. energy and national interests and to identify opportunities for U.S. industry. The DOE and the East-West Center are cost-sharing this grant. The DOE will provide funding in the amount of $178,554 and the East-West Center will provide $122,306.

The purpose of this project is to provide assistance to the East-West Center to undertake a research project on energy security issues affecting the Pacific Islands for three years. These studies in conjunction with earlier grants, will provide a comprehensive picture of the current and future state of the energy market in the Pacific islands Region.

The overall objective of the project is to: (1) Assess energy security issues and options in the Pacific islands; (2) improve energy planning and management capabilities in the region; and (3) provide analyses of the implications for the islands's energy

supply of key global developments. The undertaking should reveal opportunities for U.S. exports of energy technology and services; provide an assessment on the role of government policies; and their impact on energy resource development and energy trade; assess critical issues that concern developments in the region's energy trade patterns that could impact the U.S. energy situation and U.S. policies. The results of the research are to provide an integrated view of energy sources, energy policies, and energy planning in the target countries.

This assessment of energy security issues and options for the region, together with the training afforded island nations' energy officials in the use of energy planning models, will result in a significant enhancement of the DOE's awareness concerning the regional energy security issues. These will also contribute to regional energy security, through providing island energy policy makers with an enhanced capability to assess and implement key policy decisions. In addition, through support of the Pacific Islands Energy Security Project, the DOE's ability to establish and/or maintain positive communication with the islands' region will be greatly enhanced.

ELIGIBILITY: Eligibility for this award is being limited to the East-West Center in order to provide satisfactory completion of the project pursuant to 10 CFR 600.7(b)(2)(i)(B). The DOE knows of no entity which is conducting or planning to conduct such a study. The East-West Center is a national non-profit research and educational organization. The East West Center has been a focal point for Pacific Island nations' energy studies and consultative groups. One consultative group is composed of members of fourteen nations which meet annually to discuss issues of mutual interest. The East-West center's familiarity with Pacific islands' energy needs, their key energy decision makers, and the regional energy industry assures a critical contribution to improving U.S. understanding of the relevant energy security issues, and U.S. trade opportunities in the energy section.

The East-West Center is viewed by the Pacific region as a center for studies in the region, and have gained the respect and cooperation of these countries. This grant is unique in that it's aimed directly as addressing the security issues of the Pacific Island nations, that will be able to access the highest level of energy decision making in the Pacific Islands. It has been determined that this project has high technical merit representing an innovative and novel idea that has strong possibilities of allowing for future reductions and additions to the national energy resources.

The term of the grant is for thirty-six (36) months form the effective date of award.

FOR FURTHER INFORMATION CONTRACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: Lisa Tillman, PR-322.1, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Placement and Administration.

[FR Doc. 91-21278 Filed 9-4-91; 8:45 am]

BILLING CODE 6450-01-M

Noncompetitive Financial Assistance Grant

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Field Office, Idaho announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7(b)(2)(i)(C) it intends to award a noncompetitive financial assistance Grant to the State of Idaho, Department of Health and Welfare, Boise, Idaho. The purpose of this grant is to fund performance of state responsibilities under an Interagency Agreement (IAG) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

FOR FURTHER INFORMATION CONTACT: Ginger Sandwina, U.S. Department of Energy, DOE Field Office, Idaho, 785 DOE Place MS 1129, Idaho Falls, Idaho 83402, 208/526-8698.

SUPPLEMENTARY INFORMATION: The statutory authorities for the proposed award is 42 U.S.C. et seq., Atomic Energy Act of 1954, as amended and Public Law 95-41, Department of Energy Organization Act. The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity. The goals of the proposed activities are in direct support of charting a new course for DOE toward full accountability in the areas of environmental protection and public health and safety and compliance with CERCLA subsequent to the Idaho National Engineering Laboratory (INEL) being listed on the National Priorities List in 1989. The agreement is expected to be beneficial in building public confidence in DOE programs through the State and Environmental Protection Agency regulation of the INEL Environmental Restoration and Waste Management program. The anticipated grant will cover an award period of two and one-half (2½) years and carry the activity through calendar year 1994. The total cost for each year is estimated to be approximately $1,500,000.00. The total cost of the project is estimated at $3,900,000.00.

Issued August 26, 1991.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 91-21279 Filed 9-4-91; 8:45 am]

BILLING CODE 6450-01-M

Morgantown Energy Technology Center Cooperative Agreement; Financial Assistance Award to Iowa State University

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for a Cooperative Agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.14(e)(1) the DOE, Morgantown Energy Technology Center gives notice of its plans to award a 36-month Cooperative Agreement to Iowa State University, 209 Beardshear Hall, Ames, Iowa 50011, with an associated budget of approximately $295,780.

FOR FURTHER INFORMATION CONTACT: Beverly J. Harness, I-07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4089, Procurement Request No. 21-91MC28081.000.

SUPPLEMENTARY INFORMATION: The pending award is based on an unsolicited application for a research project to perform in-situ evaluation of coal and sorbent properties. The results of the research project could provide significant savings in feedstock characterization costs and more dependable characterization data, since data will be taken online from power-generating boilers at normal operating conditions.

In view of the unique, online approach proposed to be performed and the well-equipped laboratories and an industrial-size FBC available at Iowa State University to be allocated to this reasearch project, it has been

determined that it is appropriate to award this Cooperative Agreement to Iowa State University on an unsolicited basis.

Issued: August 28, 1991.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 91-21280 Filed 9-4-91; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award a Grant to Louisiana Department of Natural Resources

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2) (ii) and (iii), it is making a financial assistance award under Grant Number DE-FG01-91IE11045 to provide funds to the Louisiana Department of Natural Resources, Energy Division, to plan and conduct a "Pre-Winter Energy Assessment Conference."

SCOPE: This grant will aid in providing funding in the amount of $15,964 to promote discussion in the public domain regarding current and projected levels of fuels supplies and development and implementation of strategies to improve the status of Federal/State collaboration in energy emergency preparedness planning and response. This information is essential because this conference will focus on the relationship between Federal and State organizations prior to and during energy emergencies; the development of a range of options to improve effectiveness of government responses through cooperative process and to develop strategies to implement recommended options.

This information is essential in enriching DOE's ability to assess current trends and their implications for U.S. energy and national interests and to identify opportunities for the U.S. industry.

The DOE and the Louisiana Department of Natural Resources are cost-sharing this grant. The DOE will provide funding in the amount of $14,964 and the Louisiana Department of Natural Resources will provide in-kind services of $1,000.

The purpose of this project is a conference grant to the Louisiana Department of Natural Resources to plan and conduct a pre-winter conference on October 15, 1991, in New Orleans, Louisiana. This conference is one of a series of energy assessment conferences held semi-annually at the direction of the Assistant Secretary for International Affairs and Energy Emergencies. This conference is to exchange information with Federal, State and industry representatives on the 1991 winter fuel outlook for heating oil, propane and electricity to promote effective energy emergency planning and response coordination.

The overall objective is to provide information on the 1991 winter fuel supply outlook for heating oil, propane, and natural gas and electricity, and discuss possible response options to potential problems.

The Office of Energy Emergencies promotes communication and coordination of energy emergency preparedness activities between other Federal agencies, States and industry. Information exchanged during this conference will assist these entities on energy matters during the upcoming winter.

ELIGIBILITY: Eligibility for this award is being limited to the Louisiana Department of Natural Resources in order to provide satisfactory completion of the project pursuant to 10 CFR 600(b)(2)(i)(D). The DOE knows of no entity which is conducting or planning to conduct such an activity. The grantee has unique and exclusive domestic capability in that the grantee has unique technical expertise regarding the complex energy infrastructure from a State, regional and national perspective as well as the dynamics of energy markets including supply, demand, price and production issues which are the subject of this conference. Through this effort, the proposed grantee has exhibited a unique sensibility to a wide range of energy emergency preparedness issues and the Federal/State interface to implement these programs.

The value of this activity to the DOE is enhanced by the participation of Louisiana's Department of Natural Resources. Their close relationship with Federal agencies, State energy offices and related associations, and industry combined with their extensive experience with energy preparedness planning and response places them in a unique position to perform this work. In addition, the proposed grantee has successfully planned and conducted similar conferences in the past. Assistance was requested from the Louisiana Department of Natural Resources to organize and hold the 1991 Pre-Winter Energy Assessment Conference to coincide with the Fall Meeting of the National Association of State Energy Officials (NASEO) in New Orleans on October 14 and 15, 1991. By co-locating these conferences during the same period travel costs for State representatives are minimized and ensures greater participation.

It has been determined that this activity has high technical merit representing an innovative and novel idea that has strong possibilities of allowing for future reductions and additions to the national energy resources and would enhance the public benefits to be derived.

The term of the grant is for four (4) months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: Ms. Lisa G. Tillman, PR-322.1, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B" Office of Placement and Administration.

[FR Doc. 91-21281 Filed 9-4-91; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 et seq.). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected

public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-176, 191, 191S, 627, 857, and 857S.
3. 1905-0175.
4. Natural Gas Program Package.
5. Revision—EIA is submitting this request to OMB because it proposes to change the current confidentiality provisions for Form EIA-191, i.e., data submitted on this form will no longer be considered to be confidential (the submission addresses the concerns raised as a result of an earlier request for public comment—see 56 FR 1383). The confidentiality provisions on Forms EIA-191S, 857, and 857S are also being modified to indicate that data collected on these forms may be provided, upon request, to other Federal departments, officials, or agencies for their official use. (No additional changes are being proposed to the other forms in this program nor is any request being proposed at this time to extend any of these forms beyond the currently approved date of December 31, 1993.)
6. Weekly, Monthly, Quarterly, Annually.
7. Mandatory.
8. State or local governments, Businesses or other for profit, small businesses or organizations.
9. 2,315 respondents.
10. 3.5 responses per respondent.
11. 5.4 hours per response.
12. 43,179 hours.
13. The Natural Gas Program Package forms collect production, processing, transmission, storage, consumption, and price data. The data are used to address significant energy industry issues. Data from these forms are published in various EIA publications. Respondents are pipeline companies, distributors, storage operators, plant operators, and State agencies.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. No. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, August 29, 1991.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91-21282 Filed 9-4-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 9222-001 New York]

Niagara Mowhawk Power Corp.; Availability of Environmental Assessment

August 28, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for license for the Yaleville Hydroelectric Project, located on the Raquette River in St. Lawrence County, New York, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21195 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2889-000, et al.]

Black Marlin Pipeline Co., et al.; Natural Gas Certificate Filings

August 28, 1991.

Take notice that the following filings have been made with the Commission:

1. Black Marlin Pipeline Co.

[Docket No. CP91-2889-000]

Take notice that on August 26, 1991, Black Marlin Pipeline Company (Black Marlin), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-2889-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Enron Industrial Natural Gas Company, a Hinshaw pipeline, under the blanket certificate issued in Docket No. CP89-2041-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Black Marlin states that, pursuant to an agreement dated June 27, 1991, under its Rate Schedule FTS, it proposes to transport up to 75,000 MMBtu per day equivalent of natural gas. Black Marlin further states that it would transport 29,000 MMBtu on an average day and 27,375,000 MMBtu annually. Black Marlin indicates that the gas would be transported from receipt points located offshore Texas to delivery points located onshore Texas.

Black Marlin advises that service under § 284.223(a) commenced June 28, 1991, as reported in Docket No. ST91-9624-000.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP91-2885-000]

Take notice that on August 23, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-2885-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a two-inch sales tap and related facilities under United's blanket certificate issued in Docket No. CP89-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that the proposed sales tap and related facilities would enable

United to transport an estimated average of 2,160 Mcf per day of natural gas to Southern Industrial Gas Corporation (SIGC) for delivery to Bush Construction Plant, under United's ITS Rate Schedule.

United further states that it would install the tap and related facilities on its existing 3-inch Pearl River Line, Section 12, Township 8 South, Range 14 East, in St. Tammany Parish, Louisiana. It is indicated that the estimated cost of the proposed project would be $12,819. It is further indicated that SIGC would reimburse United for all costs relating to the construction of these facilities.

United states that it would construct and operate the proposed tap in compliance with 18 CFR part 157, subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. Questar Pipeline Co.

[Docket No. CP91-2874-000]

Take notice that on August 23, 1991, Questar Pipeline Company (Questar Pipeline), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP91-2874-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Western Gas Resources, Inc., a shipper, under the the blanket certificate issued in Docket No. CP88-650-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar Pipeline states that, pursuant to an agreement dated July 30, 1991, under its Rate Schedule T-2, it proposes to transport up to 40,000 MMBtu per day equivalent of natural gas. Questar Pipeline indicates that the gas would be transported from Colorado, Utah, and Wyoming, and would be redelivered in Utah and Wyoming. Questar Pipeline further indicates that it would transport 40,000 MMBtu on an average day and 14,600,000 MMBtu annually.

Questar Pipeline advises that service under § 284.223(a) commenced August 1, 1991, as reported in Docket No. ST91-9971-000.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Co.

[Docket No. CP91-2854-000]

Take notice that on August 21, 1991, United States Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-2854-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon Meter Station No. 2 which services The City of Denham Springs, Louisiana, (Denham Springs) under United's blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United proposes to abandon a 1-inch meter station used to deliver natural gas to Denham Springs in East Baton Rouge Parish, Louisiana. It is stated that Denham Springs has requested that United remove its meter at the Denham Springs Meter Station No. 2. United states that Meter Station No. 2 is not currently in use; no change in service is proposed; and Denham Springs would continue to be served by the Denham Springs Meter Station No. 1. United further states that Denham Springs is the only customer served by the subject meter station.

United estimates that removal costs would be $3,000 and salvage value would amount to $1,500.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. El Paso Natural Gas Co.

[Docket No. CP91-2886-000]

Take notice that on August 26, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-2886-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for MidCon Marketing Corp., a marketer, under the blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that, pursuant to an agreement dated May 29, 1991, under its Rate Schedule T-1, it proposes to transport up to 309,000 MMBtu per day equivalent of natural gas. El Paso states that it would transport 154,500 MMBtu on an average day and 56,392,500 MMBtu annually. El Paso further indicates that the gas would be transported from any receipt point on its system and would be redelivered in New Mexico, and Texas, and at the borderline between the States of Arizona and California.

El Paso advises that service under § 284.223(a) commenced August 1, 1991, as reported in Docket No. ST91-9981-000.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Pipeline Corp.

[Docket No. CP91-2827-000]

Take notice that on August 20, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP91-2827-000 a request pursuant to §§ 157.205, 157.211 and 284.223(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide additional interruptible transportation service for the account of Columbia Aluminum Corporation (Columbia Aluminum) and to construct, own and operate a new delivery meter to Columbia Power Associates (Columbia Power) pursuant to its blanket certificate issued in Docket No. CP86-578 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Northwest states that Columbia Power as requested Northwest to construct and operate a new delivery meter to be located in Klickitat County, Washington, capable of delivering up to 66,000 MMBtu per day to Columbia Power's new power generating station. Northwest indicates that the estimated cost of the proposed meter station is $354,516.

Northwest further states that it proposes to transport up to a maximum of 65,600 MMBtu per day of natural gas to Columbia Power pursuant to Northwest's interruptible transportation agreement, as amended, with Columbia Aluminum. Northwest states that initial average daily and annual transportation volumes would be approximately 45,000 MMBtu and 16,425,000 MMBtu, respectively.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

7. Williams Natural Gas Co.

[Docket No. CP91-2840-000]

Take notice that on August 21, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-2840-000, a

request pursuant to section 7 of the Natural Gas Act and section 157 of the Commission's Regulations for permission and approval to abandon the exchange of natural gas with Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG states that on June 30, 1980, it entered into a gas exchange agreement with WNG, as amended November 26, 1980 and January 12, 1981 (exchange agreement). WNG indicates that the gas exchange service is performed pursuant to Rate Schedule X-19 of its FERC Gas Tariff Original Volume No. 2. WNG states that due to the termination/release of gas purchases made by Panhandle, Panhandle has requested that WNG terminate the exchange agreement. WNG proposes that the facilities installed to enable WNG and Panhandle to exchange gas remain in place. WNG indicates that since there will be no abandonment of facilities, there will be no adverse impact on the environment.

Comment date: September 18, 1991, in accordance with Standard paragraph F at the end of this notice.

8. Tennessee Gas Pipeline Co.

[Docket No. CP91-2858-000]

Take notice that on August 22, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91-2858-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to provide interruptible transportation service on behalf of Exxon Corporation, a producer, under Tennessee's blanket certificate issued in Docket No. CP87-115-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 4, 1989,[1] as amended on September 19, 1989, it proposes to transport a maximum daily quantity of 70,000 dekatherms, an average day quantity of 70,000 dekatherms, and an annual quantity of 25,550,000 dekatherms, and that service commenced on July 15, 1991, as reported in Docket No. ST91-9797-000, pursuant to § 284.223(a) of the Commission's Regulations.

Tennessee further states that it proposes to transport natural gas from receipt points located offshore Louisiana, and in the states of Louisiana, Texas, and Mississippi, to delivery points located in the states of Louisiana, Texas, Mississippi, West Virginia, Pennsylvania, Tennessee, New York and Ohio.

Tennessee further states that existing facilities would be used to provide this transportation service.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] Tennessee was authorized in Docket No. CP88-775-000 to transport 30,000 dekatherms of natural gas. This authorization proposes to implement an amendment to the transportation agreement to transport an additional 70,000 dekatherms and to add receipt points located offshore and in various states and to add delivery points located in various states.

9. Natural Gas Pipeline Co. of America and Northern Natural Gas Co.

[Docket No. CP91-2869-000, CP91-2870-000, CP91-2871-000, CP91-2872-000, and CP91-2873-000]

Take notice that Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, and Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP86-582-000 and Docket No. CP86-435-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: October 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2869-000 (8-23-91)	V.H.C. Gas Systems, L.P. (marketer).	200,000 50,000 18,250,000	Various	Various	1-22-91, ITS, Interruptible.	ST91-9833, 7-1-91.
CP91-2870-000 (8-23-91)	Panda Resourses, Inc. (marketer).	100,000 40,000 14,600,000	Various	Various	3-18-91, ITS, Interruptible.	ST91-9802, 7-1-91.
CP91-2871-000 (8-23-91)	Chevron USA, Inc. (producer).	70,000 70,000 25,550,000	OK, NM, TX, NE, KS	LA, NE, TX	6-14-91, FTS, Firm	ST91-9831, 7-1-91.
CP91-2872-000 (8-23-91)	Sonat Marketing Company (marketer).	50,000 20,000 7,300,000	Various	Various	6-20-91, ITS, Interruptible.	ST91-9602, 6-21-91.
CP91-2873-000 (8-23-91)	Catex Energy, Inc. (marketer).	[2] 88,457 66,343 32,286,805	OTX	OTX	8-1-91, IT-1, Interruptible.	ST91-9979, 8-1-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Measured in Mcf.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21196 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-08904T Texas-10 Addition 5]

State of Texas; Determination Designating Tight Formation

August 28, 1991.

Take notice that on August 27, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that a portion of the Edwards Limestone Formation located in Webb County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice covers approximately 22,064 acres in Webb County and consists of the N½ of the Mrs. M.M. Nichols Survey #1900, A-557, and all the following surveys:

Survey name & No.	Abstract
F. Inocencio 1052	A-766
S.A. Walcott 978	A-1897
F. Inocencio 1054	A-767
H. & O.R.R. 1053	A-331
B.S. & F. 1055	A-311
F. Inocencio 1056	A-769
F. Inocencio 954	A-768
S.A. Walcott 1058	A-1948
B.S. & F. 953	A-30
S. & M. 1057	A-375
B.S. & F. 813	A-34
S.A. Walcott 816	A-643
Frank Kelly 952	A-604
S. & M. 1059	A-376
B.S. & F. 817	A-31
Mrs. S.A. Wolcott 1060	A-797
I. & G.N.R.R. 1061	A-328
T.T.R.R. 1063	A-381
Hugh Wallace 1062	A-3138
S.A. Wolcott 1064	A-2094
H. & O.B.R.R. 1965	A-330
A. Vidaurri 1066	A-632
C. & M.R.R. 1377	A-421
J.W. Co. 2179	A-646
R.L. Brown 360	A-3051
S. & M. 359	A-278
S.A. Wolcott 1539	A-505
R.L. Brown 356	A-3053
H. & G.N.R.R. 395	A-73
Henry Spohn 1716	A-528
A.B. & M. 349	A-11
H. & G.N.R.R. 355	A-79
W.N. Young 354	A-2518
G.C. & S.E.R.R. 1967	A-549
A.B. Matthews	A-2641
N.C. Schlemmer 1378	A-3136
W.M. Young	A-2516
1st National Bank, Bastrop, TX	A-3124

The notice of determination also contains Texas' findings that the referenced portion of the Edwards Limestone Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21197 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-67-000]

Canyon Creek Compression Co.; Proposed Change in FERC Gas Tariff

August 29, 1991.

Take notice that on August 26, 1991, Canyon Creek Compression Company (Canyon) tendered for filing First Revised Sheet No. 7 (First Revised Volume No. 1) and First Revised Sheet No. 5 (First Revised Volume No. 1A) to be a part of its FERC Gas Tariff, to be effective October 1, 1991.

Canyon states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1991 is a .24¢ per Mcf.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective October 1, 1991.

Canyon states that a copy of the filing is being mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

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 must be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21198 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-86-005]

MIGC, Inc.; Report of Refunds

August 29, 1991.

Take notice that MIGC, Inc. (MIGC) on August 14, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds, made in accordance with the provisions of article III of the Settlement filed in these proceeding and approved by Commission Order of June 5, 1991.

MIGC states that on July 15, 1991, it made refunds to Western Gas Resources, Inc. (successor in interest of Western Gas Processors, Ltd.) in the amount of $262,197.50 plus interest of $11,648.72, computed in accordance with § 154.67(c)(2)(iii) of the Commission's regulations, through July 15, 1991.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 6, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21199 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-248-008]

Mississippi River Transmission Corp., Proposed Changes in FERC Gas Tariff

August 29, 1991.

Take notice that on August 23, 1991 Mississippi River Transmission Corporation (MRT) tendered for filing the tariff sheets listed on the appendix attached to the filing, to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 1-A.

MRT states that on May 20, 1991, it filed an uncontested Stipulation and Agreement ("Base S & A") and a Stipulation and Agreement Regarding Interim Rates ("Interim S & A") in the above captioned dockets. On August 7, 1991 the Commission issued an order approving without modification the Base S & A.

MRT states that the purpose of the instant filing is to effectuate the terms and provisions of the Base S & A and the tariff sheets contained in Appendix C therein. MRT states that the filing includes revised tariff sheets reflecting MRT annual and interim purchased gas cost adjustment filings accepted by the Commission subsequent to MRT's filing the Base S & A as well as certain conforming changes in approved take or pay recovery tariff sheets already contained in MRT's tariff. MRT states that also submitted herewith, but not related to the Base S & A are Sheets Nos. 89 and 90 effective April 1, 1991 which reflect revised service agreement dates and contract demand levels for five of MRT's Rate Schedule SGS-1 customers approved by Commission letter order dated May 30, 1991 in Docket Nos. CP87-429-003 and CP87-429-004. Sheet Nos. 89 and 90 also reflect the name change of Kaskaskia Gas Company to United Cities Gas Company as a result of Kaskaskia Gas Company being acquired during the calendar year 1989.This name change was previously reported to the Commission in MRT's Blanket Certificate Annual Report for 1989 filed on May 1, 1990 in Docket No. CP82-489-000.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional customers, parties on the restricted service list and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 6, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21200 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-013-000]

Moraine Pipeline Co.; Proposed Changes in FERC Gas Tariff

August 29, 1991.

Take notice that on August 26, 1991, Moraine Pipeline Company (Moraine) tendered for filing Second Revised Sheet No. 4 to be a part of its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1991.

Moraine states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Moraine to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1991 is .24¢ per Mcf. Under Moraine's billing basis of 14.73 psia at 1,000 Btu, this rate converts to .24¢ per Mcf.

Moraine requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on October 1, 1991.

Moraine states that a copy of the filing is being mailed to Moraine's jurisdictional customers and interested state regulatory agencies.

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 must be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21201 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-26-000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

August 29, 1991.

Take notice that on August 26, 1991, Natural Gas Pipeline Company of America (Natural) tendered for filing as

part of its FERC Gas Tariff, revised tariff sheets to be effective October 1, 1991.

Natural states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Natural to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1991 is .24¢ per Mcf. Under Natural's billing basis of 14.73 psia at 1,000 Btu, this rate converts to .23¢ per Mcf.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1991.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

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 must be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21202 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-227-027]

Paiute Pipeline Co.; Report of Refunds

August 29, 1991.

Take notice that Paiute Pipeline Company (Paiute) on August 15, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Refunds, made in accordance with the provisions of Article III of the Stipulation and Agreement filed in these proceedings and approved by Commission Orders of September 20, 1990 and March 26, 1991.

Paiute states that on July 15, 1991, it refunded to its jurisdictional customers a total of $18,962,676, consisting of principal of $16,504,216 through May 31, 1991, and interest of $2,458,460 calculated through July 14, 1991.

Paiute states that a copy of the refund report was provided to Paiute's jurisdictional customers at the time the refund was distributed.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 6, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21203 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-225-012]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

August 29, 1991.

Take notice that on August 23, 1991, South Georgia Natural Gas Company ("South Georgia") tendered for filing the following revised sheets to its FERC Gas Tariff, First Revised Volume No. 1:

First Substitute Seventy-Third Revised Sheet No. 4
First Substitute Seventy-Fourth Revised Sheet No. 4
Third Revised Sheet No. 4A
Third Revised Sheet No. 4B
Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 9

South Georgia is making the instant filing in order to implement, on an interim basis, certain settlement rates which have been agreed to in the context of the Stipulation being filed in Docket Nos. RP82-225-000, TA90-1-8-000, RP88-267-000, RP91-63-000 and RM91-2-004. In accordance with Article XI of the Stipulation, South Georgia proposes that the interim settlement rates be made effective for all non-contesting parties as of July 1, 1991.

South Georgia states that copies of filing will be served upon all of South Georgia's jurisdictional customers, interested state commissions and interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 6, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21204 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-69-000]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

August 29, 1991.

Take notice that on August 26, 1991, Stingray Pipeline Company (Stingray) tendered for filing Twenty-First Revised Sheet No. 4 to be a part of its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1991.

Stingray states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Stingray to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1991 is .24¢ per Mcf. Under Stingray's billing basis of 14.73 psia per Dekatherm, this rate converts to .23¢ per Dekatherm.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on October 1, 1991.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers and interested state regulatory agencies.

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 must be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21205 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-67-000, RP88-81-000, RP88-221-000, RP90-119-001, RP91-4-000 and RP91-119-000 (Phase I/Rates)]

Texas Eastern Transmission Corp.; Informal Settlement Conference

August 29, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on September 4, 1991, at 9 a.m., at the office of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of discussing issues related to transition costs, comparability of service, rate design and cost allocation.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Dennis H. Melvin at (202) 208-0042 or Arnold H. Meltz at (202) 208-0737.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21206 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-68-000]

Trailblazer Pipeline Co.; Proposed Change in FERC Gas Tariff

August 29, 1991.

Take notice that on August 26, 1991, Trailblazer Pipeline Company (Trailblazer) tendered for filing Twelfth Revised Sheet No. 4 (Original Volume No. 1) and First Revised Sheet No. 5 (First Revised Volume No. 1A) to be a part of its FERC Gas Tariff, to be effective October 1, 1991.

Trailblazer states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Trailblazer to recover from its customers annual charges assessed it by the Commission pursuant to part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1991 is .24¢ per Mcf.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective October 1, 1991.

Trailblazer states that a copy of the filing is being mailed to Trailblazer's jurisdictional customers and interested state regulatory agencies.

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 must be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21207 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP84-94-010]

Trailblazer Pipeline Co.; Report of Refunds

August 29, 1991.

Take notice that Trailblazer Pipeline Company (Trailblazer) on August 23, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Report of Distribution of Refunds paid to gas sales customers on December 15, 1989, May 11, 1990, and July 25, 1991. Trailblazer states that the report is being made pursuant to the Commission's order issued on April 9, 1991, approving the Stipulation and Agreement filed October 23, 1990 in Docket Nos. RP84-94, *et al.*

Trailblazer states that a copy of the report has been mailed to each of Trailblazer's customers, intervenors and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before September 6, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21208 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER91-195-002]

Western Systems Power Pool; Notice of Filing

August 23, 1991.

Take notice that on August 19, 1991, Western Systems Power Pool tendered for filing its compliance report in this docket in compliance with the Commission's orders issued on April 23, 1991 and June 27, 1991.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 6, 1991. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-21209 Filed 9-4-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-81021; FRL-3940-9]

TSCA Inventory; Notice of Intent To Remove 72 Reported Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In reviewing the chemical substances included on the Toxic Substances Control Act Chemical Substance Inventory, EPA has concluded that certain chemical substances were incorrectly reported and listed. EPA intends to remove 72 chemical substances from the Inventory and solicits public comment on the appropriateness of that removal.

DATES: Comments must be received by EPA on or before October 21, 1991.

ADDRESSES: Three copies of the written comments should be addressed to: TSCA Document Processing Center (TS-790), Environmental Protection Agency, Office of Toxic Substances, 401 M St., SW., Washington, DC 20460.

Comments should bear the identifying notation OPTS-81021. The administrative record supporting this action is available for public inspection in the OPTS Reading Room, NE Mall G004, at the above address, from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, U.S. Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 8(b) of the Toxic Substances Control Act (TSCA), Pub. L. 94-469, requires the Administrator of the EPA to identify, compile, and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR part 710), which appeared in the **Federal Register** of December 23, 1977 (42 FR 64572). These regulations provided the basis for the initial compilation of the TSCA Chemical Substance Inventory, which identifies chemical substances in U.S. commerce.

The Inventory is a compilation of chemical substances that have been manufactured, imported, or processed in the United States for commercial purposes since January 1, 1975. The Inventory's primary purpose is regulatory. It defines a new chemical substance for purposes of implementing section 5(a)(1)(A) of TSCA. If a chemical substance is not included in the Inventory, it is considered a new substance (section 3(9) of TSCA), and a premanufacture notice (PMN) is required at least 90 days before the manufacture or import of such a substance can begin.

For the Inventory to perform its regulatory functions, it must be continuously and accurately updated as new information becomes available. Updated information includes identities of new chemical substances which are being introduced into U.S. commerce and corrections for previously reported information. Recognizing industry's need for making corrections to incorrectly submitted Inventory reports, EPA announced, in the **Federal Register** of July 29, 1980 (45 FR 50544), that it would accept certain types of corrections related to substances previously reported for the Inventory. The types of corrections specified in the July 29, 1980 **Federal Register** notice relate to chemical identity.

Since the publication of the Inventory and the July 29, 1980 **Federal Register** notice, the Agency has received numerous requests to correct certain previously submitted Inventory reports. The Agency reviewed these correction requests and the corresponding reports originally submitted for the Inventory, and concluded that a number of the chemical substances currently listed on the Inventory were erroneously reported. Furthermore, in reviewing the total body of the Inventory submissions, the Agency discovered that each of the incorrectly listed substances was reported only by a submitter who subsequently requested that EPA correct the chemical identity originally reported, or who subsequently notified the Agency that the substance in question was solely manufactured for a non-TSCA use.

There are various reasons why chemical substances were incorrectly reported for the Inventory. First, the mistakes could have been typographical or transcriptional and were not known to the submitter when the original report was submitted. Second, improved analytical equipment and methods may have allowed for a more accurate description of a previously reported substance. Third, EPA may have identified reporting errors and requested corrections. Regardless of the source of error, the result is the same: A chemical substance not eligible for inclusion on the Inventory was reported and currently is included on the Inventory. If these mistakes are not corrected, the integrity of the Inventory will be impaired, and its reliability as an accurate compilation of commercial substances for TSCA purposes will diminish. In addition, substances which should be subject to premanufacture notification (PMN) review before they are manufactured or imported would not be reviewed.

In this notice, the Agency proposes to remove 72 chemical substances. The Agency has found that these chemical substances were incorrectly reported and listed. The substances proposed for removal from the TSCA Inventory are listed by Chemical Abstracts Service (CAS) Registry Number. Each of the 72 chemical substances is further identified by its corresponding Chemical Abstracts Preferred Name.

Each of the 72 chemical substances proposed for removal was reported for the Inventory. Subsequently, persons who had reported the chemical substances in question informed EPA of errors in their submissions. In the majority of the cases the errors were due to mistaken chemical identities. The corrected identities for these chemical substances have been added to the Agency's Master Inventory File. EPA has checked each of these 72 chemical substances, as originally reported, to determine whether any other person had also reported the same chemical substance for the Inventory. No others were found.

In accordance with EPA policy (OTS Order 7730.7), an erroneously or incorrectly reported chemical substance should be removed from the Inventory. Accordingly, these 72 chemical substances do not appear to be eligible for continued inclusion on the Inventory.

Publication of this notice does not mean that EPA will actually and automatically delete from the Inventory any of the 72 chemical substances listed below. Rather, the Agency solicits public comments on its intent to remove from the TSCA Inventory the listed substances. EPA is specifically interested in knowing whether any of the chemical substances listed below have been manufactured, imported, or processed for TSCA commercial purposes other than research and development, as defined in the Inventory Reporting Regulations (40 CFR 710.2 (p)), by anyone during the period January 1, 1975 through September 5, 1991. The Agency is also interested to know whether any person can show that any of the chemical substances could have been properly reported for the Inventory. EPA also solicits comments from anyone who believes that any of the chemical substances listed below should not be removed from the TSCA Inventory for any reason. With the publication of this notice, any on-going manufacture, import, or processing of any of the 72 chemical substances listed below which was begun prior to the publication date of this notice may continue until publication of the final notice of disposition. All such comments must be submitted to EPA within the 45-day comment period.

EPA will review all comments received and will make a determination regarding the eventual status of each of the chemical substances listed below. The Agency will announce its decision in a final notice of disposition in the **Federal Register**. EPA will not consider any request to retain any of the listed chemical substances on the Inventory

based solely on manufacture, import, or processing of that substance which begins after September 5, 1991. If the Agency determines that any of the listed chemical substances should not be removed from the Inventory, manufacturers, importers, or processors of these chemical substances would be invited to submit Inventory Reports to establish the need to retain the chemical substances on the Inventory. The substance would then remain on the Inventory. On the other hand, if the Agency concludes that a chemical substance is not eligible for inclusion on the Inventory, effective with the publication of the final notice of disposition, the chemical substance will be considered removed from the Inventory—the presence of its name in any previously published version of the Inventory notwithstanding. In that event, the premanufacture requirements of section 5(a) of TSCA would apply to any manufacture or import of the chemical substance from the date of removal.

The following is a list of incorrectly reported chemical substances proposed for removal from the TSCA Inventory. In response to industry requests, the EPA is also providing the CAS Registry Numbers (CASRNs) for the chemical substances which replace the 72 chemicals proposed for delisting from the Inventory.

Chemical Substances Proposed for Removal from TSCA Inventory

NOTE: The first column, as stated above, is a listing of the CASRNs for the chemical substances which replace the 72 incorrectly reported substances. The substances corresponding to these replacement CASRNs have already been added to the TSCA Inventory. For purposes of this notice, the specific names of the corrected chemical identities have not been included. The second column contains CASRNs (in ascending order) of the 72 incorrectly reported chemicals as they were originally reported for the Inventory. The third column is lists, by chemical name, of each of the 72 incorrectly reported subtances corresponding to the CASRNs in the second column. The second and third columns represent substances that are proposed to be delisted from the TSCA Inventory, while the first column represents the corrected substances already placed on the Inventory, which have altogether different chemical identities from the incorrectly reported substances.

Accordingly, EPA proposes the delisting of the 72 chemical substances listed above from the TSCA Inventory.

CASRN's of Replacement Chemicals	CASRN's of Incorrectly Reported Substances	Incorrectly Reported Substances Proposed for Delisting from the Inventory
16659-50-0	128-49-4	Butanedioic acid, sulfo-, 1,4- bis(2-ethylhexyl) ester, calcium salt
16889-19-3	496-03-7	Hexanal, 2-ethyl-3-hydroxy-
33166-68-6	922-32-7	Glycine, N-[imino(phosphonoamino) methyl]-N-methyl-, disodium salt
50696-68-9	3343-24-6	Benzeneundecanoic acid
29870-28-8	5988-51-2	Ethanol, 2-(dimethylamino)-, [R- (R*,R*)]-2,3-dihydroxybutanedioate (1:1) (salt)
42360-29-2	6222-63-5	2-Naphthalenesulfonic acid, 7- (acetylamino)-3-[[4- (acetylamino)phenyl]azo-4- hydroxy-, monosodium salt
68784-14-5	12002-22-1	.alpha.-D-Glucopyranoside, .beta.- D-fructofuranosyl, mono-2-propenyl ether
23783-26-8	13147-57-4	Acetic acid, (phosphonooxy)-
9069-93-6	25497-66-9	1,4-Benzenedicarboxylic acid, polymer with 2,2,4-trimethyl-1,6- hexanediamine and 2,4,4-trimethyl- 1,6-hexanediamine
119345-02-7	25619-63-0	Benzene, dodecylphenoxy-
114615-88-2	26375-31-5	2-Propenoic acid, 2-methyl-, polymer with ethene and ethenyl acetate
125109-82-2	26898-17-9	Benzene, methylbis(phenylmethyl)-
117272-76-1	27306-78-1	Poly(oxy-1,2-ethanediyl),.alpha.- methyl-.omega.-[3-[1,3,3,3- tetramethyl-1-[(tri methylsilyl)oxy]disiloxanyl] propyl]-
115408-95-2	28679-10-9	Cyclohexanedithiol, ethyl-
119345-03-8	30260-72-1	Benzenesulfonic acid, dodecyl(sulfophenoxy)-
119345-03-8	30260-73-2	Benzenesulfonic acid, oxybis[dodecyl-
78108-20-0	35254-10-5	1H-Xantheno[2,1,9-def]isoquinoline- 1,3(2H)-dione, 2-(2-hydroxypropyl)- 5-methoxy-
119345-01-6	38613-77-3	Phosphonous acid, [1,1'-biphenyl]- 4,4'-diylbis-tetrakis[2,4-bis(1,1- dimethylethyl)phenyl]ester
119796-38-2	38806-92-7	Phenol, 4,4'-(1- methylethylidene)bis-, polymer wtih (chloromethyl)oxirane and 1,1'- methylenebis[4-isocyanatobenzene]
96734-39-3	43094-71-9	Oxirane, polymer with ethene
59535-09-0	52609-16-2	Poly(oxy-1,2-ethanediyl), .alpha.- (2,2,6,6-tetramethyl-4- piperidinyl)-.omega.-hydroxy-
123209-67-6	54471-98-6	2-Propenoic acid, 2-methyl-, methyl ester, polymer with N,2-dimethyl- N-(2-methyl-1-oxo-2-propenyl)-2-propenamide
83949-75-1	55850-01-6	3H-Indolium, 1,3,3-trimethyl-2- [(methylphenylhydrazono)methyl]-, chloride
52993-95-0	55963-78-5	Benzene, 1-methoxy-4- (1-propenyl)-,(E)-,homopolymer, sulfonated, sodium salt
90506-18-6	59707-20-9	Phosphoric acid, monooctyl ester, compd. with 2,2'- iminobis[ethanol] (1:2)
51920-12-8	61951-98-2	2-Naphthalenecarboxamide, N-(2,3- dihydro-2-oxo-1H-benzimidazol-5- yl)-3-hydroxy-4-[[5-methoxy-2-methyl-4- [(methylamino)sulfonyl]phenyl]azo]-
16631-25-7	62587-77-3	Tetradecenoic acid, 2-bromo-, methyl ester
85631-10-3	64659-59-2	Cuprate(4-), [5-(acetylamino)-4- hydroxy-3-[[5-hydroxy-6-[[2- hydroxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-7-sulfo-2-naphthalenyl]azo]-2-7- naphthalenedisulfonato(6-)]-, tetrahydrogen
111960-92-0	65652-34-8	1,6-Hexanediol, compd. with N- butyl-N-ethyl-1-butanamine (1:2)
108818-88-8	66272-25-1	Poly(oxy-1,2-ethanediyl), .alpha.- isododecyl-.omega.-hydroxy-, phosphate
70644-72-3	68071-06-7	Phenol, 4,4'-(1- methylethylidene)bis-, polymer with (chloromethyl)oxirane, (Z)-2- butenedioate 2-propenoate
2672-77-7	68084-37-7	2-Naphthalenecarboxamide, N-(2,4-dimethoxyphenyl)-3-hydroxy-7- methoxy-
123209-64-3	68131-25-9	Soybean oil, polymer with benzoic acid, p-tert-butylphenol, formaldehyde, glycerol, isophthalic acid and pentaerythritol
11138-61-7	68258-79-7	Nonanoic acid, polymer with 2- ethyl-2-(hydroxymethyl)-1,3- propanediol
125078-63-9	68298-91-9	1-Naphthalenesulfonic acid, 4-[(3- hydroxy-1-oxo-2-butenyl)amino]-

—Continued

CASRN's of Replacement Chemicals	CASRN's of Incorrectly Reported Substances	Incorrectly Reported Substances Proposed for Delisting from the Inventory
124857-47-2	68399-92-8	Ethanol, 2,2'-[[3-chloro-4-[[4-[[2- (sulfooxy)ethyl] sulfonyl] phenyl]azo]phenyl]imino]bis-, bis(hydrogen sulfate)(ester)
124822-87-3	68399-93-9	2,7-Naphthalenedisulfonic acid, 4- amino-6-[[2,5-dimethoxy-4-[[2- (sulfooxy)ethyl]sulfonyl] phenyl]azo]-5-hydroxy-3-[[4-[[2- (sulfooxy)ethyl]sulfonyl] phenyl]azo]-
56275-01-5	68440-59-5	Siloxanes and Silicones, diethoxy
110775-80-9	68440-64-2	Siloxanes and Silicones, di-Me, di-Ph, polymers with Me Ph silsesquioxanes
117500-33-1	68440-71-1	Siloxanes and Silicones, di-Me, Me 3-(oxiranylmethoxy)propyl
130354-39-1	68442-10-4	9,12-Octadecadienoic acid (Z,Z)-, dimer, polymer with bisphenol A, carboxy-terminated acrylonitrile-butadiene polymer and epichlorohydrin
121758-84-7	68525-97-3	Fatty acids, coco, polymers with isophthalic acid, neopentyl glycol and trimellitic anhydride
9003-53-61 and 126950-74-1	68541-42-4	2-Propenoic acid, 2-methyl-, telomer with ethenylbenzene, ethyl 2-propenoate and isooctyl 3- mercapto-propanoate
68037-57-0	68554-47-2	Siloxanes and Silicones, bis(2- ethylbutyl), polymers with 2- ethylbutyl silsesquioxanes, 2- ethylbutyl-terminated
116810-48-1	68554-60-9	Siloxanes and silicones, di-Me, polymers with ethylene glycol, isophthalic acid, Me Ph silsesquioxanes, terephthalic acid and trimethylolpropane
108215-83-4	68584-48-5	Poly(oxy-1,2-ethanediyl), .alpha.- hydro-.omega.-hydroxy-, mixed monoisooctyl and monotridecyl ethers, phosphates
117875-77-1	68908-44-1	Sulfuric acid, mono-C10-16-alkyl esters, compds. with ethanolamine
117920-00-0	68911-68-2	Amines, C12-14-tert-alkyl, compds. with 2(3H)-benzothiazolethione
68952-95-4	68956-68-3	Oils, vegetable
128360-73-6	68989-70-8	Fatty acids, C18-unsatd., dimers, polymers with C18-unsatd. alkyl amine dimers and sebacic acid
130354-38-0	69012-02-8	Castor oil, polymer with benzoic acid, glycerol, phthalic anhydride, soybean oil and toluene
102783-01-7	69430-45-1	Siloxanes and Silicones, di-Me, reaction products with polyethylene glycol monallyl ether and 1,1,3,3-tetramethyldisiloxane
119345-02-7	69834-19-1	Benzene, 1,1'-oxybis[dodecyl-
123209-75-6	69855-99-8	Furan, tetrahydro-, polymer with ammonia and 2,2'-[(1- methylethylidene)bis(4,1-phenyleneoxymethylene)]bis[oxirane]
85153-20-4	70210-28-5	Benzoic acid, 5-[[4'-[[6-amino-5- (1H-benzotriazol-5-ylazo)-1- hydroxy-3-sulfo-2- naphthalenyl]azo]-3,3'- dimethoxy[1,1'-biphenyl]-4-yl]azo]- 2-hydroxy-4-methyl-, disodium salt
121176-52-1	70693-19-5	Copper, [29H,31H- phthalocyaninato(2-)-N^{29},N^{30},N^{31},N^{32}]-,aminosulfonyl[[3-[[(3,6-dichloro-4-pyridazinyl)carbonyl] amino]-4- methyl-5-sulfophenyl] amino]sulfonyl sulfo derivs.
123171-68-6	71002-41-0	Poly(difluoromethylene), .alpha.- [2-(acetyloxy)-2- [(carboxymethyl)dimethylammonio]eth yl]-.omega.-fluoro-, hydroxide, inner salt
123209-73-4	71617-64-6	2-Propenenitrile, polymer with 1,3- butadiene, carboxy-terminated, polymers with epichlorohydrin- formaldehyde-phenol polymer
106424-71-9	72138-97-7	Benzenesulfonic acid, 3,3'- (1,3,6,8-tetrahydro-1,3,6,8- tetraoxobenzo[lmn][3,8]phenanthroli ne-2,7-diyl)bis[6-[(4-amino-6- chloro-1,3,5-triazin-2-yl)amino-, disodium salt
12309-70-1, 12309-71-2 and 12309-72-3	72245-33-1	2-Propenenitrile, polymer with 1,3-butadiene, carboxy-terminated, polymer with bisphenol A diglycidyl ether homopolymer
121233-43-0	72391-11-8	Hexanedioic acid, polymer with N- (2-aminoethyl)-1,2-ethanediamine, (chloromethyl)oxirane, 2,2- dimethyl-1,3-propanediol, 2- (methylamino)ethanol and 4,4'-(1- methylethylidene) bis[phenol] acetate (salt)
104242-08-2	72441-90-8	Paraformaldehyde, polymer with 1,3- benzenedimethanamine, 4-(1,1- dimethylethyl)phenol, octylphenol and C,C,C-trimethyl-1,6- hexanediamine
75125-58-5	72828-14-9	Phenol, polymer with formaldehyde, ethoxylated, polymers with ethylene oxide, propylene oxide and TDI
128754-61-0	73398-65-9	Siloxanes and Silicones, di-Me, [(1-oxo-2-propenyl)oxy]methyl group-terminated
103213-23-6	75864-20-9	Peanut oil, polymer with maleic anhydride, phthalic anhydride, triethylene glycol and trimethylolpropane
75559-07-8	96416-91-0	1,3-Propanediamine, N-(2- aminoethyl)-, polymer with (chloromethyl)oxirane and 1,2- dichloroethane, formate
104852-44-0	97645-28-8	Pentaneperoxoic acid, 2,2- dimethyl-, 1-methyl-1-phenylethyl ester
106457-91-4	97676-34-1	Oils, oak
124822-86-2	10116-15-1	2,7-Naphthalenedisulfonic acid, 5- (acetylamino)-4-hydroxy-3-[[2- methoxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl] azo]-
85567-10-8	10149-98-1	1H-Pyrazole-3-carboxylic acid, 4,5- dihydro-5-oxo-4-[[4-[[2- (sulfooxy)ethyl]sulfoxyl]phenyl] azo]-1-(4-sulfophenyl)-
130672-62-7	111368-19-5	2-Propenoic acid, polymer with ethenol, sodium salt, graft
72828-11-6	112143-81-4	Poly(oxy-1,2-ethanediyl), .alpha.- hydro-.omega.-hydroxy-, ether with oxybis[propanediol] (4:1), octadecanoate

Dated: August 28, 1991.

Linda A. Travers,

Director, Information Management Division, Office of Pesticides and Toxic Substances.

[FR Doc. 91-21267 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30324; FRL 3942-6]

R.C.G., Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Roach Repel an insecticide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by October 7, 1991.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30324] and the file symbol (64714-R) to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 18, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Attention PM 18, Registration Division (H7505C), Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 18, Phil Hutton, rm. 207, CM #2, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received an application from R. C. G., Inc., 6020 Sweetbriar Cove, Memphis, TN 38120, to register the pesticide product Roach Repel, (File Symbol 64714-R), an insecticide containing the active ingredient *C. cassia* at 90 percent; an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. The product was classified for general indoor use under furniture, refrigerators, and other areas. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: August 23, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91-21265 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51770; FRL 3944-5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 13 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-1320, 91-1321, 91-1322, 91-1323, November 12, 1991.

P 91-1324, 91-1325, 91-1326, 91-1327, 91-1328, November 16, 1991.

P 91-1329, 91-1330, 91-1331, November 17, 1991.

P 91-1332, November 18, 1991.

Written comments by:

P 91-1320, 91-1321, 91-1322, 91-1323, October 13, 1991.

P 91-1324, 91-1325, 91-1326, 91-1327, 91-1328, October 17, 1991.

P 91-1329, 91-1330, 91-1331, October 18, 1991.

P 91-1332, October 19, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51770)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. 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.

P 91-1320

Manufacturer. Worthen Industries, Upaco Div.

Chemical. (S) Adipic acid, polymer with 1,4,-butane diol, 1,6-hexane dio, neopentyl, glycol, isophthalic acid, polymer with 1,6-hexane diol neopentyl glycol, alkyl amine, 2,4,4-trimethyl hexamethylene diisocyanate, 3,5,5-trimethyl, 3-isocyantomethyl cyclohexyl isocyanate and propanoic acid, 3-hydroxy-2(hydroxy methyl)2-methyl, adduct with *N,N'*-diamino adipamide.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 91-1321

Manufacturer. Confidential.

Chemical. (G) Methyl polychloro aliphatic ketone.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,500 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: strong species (rabbit). Mutagenicity: positive.

P 91-1322

Manufacturer. Confidential.

Chemical. (G) Dimethyl-3-substituted heteromonocycle.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,146 mg/kg species (rat). Acute dermal toxicity: LD50 2,291 mg/kg species (rabbit). Skin irritation: moderate species (rabbit). Mutagenicity: negative.

P 91-1323

Manufacturer. Confidential.

Chemical. (G) Dimethyl substituted heteromonocycle amine.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1038 mg/kg species (rat). Acute dermal toxicity: LD50 > 4,153 species (rabbit). Mutagenicity: positive.

P 91-1324

Manufacturer. Angus Chemical Company.

Chemical. (S) Dihydro-7*A*-methyl-1*H*,3*H*,5*H*-oxazolo(3,4-*C*)oxazole.

Use/Production. (S) Corrosion inhibitor in metalworking fluids. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3680 species (rat). Acute dermal toxicity: LD50 1948 mg/kg species (rabbit). Static acute toxicity: time LC50 24H 32–100 ppm species (daphnia magna). Eye irritation: strong species (rabbit). Skin irritation: none species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-1325

Manufacturer. Confidential.

Chemical. (G) Modified diphenylmethane diisocyanate.

Use/Production. (G) Polyurethane foam component. Prod. range: Confidential.

P 91-1326

Manufacturer. Confidential.

Chemical. (G) Butylated alkylphenols.

Use/Production. (G) Lubricant oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1.27 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: strong species (rabbit).

P 91-1327

Manufacturer. Confidential.

Chemical. (S) 9-Octadeneoic acid (*Z*)-, isoctyl ester, reaction product with glycerol trioleate and sulfur.

Use/Production. (G) Lubricating oil additive. Prod. range: Confidential.

P 91-1328

Manufacturer. Confidential.

Chemical. (G) Polyamine dithiocarbamate.

Use/Production. (G) Removal of suspended oil in brine. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.03 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91-1329

Importer. Confidential.

Chemical. (G) Triazinyl reactive mono azo dye.

Use/Import. (S) Dyestuffs for cellulosie fiber. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 91-1330

Importer. Confidential.

Chemical. (G) Triazinyl reactive mono azo dye.

Use/Import. (S) Dyestuffs for cellulosie fiber. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 91-1331

Manufacturer. Confidential.

Chemical. (G) Phosphosate-alkanolamine ester polymer.

Use/Production. (G) Industrial lubricating, oils, and greases. Prod. range: Confidential.

Toxicity Data. Skin irritation: strong species (rabbit).

P 91-1332

Importer. American Cyanamid Company.

Chemical. (S) Phosphorothioic acid, *O,O*-bis(2-methylpropyl)ester, sodium salt.

Use/Import. (G) Mineral processing agent. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: slight species (rabbit). Mutagenicity: negative.

Dated: August 28, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-21266, Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

August 27, 1991.

September 19, 1991, 10 a.m., Commission Meeting Room (room 856), 1919 M Street, NW., Washington, D.C.

The agenda for the meeting will consist of:

1. Introduction.
2. Minutes of Last Meeting.
3. Report of Working Party 1—Policy and Regulation.
4. Report of Working Party 2—Transition Scenarios.
5. General Discussion.
6. Other Business.
7. Date and Location of Next Meeting.
8. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjen at (609) 734-2237, George Vradenburg III at (213) 203-1334, or Gina Harrison at (202) 632-7792.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-21164 Filed 9-4-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Application for Consent to Reduce or Retire Capital.

Form Number: None.

OMB Number: 3064-0079.

Expiration Date of OMB Clearance: November 30, 1991.

Frequency of Response: On occasion.

Respondents: Insured state nonmember banks wishing to reduce or retire capital.

Number of Respondents: 100.

Number of Responses per Respondent: 1.

Total Annual Responses: 100.

Average Number of Hours per Response: 1.

Total Annual Burden Hours: 100.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project (3064-0024), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit

Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before November 4, 1991.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured state nonmember banks are required by law to obtain the consent of the FDIC prior to reducing or retiring any part of their common or preferred stock, or retiring any part of their capital notes or debentures. To obtain that consent, the banks submit letter applications to the FDIC.

Dated: August 29, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91-21288 Filed 9-4-91; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Columbus/Pace Space Charter and Sailing Agreement; 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.: 212-010746-005.

Title: Columbus/Pace Space Charter and Sailing Agreement.

Parties:

Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck (Columbus Line),
Associated Container Transportation (Australia), Limited.

Synopsis: The proposed amendment would add Blue Star Pace Ltd. ("Pace") as a party and delete Associated Container Transportation (Australia), Limited ("Acta") as a party to the Agreement. It would also revise the membership provision waiving the 90 days' written notice of withdrawal by the unanimous consent of the parties. The parties have requested a shortened review period.

Agreement No.: 202-010776-061.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.,
Kawasaki Kisen Kaisha, Ltd.,
A.P. Moller-Maersk Line,
Mitsui O.S.K. Lines, Ltd.,
Neptune Orient Lines, Ltd.,
Nippon Liner System, Ltd.,
Nippon Yusen Kaisha Line,
Sea-Land Service, Inc.

Synopsis: The proposed amendment would delete Canada from the geographic scope and delete other references to Canada in the Agreement.

Agreement No.: 203-011211-006.

Title: Transpacific Discussion Agreement.

Parties:

American President Lines, Ltd.,
Evergreen Marine Corp. (Taiwan) Ltd.,
Hanjin Shipping Co., Ltd.,
Hyundai Merchant Marine Co., Ltd.,
Kawasaki Kisen Kaisha, Ltd.,
A.P. Moller-Maersk Line,
Mitsui O.S.K. Lines, Ltd.,
Neptune Orient Lines, Ltd.,
Nippon Liner System, Ltd.,
Nippon Yusen Kaisha,
Orient Overseas Container Line, Inc.,
Sea-Land Service, Inc.,
Yangming Marine Transport Corp.

Synopsis: The proposed amendment would delete Nippon Liner System as a party to the Agreement effective October 1, 1991. It would also make other nonsubstantive changes.

Agreement No.: 203-011223-005.

Title: Transpacific Stabilization Agreement.

Parties:

American President Lines, Ltd.,
Evergreen Marine Corp. (Taiwan) Ltd.,
Hanjin Shipping Co., Ltd.,
Hyundai Merchant Marine Co., Ltd.,
Kawasaki Kisen Kaisha, Ltd.,
A.P. Moller-Maersk Line,
Mitsui O.S.K. Lines, Ltd.,
Neptune Orient Lines, Ltd.,
Nippon Liner System, Ltd.,
Nippon Yusen Kaisha,
Orient Overseas Container Line, Inc.,
Sea-Land Service, Inc.,
Yangming Marine Transport Corp.

Synopsis: The proposed amendment would delete Nippon Liner System, Ltd. as a party to the Agreement. It would also make other nonsubstantive changes.

Agreement No.: 224-200165-003.

Title: Maryland Port Administration/Ceres Corporation Terminal Leasing Agreement.

Parties:

Maryland Port Administration,
Ceres Corporation.

Synopsis: The proposed amendment, filed August 26, 1991, would eliminate 8.48 acres in Area 1602 and substitute 10.06 acres in Area 501 of the Dundalk Marine Terminal.

Dated: August 29, 1991.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-21216 Filed 9-4-91; 8:45 am]

BILLING CODE 6730-01-M

City of Los Angeles/Pasha Maritime Services, Inc.; 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.: 224-011078-001.

Title: City of Los Angeles/Pasha Maritime Services, Inc. Terminal Agreement.

Parties: City of Los Angeles Board of Harbor Commissioners, Pasha Maritime Services.

Filing Party: Catherine H. Vale, Esq., Assistant City Attorney, City of Los Angeles, P.O. Box 151, San Pedro, CA 90733.

Synopsis: The proposed amendment, filed August 23, 1991, would extend the Agreement through December 31, 1995 and would adjust the compensation payable during the extended term of the Agreement.

Dated: August 29, 1991.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-21217 Filed 9-4-91; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91F-0228]

Eastman Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Eastman Chemical Co., Division of Eastman Kodak Co., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sucrose acetate isobutyrate as a stabilizer of emulsions of flavoring oils used in nonalcoholic carbonated and noncarbonated beverages for human consumption.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

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 1A4266) has been filed by Eastman Chemical Co., Division of Eastman Kodak Co., P.O. Box 511, Kingsport, TN 37662. The petition proposes to amend the food additive regulations to provide for the safe use of sucrose acetate isobutyrate as a stabilizer of emulsions of flavoring oils used in nonalcoholic carbonated and noncarbonated beverages for human consumption.

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: August 28, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-21223 Filed 9-4-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0286]

Healthy Business, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Healthy Business, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of Polysorbate 80, disodium EDTA, and sodium lauryl sulfate as components of a fruit and vegetable wash.

FOR FURTHER INFORMATION CONTACT: Wesley R. Long, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

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 1A4255) has been filed by Healthy Business, Inc., 695 South Colorado Blvd., Denver, CO 80222. The petition proposes to amend the food additive regulations in § 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables (21 CFR 173.315) to provide for the safe use of Polysorbate 80, disodium EDTA, and sodium lauryl sulfate as components of a fruit and vegetable wash.

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: August 28, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-21224 Filed 9-4-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91P-0269]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Ludwig Dairy Corp. to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than December 4, 1991.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Ludwig Dairy Corp., 1309 West 7th St., Dixon, IL 61021.

The permit covers limited interstate marketing tests of a nonfat cottage cheese, formulated from dry curd cottage cheese and a dressing, such that the finished product contains less than 0.3 percent milkfat. The food deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128) and lowfat cottage cheese (21 CFR 133.131) in that the milkfat content of cottage cheese is not less than 4.0 percent, and the milkfat content of lowfat cottage cheese ranges from 0.5 to 2.0 percent. The test product also deviates from the U.S. standard of identity for dry curd cottage cheese (21 CFR 133.129) because of the added dressing. The test product meets all requirements of the standards with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is

nutritionally equivalent to cottage cheese products with dressing but contains less fat.

For the purpose of this permit, the name of the product is "nonfat cottage cheese." In accordance with FDA's current views, "fat free" food labeling is acceptable because the product contains less than 0.5 gram (g) fat per 113 g (4-ounce) serving. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 90,900 kilograms (200,000 pounds) of the test product. The product will be manufactured at Ludwig Dairy Corp., 1309 West 7th St., Dixon, IL 61021, and distributed in Illinois, Indiana, and Wisconsin.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than December 4, 1991.

Dated: August 28, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-21225 Filed 9-4-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91N-0263]

Bolar Pharmaceutical Co., Inc.; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 142 abbreviated new drug applications (ANDA's). Bolar Pharmaceutical Co., Inc., 33 Ralph Ave., Copiague, NY 11726-0030, requested that the agency withdraw approval of these ANDA's under a plea agreement with the United States Attorney's Office for the District of Maryland and the Office of Consumer Litigation of the Department of Justice.

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION: Bolar Pharaceutical Co., Inc., the holder of the ANDA's listed in the table in this document, has asked FDA to withdraw approval of the ANDA's as part of a plea agreement with the United States Attorney's Office for the District of Maryland and the Office of Consumer Litigation of the Department of Justice.

ANDA No.	Drug
70-240	Disopyramide Phosphate Capsules, 100 milligrams (mg).
70-241	Disopyramide Phosphate Capsules, 150 mg.
70-242	Tolazamide Tablets, 100 mg.
70-243	Tolazamide Tablets, 250 mg.
70-244	Tolazamide Tablets, 500 mg.
70-245	Methyldopa Tablets, 125 mg.
70-246	Methyldopa Tablets, 250 mg.
70-247	Methyldopa Tablets, 500 mg.
70-363	Metoclopramide Hydrochloride Tablets, 10 mg.
70-365	Methyldopa and Hydrochlorothiazide Tablets, 250 mg/15 mg.
70-366	Methyldopa and Hydrochlorothiazide Tablets, 250 mg/25 mg.
70-367	Methyldopa and Hydrochlorothiazide Tablets, 500 mg/30 mg.
70-368	Methyldopa and Hydrochlorothiazide Tablets, 500 mg/50 mg.
70-373	Perphenazine and Amitriptyline Hydrochloride Tablets, 2 mg/10 mg.
70-374	Perphenazine and Amitriptyline Hydrochloride Tablets, 2 mg/25 mg.
70-375	Perphenazine and Amitriptyline Hydrochloride Tablets, 4 mg/10 mg.
70-376	Perphenazine and Amitriptyline Hydrochloride Tablets, 4 mg/25 mg.
70-377	Perphenazine and Amitriptyline Hydrochloride Tablets, 4 mg/50 mg.
70-378	Propranolol Hydrochloride Tablets, 10 mg.
70-379	Propranolol Hydrochloride Tablets, 20 mg.
70-380	Propranolol Hydrochloride Tablets, 40 mg.
70-381	Propranolol Hydrochloride Tablets, 60 mg.
70-382	Propranolol Hydrochloride Tablets, 80 mg.
70-383	Temazepam Capsules, 15 mg.
70-384	Temazepam Capsules, 30 mg.
70-395	Clonidine Hydrochloride Tablets, 0.1 mg.
70-396	Clonidine Hydrochloride Tablets, 0.2 mg.
70-397	Clonidine Hydrochloride Tablets, 0.3 mg.
70-398	Propoxyphene Napsylate and Acetaminophen Tablets, 50 mg/325 mg.
70-399	Propoxyphene Napsylate and Acetaminophen Tablets, 100 mg/650 mg.
70-407	Lithium Carbonate Capsules, 300 mg.
70-784	Indomethacin Capsules, 25 mg.
70-785	Indomethacin Capsules, 50 mg.
71-112	Trazodone Hydrochloride Tablets, 50 mg.
71-113	Trazodone Hydrochloride Tablets, 100 mg.
71-374	Haloperidol Tablets, 5 mg.
71-375	Haloperidol Tablets, 10 mg.
71-376	Haloperidol Tablets, 20 mg.
71-571	Haloperidol Tablets, 0.5 mg.
71-572	Haloperidol Tablets, 1 mg.
71-573	Haloperidol Tablets, 2 mg.
71-943	Maprotiline Hydrochloride Tablets, 25 mg.
71-944	Maprotiline Hydrochloride Tablets, 50 mg.
71-945	Maprotiline Hydrochloride Tablets, 75 mg.
72-269	Timolol Maleate Tablets, 5 mg.
72-270	Timolol Maleate Tablets, 10 mg.
72-271	Timolol Maleate Tablets, 20 mg.
72-485	Oxybutynin Chloride Tablets, 5 mg.
80-401	Isoniazid Tablets, 100 mg.
83-178	Isoniazid Tablets, 300 mg.
83-179	Dicyclomine Hydrochloride Capsules, 10 mg.
83-221	Probenecid and Colchicine Tablets, 500 mg/0.5 mg.
83-456	Hydrochlorothiazide Tablets, 50 mg.
83-458	Hydrochlorothiazide Tablets, 25 mg.
83-462	Trichlormethiazide Tablets, 4 mg.
83-605	Methocarbamol Tablets, 500 and 750 mg.
83-770	Reserpine, Hydralazine Hydrochloride, and Hydrochlorothiazide Tablets, 0.1 mg/25 mg/15 mg.
83-795	Procainamide Hydrochloride Capsules, 250, 375, and 500 mg.
84-026	Chlorothiazide Tablets, 500 mg.
84-252	Imipramine Hydrochloride Tablets, 10, 25, and 50 mg.
84-303	Orphenadrine Citrate Sustained Release Tablets, 100 mg.
84-357	Procainamide Hydrochloride Capsules, 500 mg.
84-361	Dicyclomine Hydrochloride Tablets, 20 mg.
84-457	Dexamethasone Tablets, 0.75 mg.
84-498	Acetazolamide Tablets, 125 and 250 mg.
84-930	Ergoloid Mesylates Sublingual Tablets, 0.5 mg.
85-052	Primidone Tablets, 250 mg (Human).
85-053	Sulfamethoxazole Tablets, 500 mg.
85-099	Hydrochlorothiazide Tablets, 100 mg.
85-105	Trihexyphenidyl Hydrochloride Tablets, 5 mg.
85-117	Trihexyphenidyl Hydrochloride Tablets, 2 mg.
85-165	Chlorothiazide Tablets, 250 mg.
85-177	Ergoloid Mesylates Sublingual Tablets, 1 mg.
85-178	Prochlorperazine Maleate Tablets, 10 mg.
85-220	Imipramine Hydrochloride Tablets, 10 mg.
85-221	Imipramine Hydrochloride Tablets, 50 mg.
85-228	Bethanechol Chloride Tablets, 10 mg.
85-229	Bethanechol Chloride Tablets, 25 mg.
85-230	Bethanechol Chloride Tablets, 5 mg.
85-245	Cyproheptadine Hydrochloride Tablets, 4 mg.
85-317	Reserpine and Hydrochlorothiazide Tablets, 0.125 mg/25 mg.
85-373	Hydralazine Hydrochloride and Hydrochlorothiazide Tablets, 25 mg/15 mg.
85-440	Hydralazine Hydrochloride and Hydrochlorothiazide Capsules, 100 mg/50 mg.
85-446	Hydralazine Hydrochloride and Hydrochlorothiazide Capsules, 50 mg/50 mg.
85-457	Hydralazine Hydrochloride and Hydrochlorothiazide Capsules, 25 mg/25 mg.
85-476	Methyclothiazide Tablets, 5.0 mg.
85-487	Methyclothiazide Tablets, 2.5 mg.
85-562	Glycopyrrolate Tablets, 1 mg.
85-579	Prochlorperazine Maleate Tablets, 25 mg.
85-580	Prochlorperazine Maleate Tablets, 5 mg.
85-755	Liothyronine Sodium Tablets, 25 mg.
85-973	Trifluoperazine Hydrochloride Tablets, 5 mg.
85-974	Spironolactone/Hydrochlorothiazide Tablets, 25 mg/25 mg.
85-975	Trifluoperazine Hydrochloride Tablets, 1 mg.
85-976	Trifluoperazine Hydrochloride Tablets, 2 mg.
86-048	Isosorbide Dinitrate Oral Tablets, 20 mg.

ANDA No.	Drug
86-051	Isosorbide Dinitrate Oral Sustained Release Tablets, 40 mg.
86-113	Guanethidine Monosulfate Tablets, 10 mg.
86-114	Guanethidine Monosulfate Tablets, 25 mg.
86-118	Warfarin Sodium Tablets, 7.5 mg.
86-119	Warfarin Sodium Tablets, 5 mg.
86-120	Warfarin Sodium Tablets, 2.5 mg.
86-122	Warfarin Sodium Tablets, 10 mg.
86-123	Warfarin Sodium Tablets, 2 mg.
86-193	Pentaerythritol Tetranitrate Sustained Release Tablets, 80 mg.
86-433	Ergoloid Mesylates Oral Tablets, 1 mg.
86-695	Hydroxyzine Pamoate Capsules, 50 mg.
86-697	Hydroxyzine Pamoate Capsules, 100 mg.
86-698	Hydroxyzine Pamoate Capsules, 25 mg.
86-898	Spironolactone Tablets, 25 mg.
87-029	Chlorthalidone Tablets, 50 mg.
87-050	Chlorthalidone Tablets, 25 mg.
87-397	Bethanechol Chloride Tablets, 50 mg.
87-835	Oxtriphylline Delayed Release Tablets, 200 mg.
87-866	Oxtriphylline Delayed Release Tablets, 100 mg.
88-052	Sulfasalazine Enteric Coated Tablets, 500 mg.
88-110	Reserpine and Hydroflumethiazide Tablets, 0.125 mg/50 mg.
88-127	Reserpine and Hydroflumethiazide Tablets, 0.125 mg/25 mg.
88-151	Reserpine and Chlorothiazide Tablets, 0.125 mg/500 mg.
88-260	Fluoxymesterone Tablets, 2 mg.
88-265	Fluoxymesterone Tablets, 5 mg.
88-284	Thioridazine Hydrochloride Tablets, 100 mg.
88-296	Thioridazine Hydrochloride Tablets, 25 mg.
88-309	Fluoxymesterone Tablets, 10 mg.
88-323	Thioridazine Hydrochloride Tablets, 50 mg.
88-345	Thioridazine Hydrochloride Tablets, 15 mg.
88-381	Thioridazine Hydrochloride Tablets, 200 mg.
88-410	Thioridazine Hydrochloride Tablets, 150 mg.
88-412	Thioridazine Hydrochloride Tablets, 10 mg.
88-452	Methyclothiazide and Deserpidine Tablets, 5 mg/0.5 mg.
88-486	Methyclothiazide and Deserpidine Tablets, 5 mg/0.25 mg.
88-527	Fluphenazine Hydrochloride Tablets, 5 mg.
88-544	Fluphenazine Hydrochloride Tablets, 2.5 mg.
88-550	Fluphenazine Hydrochloride Tablets, 10 mg.
88-555	Fluphenazine Hydrochloride Tablets, 1 mg.
88-568	Chlorpropamide Tablets, 250 mg.
88-608	Chlorpropamide Tablets, 100 mg.
88-710	Trifluoperazine Hydrochloride Tablets, 10 mg.
88-809	Carisoprodol Compound Tablets (Aspirin 325 mg and Carisoprodol 200 mg).
89-110	Tolbutamide Tablets, 250 mg.
89-111	Tolbutamide Tablets, 500 mg.
89-520	Procainamide Hydrochloride Extended Release Tablets, 1,000 mg.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the abbreviated new drug applications listed above, and all supplements thereto, is hereby withdrawn, effective October 7, 1991.

Dated: August 22, 1991.

Gerald F. Meyer,

Acting Director, Center for Drug Evaluation and Research.

[FR Doc. 91-21226 Filed 9-4-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPD-739-PN]

Medicare and Medicaid Programs; Recognition of the Community Health Accreditation Program Standards for Home Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In this notice, we propose to recognize the accreditation program of the Community Health Accreditation Program (CHAP), a subsidiary of the National League for Nursing (NLN), for home health agencies (HHAs) that wish to participate in the Medicare or Medicaid programs. We have found that the accreditation process of this organization provides reasonable assurance that HHAs accredited by it meet the conditions required by the Medicare law and regulations. As a result of this determination, HHAs accredited by CHAP would not be subject to routine inspection by Medicare State survey agencies to determine their compliance with Federal requirements. Rather, they would be "deemed" to meet the Medicare conditions of participation. They would, however, be subject to validation and complaint investigation surveys.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 4, 1991.

ADDRESSES: Mail written comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-739-PN, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept a audio, visual, or facsimile (FAX) copies of comments. In commenting, please refer to file code BPD-739-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: John J. Thomas, (301) 966-4623.

SUPPLEMENTARY INFORMATION:

I. Background

A. Determining Compliance—Surveys and Deeming

Providers of health care services participate in the Medicare and Medicaid programs under provider agreements with HCFA (for Medicare) and State Medicaid agencies (for Medicaid). Generally, in order to enter into a provider agreement, an entity must first be certified by a State survey agency as complying with the conditions of participation or standards set forth in Federal law and regulations. Providers are subject to regular surveys by State survey agencies to determine whether the provider continues to meet these requirements.

The Social Security Act (the Act) includes provisions that permit certain providers of services to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions of participation. Specifically, section 1865(a) of the Act permits providers that are accredited by a national accrediting organization to be deemed to meet the applicable Medicare conditions of participation. If the Secretary finds that the accreditation of the provider by the national accreditation body provides reasonable assurance that Medicare conditions of participation are met, then the Secretary may "deem" the conditions of participation to be met.

A national accrediting organization may request the Secretary to recognize its program as providing reasonable assurance that some or all of the Medicare conditions of participation are met. The Secretary then examines the accreditation process to determine if there is a reasonable assurance that providers accredited by the organization meet the Medicare conditions of

participation as HCFA would have applied them. If the Secretary recognizes an accrediting organization in this manner, any provider accredited by the national accrediting body will be "deemed" to meet the Medicare conditions of participation as the Secretary has recognized that the national accrediting body provides reasonable assurance that the condition is met.

To implement section 1865(a) generally, the Secretary published a notice of proposed rulemaking in the **Federal Register** on December 14, 1990 (55 FR 51434). This proposed rule set forth the procedure that HCFA would use to review and approve national accrediting organizations that wish to be recognized as providing reasonable assurance that Medicare conditions are met. It also set forth the standards and procedures that HCFA would use to remove its approval of a national accrediting organization.

In section 4039(f) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), Congress imposed a special requirement on HCFA's approval of national accrediting organizations. Under that section, our publication of a final rule deeming a provider, which is necessary to implement section 1865(a) of the Act, must follow publication of the proposed rule by at least 6 months. Therefore, HCFA may not permit deeming generally until the proposed rule published on December 14, 1990 is published in final form to be effective no sooner than June 14, 1991.

The purpose of this proposed notice is to provide notice of our intent to recognize the accreditation program of the Community Health Accreditation Program (CHAP), a national accrediting organization that accredits only home health agencies (HHAs). This proposed notice is narrower than the proposed rule that was published on December 14, 1990 because that proposed rule applied to national accrediting organizations generally.

Because HCFA has determined that CHAP provides reasonable assurance that HHAs accredited by CHAP meet Medicare conditions, and because the December 14, 1990 proposed rule has not yet been published in final form, we are publishing this proposed notice. Under section 4039(f) of Public Law 100-203, final approval for CHAP (if it occurs) will be complete with the publication of a final notice effective at the earlier of:

- Six months after the date of the publication of this proposed notice in the **Federal Register**; or
- Anytime after the publication of the December 14, 1990 proposed notice in final form in the **Federal Register**, which may be effective no earlier than June 14, 1991.

On December 31, 1987, we published in the **Federal Register** (52 FR 49510) a notice proposing to approve the accreditation programs of the National League for Nursing (NLN) and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO). (NLN had not yet incorporated the CHAP subsidiary at that time, and so its program was simply referred to as NLN's.) At about the same time, Congress enacted Public Law 100-203, which extensively revised the statutory requirements for the Medicare conditions of participation for HHAs, as well as the Medicare HHA survey and certification procedures. These broad statutory changes necessitated the development of revised HHA conditions of participation as well as surveyor interpretive guidelines and survey and certification regulations. Because HCFA's approval of the 1987 proposal was based on a comparison of the JCAHO and CHAP accreditation standards with Medicare requirements which had become obsolete, it was impossible to finalize approval until the statutory changes had been developed and incorporated into regulations and guidelines.

CHAP has revised its accreditation standards to reflect the changes initiated by Public Law 100-203. Because we recently completed the development of the regulations and guidelines necessitated by Public Law 100-203, we were able to compare the accreditation standards of CHAP to the relevant Medicare requirements in order to determine whether accreditation by CHAP provides the required reasonable assurance that the Medicare conditions of participation are met. We intend to examine and discuss the deeming of the JCAHO standards in a separate proposed notice.

B. Home Health Agency Conditions of Participation and Requirements

The regulations specifying the Medicare conditions of participation for HHAs are located at 42 CFR part 484. These regulations implement the elements of the statutory definition of an HHA contained in section 1861(o) of the Act and the conditions of participation listed in section 1891 of the Act. In addition to the specific requirements it sets forth, section 1861(o) also contains general authorization for the Secretary to prescribe other requirements found necessary to protect the health and safety of the individuals who are served by HHAs. Additional requirements were developed under this authority and also are included in the conditions of participation contained in the regulations. An HHA must meet the conditions of participation contained in the law and regulations to participate in the Medicare program.

II. Proposed Approval of CHAP Accreditation

We believe that accreditation by CHAP provides reasonable assurance that an HHA meets the Medicare conditions of participation for HHAs. We have reached this conclusion after a thorough examination of the CHAP's accreditation program, including its standards and survey and accreditation process, which we discuss below.

Our initial comparison of the Medicare conditions of participation and survey procedures to the 1989 edition of the CHAP home care standards ("Standards of Excellence for Home Care Organizations", NLN Pub. No. 21-2327) early this year revealed areas in which the CHAP standards are more stringent than the Medicare requirements and areas in which Medicare requirements are more stringent than those of CHAP. After this initial review of CHAP's 1989 standards and survey procedures, we met with CHAP to discuss the differences between Medicare requirements and the CHAP standards. CHAP then agreed to change its standards. These changes are reflected in CHAP's 1991 standards for HHAs seeking accreditation or reaccreditation.

We then compared CHAP's new standards and procedures to the Medicare conditions of participation and survey procedures. After reviewing CHAP's revised accreditation program, we were convinced that the revised program provided reasonable assurance that all of Medicare's conditions of participation and survey requirements were contained in the CHAP standards and survey procedures.

In evaluating CHAP's accreditation standards and survey processes to determine if there was reasonable assurance that HHAs it has accredited meet Medicare conditions of participation, we looked at both the individual requirements of the CHAP program and the overall effects of the accreditation process. We examined the overall effects because we recognize that positive health care outcomes are achieved not only through adherence to specific requirements, but also through achievement of specific and general results. Accordingly, we first did a point by point comparison of the Medicare and CHAP requirements to determine which ones could be directly matched and to establish whether the CHAP

standards were the same as the Medicare requirements. In the few cases where there were not directly comparable requirements, we looked at the effect of the combinations of related CHAP requirements and the survey processes and the guidelines used for them to determine whether the accreditation process as a whole gave us reasonable assurance that Medicare requirements would be met.

In most cases, we were able to determine that CHAP's accreditation standards and survey processes were equal or superior to Medicare requirements based on a simple comparison of standards. In some cases, however, our conclusions were based upon a more complex comparison of the systems. The discussion that follows details the differences between the Medicare requirements and the requirements of CHAP which require such a complex comparison. It also specifies certain stipulations and restrictions that we would establish in connection with our decision.

A. Differences Between CHAP Standards and Medicare Conditions of Participation

When comparing the Medicare conditions of participation with the revised CHAP standards for HHAs, we found two areas in which CHAP's standards varied appreciably from the Medicare conditions of participation. Both of these requirements are found in § 484.14 ("Condition of participation: Organization, services, administration.").

The first area of concern related to § 484.14(d), which requires the HHA to furnish skilled nursing and other therapeutic services under the supervision and direction of a physician or RN (or a similarly qualified alternate) who is available during all operating hours. The CHAP standards do not replicate this requirement exactly.

The CHAP Professional Standard at PIII.1d2 provides that nursing services are "always under the supervision of a qualified Registered Nurse," and such supervision is available under Standard PIII.1d4 "during all hours of service." The other therapeutic services are under the supervision of a specific qualified professional. Thus, physical therapy services are under the direction of a qualified physical therapist (PII.1b); occupational therapy services are under the direction of a qualified occupational therapist (PII.1c); speech-language pathology or audiology services are furnished under the direction of a qualified speech-language pathologist or audiologist (PII.1d); and social work services are under the direction of a qualified social worker (PII.1e). In addition, the program administrator is required to "assure appropriate staff supervision during all service hours".

Although the CHAP requirements do not replicate the requirements of § 484.14(d) specifically, we believe that, when taken in their entirety, along with the CHAP standard at PII.4b (which requires all care to be provided under the direction of a physician), we are reasonably assured that nursing and other therapeutic services are being furnished under appropriate and accessible supervision and direction and that the requirements of § 484.14(d) are met.

The second of our concerns related to the conditions at § 484.14(i)(2), which require an HHA to maintain a capital expenditure plan for at least a 3-year period, including the operating budget year. The plan must include and identify in detail the anticipated source of financing for, and the objectives of, any anticipated expenditure of $600,000 or more for any capital items. The condition also establishes certain specific and more extensive disclosure requirements that would apply if the anticipated expenditure is to be financed in any part by payment made from title V (Maternal and Child Health and Crippled Children's Services), title XVIII (Medicare), or title XIX (Medicaid) of the Act. However, regarding Medicare and Medicaid payments for capital expenditures, as of October 2, 1987, the Secretary terminated agreements with participating States to carry out provisions of section 1122 of the Act (implemented in part by § 484.14(i)(2)(ii)(B) and (C)), and will no longer withhold Medicare and Medicaid funds based on those agreements. Any capital costs that are related to a period before October 1, 1987, and are associated with a disapproved expenditure, may not be allowed. A State may choose to continue a capital expenditure review program so long as it does not involve Federal participation or Federal funding. Therefore, since § 484.14(i)(2)(ii)(B) and (C) have become obsolete, we did not seek reasonable assurance that HHAs accredited by CHAP are in compliance with the requirements of those sections.

The CHAP standard at CIV.1c1 states that:

> [t]he capital expenditure plan should include and identify in detail the anticipated sources of financing and the objectives of each capital item in excess of $600,000. If the financing source of any capital project includes federal funds the agency must demonstrate compliance with all applicable federal regulations.

Although the CHAP standard does not replicate the requirements of the Medicare conditions specifically, we believe that, by requiring the formulation of a detailed plan for capital expenditures of over $600,000, it provides reasonable assurance that the purpose intended to be served by the Medicare conditions is met. In addition, we believe that the requirement contained in the final sentence of the CHAP standard obligates CHAP accredited HHAs to comply with the capital expenditure requirements of § 484.14(i)(2) as well as with the specific CHAP requirements. Our understanding of the intent of this CHAP standard was confirmed in our discussions with CHAP staff. For these reasons, we believe that we have the required reasonable assurance that the requirements of the Medicare conditions would be met by an HHA accredited by CHAP.

B. Differences Between the CHAP and the Medicare Survey Processes

In HCFA's review of CHAP's survey process, we determined that overall, the process contains all of the elements necessary to conclude that the CHAP survey process is comparable to HCFA's. The following is a discussion of the HCFA process and the differences between it and the CHAP survey process.

The Medicare survey and certification process, as required by statute, is outcome-oriented. The specifics of the process are outlined in section 1891 of the Act and in sections 2196 through 2202 of the "State Operations Manual" (SOM) used by State surveyors. The Medicare process requires that a standard survey be conducted of each HHA not later than 15 months after the date of its previous standard survey. The Statewide average of the interval between the standard surveys of individual HHAs must not exceed 12 months. The standard survey also is conducted for HHAs initially applying for Medicare approval.

The composition of the standard survey as outlined in the SOM includes five complete Medicare conditions of participation and a part of another condition. The standard survey includes, to the extent practicable, the selection of a case-mix stratified sample of individuals furnished items or services by the HHA with visits to the homes of some patients after receiving the consent of these patients. The purpose of the process is to evaluate the HHA by using a standardized reproducible assessment instrument(s) to determine whether the quality and scope of items and services furnished by the HHA to

these individuals attained and maintained their highest practicable functional capacity as reflected in their plans of care and clinical records.The standard survey is also a survey of the quality of care and services furnished by the HHA as measured by indicators of medical, nursing, and rehabilitative care. The SOM describes the number of records to be reviewed by the State surveyor for record reviews and of home visits depending on the size of the HHA.

An HHA that is found under a standard survey to have provided substandard care is subject to an extended survey. An extended survey includes conditions or parts of conditions not evaluated during the standard survey. The purpose of the extended survey is to review and identify the policies and procedures that produced the substandard care and to determine whether the HHA has complied with Federal requirements. The statute also allows Medicare to conduct an extended or partially extended survey of an HHA at the discretion of the State agency or the Secretary. If such a survey is conducted, it must be immediately after the standard survey, or, if this is not practical, no later than 2 weeks after the date of completion of the standard survey.

The Medicare program has very specific procedures for ensuring that deficiencies identified during a survey of an HHA are corrected. All deficiencies that are a violation of the Medicare statute and regulations are cited and sent to the HHA in writing on a "Statement of Deficiencies and Plan for Correction Form" (HCFA-2567) within 10 calendar days after the survey. The HHA is allowed 10 calendar days to respond to the citation, including an explanation of how and when it plans to correct the deficiencies.

The HHA also is notified that the HCFA-2567, which contains a listing of the HHA's deficiencies and its proposed plan of correction, may be disclosed to the public, and that a future contact will be made to ensure that the plan of correction will be accomplished. A follow-up is made on all proposed plans of correction. In some instances, the follow-up is done by mail or telephone. In other instances, a revisit is made to the HHA to verify that the deficiencies have been corrected. The action taken by the State survey agency depends on the nature of the deficiencies. An HHA cannot initially be approved or recertified unless the HHA submits an acceptable plan of correction.

HCFA may take adverse action when an HHA is found to be out of compliance with the Medicare conditions of participation. Adverse action may include alternative sanctions against the HHA or termination of the HHA's participation in the Medicare program or both. An evidentiary hearing may be held before an Administrative Law Judge if an HHA contests HCFA's decision to terminate its Medicare provider agreement or to impose alternative sanctions. The State or Federal surveyor who participates in a survey that results in HCFA's decision to take adverse action against an HHA may be called as a witness in such a hearing, and surveyor findings may be admitted as evidence. If adverse action is taken by HCFA after CHAP accreditation has been withdrawn, CHAP surveyors would be available to serve as witnesses if needed.

CHAP accredits HHAs for a 3-year cycle. Each accreditation cycle begins with a "Full Site Visit" and a "Self Study Report" (to be completed by the HHA seeking accreditation) to provide CHAP with knowledge of the HHA and its ability to comply with the CHAP standards. This Self-Study Report will have already been reviewed by CHAP staff before the Full Site Visit of the HHA by CHAP to detect any major deficiencies. Six months before the expiration of the HHA's accreditation, CHAP requires the HHA to complete the Self-Study Report again for purposes of an update of the HHA before reaccredition. In the second and third years between accreditation and each 3-year period of reaccreditation, CHAP conducts abbreviated on-site visits to focus on selected key standards. CHAP also conducts a telephone survey of a sample of HHA patients, as well as home visits during the Full Site Visit and during the on-site visits for years 2 and 3.

When a CHAP site visitor notes deficiencies during a survey of an HHA seeking accreditation, the CHAP Board of Review may choose to accredit (or reaccredit) the HHA with "Required Actions". The HHA is notified of the Required Actions, and the HHA must comply with them in order to obtain (or maintain) accreditation. When making each accreditation determination, CHAP's Board of Review determines whether the deficiencies can be verified as corrected at the next annual visit, and will set a time frame of 9 to 15 months for the next visit. Those HHAs with more Required Actions or Required Actions of a more imperative nature will be seen closer to 9 months than to 15 months. The CHAP Board may determine that the Required Actions are serious enough to warrant a follow-up site visit, and may require this before the HHA's next annual visit. In these cases, the Board gives specific direction to the site visitor regarding the time and duration of the visit. Also, the HHA may be placed on warning (from 30 to 120 days) if the Board determines that such a follow-up is necessary. Then the HHA must comply fully with the actions required by the Board and have a site visit within the specified timeframe or risk losing accrediation.

However, in circumstances when, in the professional opinions of the site visitors, an HHA should be placed on warning before the Board of Review meets, the CHAP Senior Vice President, in consultation with a majority of the CHAP Board Executive Committee, may place an HHA on warning. Further, CHAP accreditation can be withdrawn during or immediately following a site visit if the site visitors determine at the time that there are quality of care, management, or financial problems that may seriously jeopardize the care received by the HHA's clients.

In order to ensure that Medicare's statutory obligation to employ a functional assesment tool in the HHA survey process is met, CHAP has agreed to use the HCFA functional assessment tool in the home visit and to record review portions of its accreditation survey. Details about the CHAP survey and accreditation process are found in a number of documents ("Self-Study Report", "Report of CHAP Site Visit", "Site Visitor Orientation Manual", and the "Guide to Home Visit", among others).

CHAP permits information from its accreditation report to be shared with HCFA. Under its current disclosure policy, CHAP makes available to HCFA all materials related to the accreditation of an HHA. In an effort to ensure that consumers have access to the information necessary to make informed decisions regarding home care and HHAs, the CHAP accreditation report is available to the public on request. In addition, a short, easy to understand summary of the report detailing the highlights of the accreditation visit is prepared for interested consumers. CHAP also notifies the public about any action taken by the CHAP Board of Review to withdraw accreditation from an HHA.

We believe that the CHAP survey and accreditation process, reviewed in its entirety ensures that problems are corrected, that action is taken against noncompliant HHAs, and that it provides reasonable assurance that Federal requirements are met. In summary, we believe that when all of these documents are considered collectively, they contain and constitute

all of the elements of the outcome-oriented Medicare survey and certification process with one exception.

That exception is based on the fact that the CHAP survey and accreditation process for years 2 and 3 does not allow for a natural progression from a standard outcome-oriented survey to a more extensive (that is, an extended or a partially extended) survey and certification process if substandard care is identified during the outcome-oriented survey. However, during any survey, CHAP site visitors can make several recommendations in their report to the Board of Review, including the withdrawal or deferment of accreditation or placing the HHA on warning status. Decisions on these matters would then be made by the CHAP Board of Review at its next meeting. Although the CHAP survey process does not contain an automatic progression to a more extensive survey upon the identification of substandard care, we believe that we have reasonable assurance that, when examined as a whole, the CHAP survey accreditation process ensures continued compliance by CHAP-accredited HHAs with the Medicare conditions of participation.

C. Proposed Stipulations Relating to CHAP Accreditation

As stated above, in the proposed rule published in the **Federal Register** on December 14, 1990, we set forth the standards and procedures that we propose to use to remove approval from a national accrediting organization. As part of this proposed notice to approve CHAP as a national accrediting organization for HHAs, we propose to apply to CHAP the standards and procedures for removal of recognition that were set forth in the proposed rule that was published on December 14, 1990. We would remove recognition—

- If CHAP should revise its standards in such a manner that they fail to provide reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation. Conversely, if we should revise the Medicare HHA conditions of participation to such a degree that the CHAP standards or accreditation policies would no longer provide reasonable assurance that the CHAP-accredited HHAs meet the conditions of participation; or
- If HCFA's validation or complaint surveys reveal widespread, systematic, or unresolvable problems with the CHAP accreditation process, thereby providing evidence that there is not reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation.

The December 14, 1990, proposed rule also would establish certain conditions for the continued approval of an accreditation program that we would apply to CHAP. They include the following:

- Our reservation of the right to perform, as appropriate, announced and unannounced validation and complaint surveys to ensure that CHAP-accredited HHAs that participate in Medicare meet the Medicare conditions of participation.
- CHAP's continued agreement to release CHAP survey reports to HCFA and to the public. If the reports reveal deficiencies which we believe warrant action by HCFA, we would reserve the right to survey the HHAs with deficiencies, to withdraw recognition of the accreditation program if appropriate, and to apply any other appropriate corrective measures or sanctions.

We also propose to make our recognition of CHAP's accreditation program contingent on CHAP's continued agreement to—

- Report (to either the Office of the Inspector General or the State agency responsible for investigating fraud and abuse for Medicaid or to both) complaints received from persons working in the accredited HHA or any substantial complaints from others, anonymous or identified, concerning potential fraud and abuse violations, and any other indication of a Medicare program abuse encountered by CHAP during a CHAP inspection. We believe that this requirement is necessary to ensure that the fraud and abuse reporting which presently occurs (as a result of the State survey of the HHA) continues to occur.
- Make CHAP surveyors available to serve as witnesses if adverse action is taken by HCFA after CHAP accreditation has been withdrawn. We believe this requirement is necessary to ensure HCFA's continued ability to call as a witness any surveyor who participates in a survey that results in the initiation of an adverse action. We believe that it is necessary for HCFA to continue to be able to have access to all surveyors who participate in such surveys should an HHA contest HCFA's initiation of an adverse action and request an evidentiary hearing before an administrative law judge. Such access is necessary to ensure that HCFA may present a witness who can describe the conditions he or she personally observed while surveying the HHA.

D. Conclusion

In conclusion, we believe that the CHAP accreditation standards and survey processes, subject to the stipulations described above, provide the Secretary with a reasonable assurance that the Medicare conditions of participation have been met. Accordingly, subject to those stipulations, we propose to deem home health programs accredited by CHAP to be in compliance with the Medicare conditions of participation for HHAs in accordance with the authority provided in section 1865 of the Act.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

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

In this notice, we propose to recognize the CHAP accreditation process. This means that HHAs accredited under CHAP ordinarily would not be subject to inspection by the Medicare State survey agencies to determine their compliance with Federal requirements. We believe that there would be no significant additional costs or savings realized as a result of this proposed notice.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HHAs, both free-standing and hospital-based, to be small entities. The HHAs currently participating in the Medicare program and which are accredited by the CHAP would be affected only to the extent that Medicare surveys would no longer routinely be performed. New agencies would continue to have the currently

existing free choice to seek accreditation by the CHAP or to rely upon Medicare survey and certification processes. Thus, implementing these policies would not have a significant impact with respect to the cost of operation and would, to the extent that Medicare surveys would be discontinued in some cases, reduce the administrative burden currently borne by these HHAs. Therefore, the Secretary certifies that this proposed notice would not have a significant economic effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not included in this proposed notice.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this proposed notice would not have a significant impact on the operations of a substantial number of small rural hospitals.

IV. Information Collection Requirements

This proposed notice would not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

V. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and, if we proceed with a final notice, we will respond to the comments in the preamble of that notice.

Authority: Sec. 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance, and No. 93.714, Medical Assistance Program)

Dated: June 10, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: August 5, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-21175 Filed 9-4-91; 8:45 am]

BILLING CODE 4120-01-M

Office of the Assistant Secretary for Health

Healthy People 2000 Consortium; Meeting

Name: Healthy People 2000 Consortium.

Date and Time: September 23, 1991, 8:45 AM to 5:30 p.m., National 4-H Center, 7100 Connecticut Avenue, Chevy Chase, Maryland 20815.

Open to non-Consortium members, with fee to cover meeting costs. Fee ($18) is payable one week in advance of the meeting (by September 16, 1991) to the National 4-H Center.

Purpose: The Healthy People 2000 Consortium assures participation in development and pursuit of the year 2000 national health objectives by the States, Territories, and the private and voluntary sectors. The Consortium was first convened by the Public Health Service in 1987, in partnership with the Institute of Medicine of the National Academy of Sciences.

Agenda: The theme of the meeting is "Using Partnerships and Coalitions to Improve Health."

Anyone wishing to obtain a roster of Consortium members, an agenda for the meeting, or other relevant information should contact Kathy Julian, Research Assistant, Office of Disease Prevention and Health Promotion, Public Health Service, U.S. Department of Health and Human Services, Washington, DC 20201, (202) 472-5583.

James A. Harrell,

Deputy Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 91-21241 Filed 9-4-91; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

White House Conference on Indian Education Advisory Committee

The document appearing in FR Doc. 91-20372 appearing in the issuance of Monday, August 26, 1991 on page 42064 is amended as follows:

From September 12, 1991, at 9 a.m. to 5 p.m. and September 13, 1991, at 9 a.m. to 5 p.m. to September 26, 1991, at 8 a.m. to 5 p.m. and September 27, 1991, at 8 a.m. to 5 p.m.

The location and agenda remain the same as was previously published.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin Atencio, Deputy Director, White House Conference on Indian Education, U.S. Department of Interior, 1849 C St., NW., MS 7026-MIB, Washington, DC 20240; telephone 202-208-7167; fax 208-4868.

Dated: August 30, 1991.

Mark Stephenson,

Assistant to the Secretary and Director of Communication.

[FR Doc. 91-21298 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-RK-M

Fish and Wildlife Service

Availability of an Agency Draft Recovery Plan for Ruth's Golden Aster for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of an agency draft recovery plan for Ruth's golden aster. This species is found only on publicly owned lands in Polk County, Tennessee. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 4, 1991 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806, telephone 704/665-1195. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the address and telephone number shown above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The agency draft recovery plan for Ruth's golden aster outlines a mechanism that provides for the recovery and eventual delisting of this federally endangered species. Ruth's golden aster was listed as an endangered species primarily because of alteration of its habitat by dam construction and trampling of its habitat by recreational users. The plan requires that the Service and other cooperators in the recovery of this species determine the biological requirements of the species, determine the number of individuals that constitutes a viable population, and determine and implement the management actions needed to ensure the continued existence of self-sustaining populations on the Ocoee and Hiwassee Rivers in Polk County, Tennessee. This agency draft recovery plan was preceded by a technical review draft that was reviewed by species experts and by experts in the protection of rare plants. Comments and information provided during this review will be used in preparing the final recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 23, 1991.

Richard G. Biggins,

Acting Field Supervisor.

[FR Doc. 91-21182 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[ID-020-4760-02]

Burley District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on October 3, 1991. The meeting will convene at 9 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) Deep Creek Resource Area Resource Management Plan, (2) Update on Murtaugh/Minidoka/German Lake Hazardous Material Sites, (3) Forestry Program Report, (4) Recap of 1991 Fire Activities, (5) General Discussion Items by Council Members.

The meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will begin at 11 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed.

Minutes of the Council meeting will be maintained in the District Office and will be available for public inspection during regular business hours.

DATES: October 3, 1991.

ADDRESSES: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Gerald L. Quinn, Burley District Manager, (208) 678-5514.

Dated: August 27, 1991.

Gerald L. Quinn,

District Manager.

[FR Doc. 91-21274 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-GG-M

[WY-040-01-4212-11; WYW122441]

Realty Action; Lease and Sale for Recreation of Public Purposes; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, recreation and public purposes classification and application for lease and sale in Sweetwater County.

SUMMARY: The following public lands have been identified and examined and are classified as suitable for lease and sale under the Recreation and Public Purposes Act, as amended, 43 U.S.C. 869 et seq.

Sixth Principal Meridian

T. 19 N., R. 105 W.,

Sec. 28: W½ of Lot 23.

The above land aggregates 5.19 acres.

FOR FURTHER INFORMATION CONTACT: Teri Deakins, Realty Specialist, Green River Resource Area, Bureau of Land Management, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307-362-6122.

SUPPLEMENTARY INFORMATION: The purpose of the classification and application for lease and sale of these lands is for development of the Sweetwater County Youth Crisis Home. The lease and sale will contain reservations to the United States for ditches, canals, all minerals, and will be subject to all existing reservations and prior rights. The proposed lease and sale is consistent with the Big Sandy Management Framework Plan. The land is not required for any Federal purpose.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws and leasing under the mineral leasing laws, except for recreation and public purposes.

The lands will not be offered for lease and/or sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

The Rock Springs Grazing Association was given a two year notification of cancellation of grazing privileges in 1983.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments to the

Bureau of Land Management, District Manager, Rock Springs District, P.O. Box 1869, Rock Springs, Wyoming 82902. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposed realty action will become final.

Dated: August 23, 1991.

Pat Wendt,

Assistant Area Manager.

[FR Doc. 91-21275 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-22-M

National Park Service

Civil War Sites Advisory Commission; Meetings

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the Civil War Sites Advisory Commission.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on September 22-23, 1991 in Marrietta, Georgia.

The meeting will begin at 9 a.m. and conclude at 4 p.m.

This meeting constitutes the third meeting of the Commission. The Commissioners take a tour of Kennesaw Mountain National Battlefield on September 22 and will hold a business meeting on September 23.

Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Anyone may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Dr. Marilyn Nickels, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013-7127 (telephone 202-343-9549). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in room 6111, 1100 L Street NW., Washington, DC.

Dated: August 28, 1991.

Lawrence E. Aten,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 91-21231 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-70-0

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 August 24, 1991. 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 September 20, 1991.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Sarasota County

Eagle Point Historic District, 759 N. Tamiami Trail, Venice Vicinity, 91001448

MONTANA

Cascade County

Arvon Block, 114—116 First Ave. S., Great Falls, 91001446

Ursuline Academy, 2300 Central Ave., Great Falls, 91001447

UTAH

Salt Lake County

Harris Apartments, 836 South 500 East, Salt Lake City, 91001445

Washington County

Bradshaw House—Hotel, 85 S. Main St., Hurricane, 91001443

Hurricane Library—City Hall, 35 W. State St., Hurricane, 91001444

WASHINGTON

King County

Trinity Parish Church, 609 Eighth Ave., Seattle, 91001440

Kittitas County

Northern Pacific Railway Passenger Depot, 606 W. Third St., Ellensburg, 91001438

Klickitat County

First Day Advent Christian Church, Jct. of Maryhill Hwy. and Stonehenge Ave., Maryhill, 91001439

Spokane County

Felts Field Historic District, Roughly, Rutter Ave. between Fancher and Dollar Rds., Spokane, 91001442

Thurston County

Weyerhaeuser South Bay Log Dump Rural Historic Landscape, 609 Whitham Rd., Olympia vicinity, 91001441

[FR Doc. 91-21232 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (AID) has authorized the guaranty of a loan to the Kingdom of the Government of Morocco ("Borrower") as part of AID's development assistance program. The proceeds of this loan will be used to finance shelter projects for low-income families in Morocco. The Borrower has authorized AID to request proposals from eligible investors. The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, and the amount of the loan and project number are indicated below:

Morocco

Project: 608-HG-003-$15,000,000, Attention: Mr. Thami El Barki, Adjoint au Directeur, du Tresor et des Finances Exterieures, Ministere de Finances, Boulevard Mohamed V, Rabat, Morocco, Telex No.: 36-860, Telephone No.: 212/(7)76-2717, Telefax No.: 212/(7)76-4950.

Interested investors should submit their bids to the Borrower's representative on Tuesday, September 10, 1990, 12:00 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Harry Birnholz, Housing and Urban Development Officer, c/o American Embassy, 2 Ave. de Marrakech, USAID/Rabat, RHO/USAID, Rabat, Morocco, Telex No.: 31005M, Telephone No.: 212/(7)76-2265, Ext. 2347, Telefax No.: 212/(7)70-7930.

Sean P. Walsh, Agency for International Development, PRE/H, Room 401, SA-2, Washington, DC 20523-0214, Telex No.: 892703 AID WSA, Telefax No.: 202/663-2552 (preferred communication).

For your information the Borrower is currently considering the following terms:

(a) *Amount:* U.S. $15 million.

(b) *Term:* Up to 30 years.

(c) *Grace Period:* 10 years on repayment of principal with repayment amortizing evenly over the remaining life of the loan.

(d) *Interest Rate:* Variable rate indexed to six (6) month LIBOR.

(e) *Prepayment:* Offers should include the terms for partial or total prepayment and/or refinancing of the loan by the Borrower specifying the earliest date the option can be exercised without penalty.

(f) *Closing Date:* Estimated 60 days from date of selection of investor.

(g) *Fees:* Borrower agrees to pay all closing costs at closing from the proceeds of the loan. Lenders are requested to include all legal fees in their placement fee.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by AID Disbursements under the loan will be subject to certain conditions required of the Borrower by AID as set forth in agreements between AID and the Borrower.

The full repayment of the loans will be guaranteed by AID. The AID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act"). The AID guaranty will be issued by AID in accordance with AID standard documentation (including Housing Guaranty Standard Terms and Conditions and normal AID prepayment and other rights and remedies).

Lenders eligible to receive an AID guaranty are those specified in section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an AID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by AID.

Information as to the eligibility of investors and other aspects of the AID housing guaranty program can be obtained from:

Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, room 401, SA-2, Washington, DC 20523-0214, Telephone: 202/663-2530.

Dated: August 30, 1991.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise; Agency for International Development.

[FR Doc. 91-21379 Filed 9-4-91; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-324]

Certain Acid-Washed Denim Garments and Accessories; Decision Not To Review an Initial Determination Amending the Complaint and Notice of Investigation To Add Three Firms as Respondents, and Extending the Administrative Deadline for Completion of the Investigation by an Additional Two Months

AGENCY: U.S. International Trade Commission

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) (Order No. 16) in the above-captioned investigation granting motions of complainants Greater Texas Finishing Corporation and Golden Trade S.r.L. to: (1) Amend the complaint and notice of investigation to add three firms as respondents; and (2) extend the administrative deadline for completion of the investigation by a further two months. As a result of this action, the deadline for completion of the investigation is August 6, 1992, the full eighteen months from notice of institution that is allowed by statute.

FOR FURTHER INFORMATION CONTACT: William T. Kane, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202)-205-3116. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436: telephone: (202)-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202)-205-1810.

SUPPLEMENTARY INFORMATION: Notice of institution of this investigation was published in the **Federal Register** on February 6, 1991 (56 FR 4851). On July 5, 1991, the Commission determined not to review an ID (Order No. 10) that, *inter alia*, designated the investigation "more complicated" and extended its deadline for conclusion by four months. 56 Fed. Reg. 32587 (July 17, 1991).

On July 3, 1991, complainants moved (Motion Docket No. 324-24) that the ALJ reconsider Order No. 10, and requested that the deadline for completion of the investigation be extended an additional two months, thereby extending the length of the investigation to the full 18 months allowed under the statute. Respondents The Gitano Group, Inc. and Jordache Enterprises, Inc. filed submissions indicating no opposition to the motion. On July 12, 1991, complainants moved (Motion Docket 324-25) pursuant to interim rule 210.22(a) to amend the complaint and notice of investigation to add three firms as respondents. These firms are: (1) Win Luen Universal Laundry Ltd.; (2) Apogee Enterprises; and (3) Sao Paolo Alpargatas, S.A. The Commission investigative attorneys filed submissions in support of both of complainants' motions. On July 26, 1991, the presiding ALJ issued an ID granting both motions (ALJ Order No. 16). No petitions for review or agency comments were filed.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.53 (19 CFR 210.53).

Issued: August 27, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-21244 Filed 9-4-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-469 (Final)]

High-Information Content Flat Panel Displays and Subassemblies Thereof From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Japan of high-information content flat panel displays and display glass therefor (HIC FPDs) [3] that have been

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Acting Chairman Brunsdale dissenting.

[3] The products covered by this investigation are active matrix liquid crystal high information content flat panel displays and display glass therefor ("active matrix LCDs") and electroluminescent high information content flat panel displays and display glass therefor ("EL displays"). Such products are large-area, matrix-addressed displays, no greater than four inches in depth, with a picture element ("pixel") count of 120,000 or greater, whether complete or incomplete, assembled or unassembled. Included are monochromatic, limited color, and full

Continued

found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 21, 1991, following a preliminary determination by the Department of Commerce that imports of HIC FPDs from Japan were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 27, 1991 (56 FR 12741). The hearing was held in Washington, DC, on July 11, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 26, 1991. The views of the Commission are contained in USITC Publication 2413 (August, 1991), entitled "Certain High-Information Content Flat Panel Displays and Display Glass Therefor from Japan: Determination of the Commission in Investigation No. 731-TA-469 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: August 28, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91-21245 Filed 9-4-91; 8:45 am]

BILLING CODE 7020-02-M

color displays used to display text, graphics, and video. Active matrix LCDs utilize a thin-film transistor array to activate liquid crystal at individual pixel locations. EL displays incorporate a matrix of electrodes that, when activated, apply an electrical current to a solid compound of electroluminescent material (e.g., zinc sulfide) causing it to emit light.

Active matrix LCD display glass and EL display glass, whether or not integrated with additional components, exclusively dedicated and designed for use in, respectively, active matrix LCDs and EL displays, are defined as processed glass substrates that incorporate patterned row, column, or both types of electrodes, and also typically incorporate a material that reacts to a change in voltage and contact pads for interconnecting drive electronics.

HIC FPDs are currently classified in the following provisions of the Harmonized Tariff Schedule of the United States (HTS): 8543, 8803, 9013, 9014, 9017.90.00, 9018, 9022, 9028, 9027, 9030, 9031, 8471.92.30, 8471.92.40, 8473.10.00, 8473.21.00, 8473.30.40, 8442.40.00, 8466, 8517.90.00, 8528.10.80, 8529.90.00, 8531.20.00, 8531.90.00, and 8541.

[Investigation No. 731-TA-525 (Preliminary)]

Nepheline Syenite From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of nepheline syenite,[2] provided for in subheading 2529.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On July 12, 1991, a petition was filed with the Commission and the Department of Commerce by The Feldspar Corporation, Asheville, NC, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of nepheline syenite from Canada. Accordingly, effective July 12, 1991, the Commission instituted antidumping investigation No. 731-TA-525 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 19, 1991 (56 FR 33305). The conference was held in Washington, DC, on August 2, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on August 26, 1991. The views of the Commission are contained in USITC Publication 2415 (August 1991), entitled "Nepheline Syenite from Canada: Determination of the Commission in Investigation No. 731-TA-525 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: August 27, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91-21246 Filed 9-4-91; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The product covered by this investigation is nepheline syenite, which is a coarse crystalline rock consisting principally of feldspathic minerals (i.e., sodium-potassium feldspars and nepheline), with little or no free quartz, and ground no finer than 140 mesh.

[Investigations Nos. 303-TA-22 (Preliminary) and 731-TA-527 (Preliminary)]

Extruded Rubber Thread From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and preliminary investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 303-TA-22 (Preliminary) under section 303(a) of the Tariff Act of 1930 (19 U.S.C. 1303) and preliminary antidumping investigation No. 731-TA-527 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Malaysia of extruded rubber thread,[1] provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Malaysia and sold in the United States at less than fair value. The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by October 15, 1991.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 F.R. 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 F.R. 11918, Mar. 21, 1991).

[1] The merchandise covered by these investigations is vulcanized rubber thread obtained by extrusion, of stabilized or concentrated natural rubber latex, or any cross-sectional shape, measuring from 0.18 millimeter (0.007 inch or 140 gauge) to 1.42 millimeters (0.056 inch or 18 gauge).

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Jeff Doidge (202-205-3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on August 29, 1991, by North American Rubber Thread Co., Inc., Fall River, MA.

Participation in these investigations and public service list.—Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register.**

The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in these investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on September 19, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jeff Doidge (202-205-3183) not later than September 17, 1991, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 24, 1991, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for fling without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: August 30, 1991.

By order of the Commission.

Kenneth R. Mason.

Secretary.

[FR Doc. 91-21346 Filed 9-4-91; 8:45 am]

BILLING CODE 7020-02-M

[Inv. Nos. TA-131-17, 503(a)-22, and 332-312]

President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: On August 22, 1991, the Commission received a request from the U.S. Trade Representative (USTR) requesting certain Commission advice under sections 131, 503, and 504 of the Trade Act of 1974 and section 332(g) of the Tariff Act of 1930. Following receipt of that request, the Commission instituted Investigation Nos. TA-131-17, 503(a)-22, and 332-312 in order to:

(1) Provide advice, pursuant to sections 131(b) and 503(a) of the Trade Act of 1974 (19 U.S.C. 2151(b) and 2463(a)), with respect to each article listed in part A of the attached Annex, as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the Generalized System of Preferences (GSP);

(2) Provide advice pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g))—

(a) As to the probable economic effect on domestic industries producing like or directly competitive articles and on consumers of the removal of the articles listed in part B of the attached Annex from eligibility for duty-free treatment under the GSP;

(b) In accordance with section 504(c)(3)(A)(i) of the Trade Act of 1974 as to the probable economic effect on domestic industries producing like or directly competitive articles and on consumers of waiving the competitive need limits for countries specified with respect to the articles listed in part C of the attached Annex;

(c) As to the probable economic effect on domestic industries producing like or directly competitive articles and on consumers of restoring the competitive need limits specified in section 504(c)(1) of the 1974 Act for countries specified with respect to the articles listed in part D; and

(d) In accordance with section 504(d) of the Trade Act of 1974, which exempts from one of the competitive need limits in section 504(c) of the Trade Act of 1974 articles for which no like or directly competitive article was being produced in the United States on January 3, 1985, with respect to whether products like or directly competitive with the articles in part A of the attached Annex and HTS subheading 3926.90.87 were being produced in the United States on January 3, 1985.

In providing its advice under (1), the Commission will assume, as requested by USTR, that the benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the competitive need limits specified in section 504(c)(1) of the Trade Act of 1974 (except as noted in the USTR letter with respect to articles for Thailand included under HTS subheading 2008.92.10, for Turkey included under HTS subheading 2401.10.40, for Mexico included under HTS subheading 2917.36.00, and for Argentina included under HTS subheading 3301.13.00).

As requested by USTR, the Commission will seek to provide its advice not later than November 22, 1991.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT:

(1) Agricultural products, Mr. J. Fred Warren (202–205–3311).
(2) Textiles and apparel, Ms. Linda Shelton (202–205–3457).
(3) Chemical products, Ms. Cynthia Trainor (202–205–3354).
(4) Minerals and metals, Mr. David Lundy (202–205–3439).
(5) Machinery and equipment, Mr. John Cutchin (202–205–3396).
(6) General manufactures, Mr. Richardo Witherspoon (202–205–3489).
(7) Services and electronic technology, Mr. John Kitzmiller (202–205–3387).

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Background

The letter from the USTR provided the following by way of background:

The Trade Policy Staff Committee (TPSC) announced in the **Federal Register** on August 26, 1991, the acceptance of product petitions for modification of the Generalized System of Preferences (GSP) received as part of the 1991 annual review. Modifications to the GSP which may result from this review will be announced in early 1992, and become effective July 1, 1992.

PUBLIC HEARING: A public hearing in connection with this investigation is currently scheduled to begin at 9:30 a.m. on October 1–3, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter asking to testify with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on September 16, 1991. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on September 19, 1991. The deadline for filing post hearing briefs is the close of business on October 10, 1991. In the event that no requests to appear at the hearing are received by the close of business on September 16, 1991, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–252–1808) after September 18, 1991 to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on October 10, 1991. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: August 30, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Annex I (HTS Subheadings) [1]

A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.

0409.00.00
0703.10.40(pt)
0709.90.40(pt)
0712.10.00
0712.20.20
0712.20.40
0712.90.40
0712.90.75
0804.20.40
0804.20.80
0806.10.60
0806.20.20
0814.00.90(pt)
1604.13.30
1210.20.00
1604.19.25
1901.90.30(pt)
2005.70.11
2005.70.13
2005.70.15
2005.70.21
2005.70.22
2005.70.25
2005.70.50
2005.70.75
2005.70.83
2008.40.00
2008.50.20
2008.92.10 [2]
2204.30.00
2401.10.40 [3]
2902.90.50
2906.21.00
2917.36.00 [4]
2922.49.20
3301.13.00 [5]
3926.20.50
3926.30.50
5608.11.0010
7202.41.00
7202.49.50
7318.15.20
7318.15.40
7318.15.60
7318.16.00
8483.50.80
8527.29.0040

[1] See USTR Federal Register notice of August 26, 1991 (56 F.R. 42080) for article descriptions.
[2] Advice is also requested on waiving the competitive need limit for Thailand on articles in this subheading.
[3] Advice is also requested on waiving the competitive need limit for Turkey on articles in this subheading.
[4] Advice is also requested on waiving the competitive need limit for Mexico on articles in this subheading.
[5] Advice is also requested on waiving the competitive need limit for Argentina on articles in this subheading.

B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences.

4007.00.00
7314.20.00
7320.10.00
7321.11.30

C. Petitions for waiver of competitive need limit for products on the list of eligible products for the Generalized System of Preference.

0705.11.40 (Mexico)
0807.10.20 (Mexico)
0807.10.70 (Mexico) [6]
0810.90.40(pt) (Mexico) [6]
1905.90.90(pt) (Mexico)
2001.90.39(pt) (Mexico)
2008.92.10 (Thailand) [7]
2401.10.40 (Turkey) [7]
2603.00.00 (Mexico)
2836.91.00 (Chile)
2917.36.00 (Mexico) [7]
3301.13.00 (Argentina) [7]
3402.90.10 (Mexico)
3902.10.00 (Mexico)
3902.30.00 (Mexico)
3902.71.00 (Mexico)
3926.90.87 (Mexico) [8]
6910.10.0030 (Mexico)
6912.00.44 (Brazil)
7113.19.10 (Peru)
7321.11.30 (Mexico)
7401.10.00 (Mexico)
7402.00.00 (Mexico) [6]
8301.40.60 (Mexico)
8407.37.2080 (Brazil)
8409.91.91 (Mexico) [6]
8415.82.00 (Mexico) [6]
8415.90.00 (Mexico) [6]
8527.90.21.1010 (Brazil) [9]
8428.90.00 (Mexico) [6]
8539.90.00 (Mexico) [6]

8544.51.80 (Mexico)
8544.59.20 (Mexico)
9025.11.20 (Brazil) [9]
9502.10.40 (Malaysia)
9502.10.80 (Malaysia)

[6] Advice is also requested on restoring the competitive need limit for Mexico on articles in this subheading.
[7] Advice is also requested on adding this subheading to the list of GSP eligible products.
[8] Advice is also requested, on whether products like or directly competitive with articles included in this subheading were produced in the United States on January 3, 1985.
[9] Advice is also requested on restoring the competitive need limit for Brazil on articles in this subheading.

D. Petitions for restoring of competitive need limit for products on the list of eligible products for the Generalized System of Preference.

0807.10.70 (Mexico) [10]
0810.90.40(pt) (Mexico) [10]
7402.00.00 (Mexico) [10]
8409.91.91 (Mexico) [10]
8415.82.00 (Mexico) [10]
8415.90.00 (Mexico) [10]
8428.90.00(pt) (Mexico) [10]
8527.21.1010 (Brazil) [10]
8539.90.00 (Mexico) [10]
9025.11.20 (Brazil) [10]

[10] Advice is also requested on waiving the competitive need limit for the esignated country on articles in this subheading.

[FR Doc. 91-21347 Filed 9-4-91; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31923]

Gateway Western Railway and CSX Transportation, Inc.—Joint Relocation Project Exemption

On August 15, 1991, Gateway Western Railway (Gateway Western) and CSX Transportation, Inc. (CSX), filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad. The joint project involves Gateway Western's acquisition of approximately 661 feet of CSX track and its construction of approximately 3,550 feet of connecting track to form a continuous line over which it would operate to reach the interchange point with CSX near CSX's Cone yard at East St. Louis, IL. The transaction was to have been consummated on or after August 22, 1991.

The line relocation would enable Gateway Western to eliminate a more circuitous and risky routing, in part via trackage rights over a line of the Terminal Railroad Association of St. Louis (TRRA).[1] As part of the relocation project, Gateway Western would grant back to CSX overhead trackage rights over the line segment it acquired so that CSX may access the TRRA lines with which it connects.

The Commission requires separate approval or exemption for the construction component of a relocation project only where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. See, *generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN*, 4 I.C.C.2d 95 (1987). Under these standards, the joint relocation project, including the incidental construction component, qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Gateway Western shall retain its interest and take no steps to alter the historic integrity of all sites and structures more than 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: William C. Sippel, Oppenheimer, Wolff & Donnelly, 233 North Michigan Avenue suite 2400, Chicago, IL 60601, and on Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

Dated: August 29, 1991.

By the Commission, Richard B. Felder, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-21289 Filed 9-4-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 155X)]

Illinois Central Railroad Company—Abandonment Exemption—In Randolph County, IL

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 7.0-mile line of railroad between milepost 610.0, at Red Bud, and milepost 603.00, at Baldwin, in Randolph County, IL.

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 October 5, 1991 (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 September 16, 1991.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by September 25, 1991, 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: Ronald A.

[1] Gateway Western is retaining these trackage rights (and presumably does not intend to abandon its preexisting connecting line) for use as an overflow or emergency access route.

[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.

Lane, 233 North Michigan Avenue, suite 2700, Chicago, IL 60601.

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 September 10, 1991. 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 imposed, where appropriate, in a subsequent decision.

Decided: August 29, 1991.

By the Commission, Richard B. Felder, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-21290 Filed 9-4-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Seth E. Elliott; Notice of Consent Judgment in Action To Enjoin Violation of the Clean Air Act ("CAA")

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *Seth E. Elliott* (N.D. Illinois), Civil Action No. 91-C-1425, was lodged with the United States District Court for the Northern District of Illinois on August 27, 1991. The Consent Decree provides for penalties for violating sections 112(c) and 114 of the Clean Air Act, 42 U.S.C. 7412(c) and 7414, as amended on November 15, 1990 by Public Law 101-549, and the National Emission Standards for Hazardous Air Pollutants for asbestos (the "asbestos NESHAP"), 40 CFR part 61, subpart M, and requires the Defendant to immediately achieve full compliance with the asbestos NESHAP.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Seth E. Elliott*, D.O.J. Ref. No. 90-5-2-1-1539.

The Consent Decree may be examined at the Office of the United States Attorney, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1500 S, Chicago, Illinois 60604; at the Region V office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $3.50 (25 cents per page reproduction charge) payable to Consent Decree Library.

John C. Cruden,

Section Chief, Environment and Natural Resources Division.

[FR Doc. 91-21184 Filed 9-4-91; 8:45 am]

BILLING CODE 4410-01-M

Lockheed Corp., et al; Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and in accordance with Section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act, notice is hereby given that on August 22, 1991, a proposed Consent Decree in *United States* v. *Lockheed Corporation, et al.*, was lodged with the United States District Court for the Central District of California. This consent decree represents a settlement for a partial remedy for the Burbank Operable Unit, San Fernando Valley Area 1 Superfund Site ("Site"), and the recovery of a substantial portion of costs.

This settlement between the United States, Lockheed Corporation, Weber Aircraft and the City of Burbank, California ("Settling Defendants") is for past and future costs, and design and construction of the remedy, except for a small construction carve-out and long-term operation and maintenance. The Settling Defendants will operate and maintain the remedy for approximately two years (of a total of twenty years of operation and maintenance selected in the Record of Decision). Past costs covered by this settlement exceed $1.9 million. The remedy includes design, construction, and operation of a groundwater extraction and treatment system. It is designed to inhibit the migration of contamination in the groundwater basin and to aid in aquifer restoration of the immediate Burbank Operable Unit area. The treated water will be delivered to the City of Burbank's public water supply distribution system, or reinjected into the San Fernando Valley Basin.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments [relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lockheed Corporation, et al.* San Fernando Valley (Superfund Site), D.J. Ref. 90-11-2-442.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Central District of California, 312 North Spring Street, Los Angeles, California 90012, and at the Region IX, Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $63.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-21185 Filed 9-4-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Emploment and Training Administration

Home Petroleum Corp.; Negative Determination on Reconsideration

TA-W-23,699 Headquartered in Denver, Colorado,

TA-W-23,699A Various Locations in Louisiana, and Operating Out of Various Field Offices in

TA-W-23,700 Geary, Oklahoma

TA-W-23,701 Plaza, North Dakota

TA-W-23,702 Rock Springs, Wyoming

TA-W-23,703 Houston, Texas
TA-W-23,704 Gillette, Wyoming.

In the matter of:

By order dated June 25, 1991, the United States Court of International Trade (USCIT) in *Former Employees of Home Petroleum Corporation* v. *U.S. Secretary of Labor* (USCIT 90-06-00304) granted the Department's consent motion for a remand in order that it may conduct a further investigation.

The record shows that Home Petroleum was initially denied on February 5, 1990 based on the fact that decreased sales or production criterion and the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act were not met in 1988 or 1989.

Total sales increased in 1988 compared to 1987 and in 1989 compared to 1988. The reason for the layoffs was the sale of the firm in December, 1989 to the Presidio Oil Company, in Englewood, Colorado. The ntoice was published in the **Federal Register** on March 8, 1990 (55 FR 8616).

A company official in asking for reconsideration claimed that if the 11 month sales of natural gas were annualized for 1989 the decreased sales or production criterion of the Group Eligibility Requirement of the Act would have been met.

The Department denied the request for reconsideration since meeting the decreased sales or production criterion, in itself, would not form a sufficient basis for a worker group certification. The event which led to the worker separations was the sale of Home Petroleum's assets to another demestic oil company—not increased imports.

The notice of negative determination regarding application for reconsideration was issued on April 6, 1990 and published in the **Federal Register** on May 1, 1990 55 FR 18191).

The increased imports of crude oil and natural gas from Home Petroleum's parent company Gulf Canada Resources Ltd., do not provide a basis for certification. The customers and the market area served were different for Gulf Canada Resources and Home Petroleum. Only Texaco was customer of both firms and it had increased purchases of crude oil from home Petroleum during the relevant period. Natural gas is shipped by pipeline. Home Petroleum gas customers were surveyed and none of them imported Canadian gas. Also, comments from Home Petroleum's customers indicated that most of the Canadian natural gas goes to California which is outside Home Petroleum's market.

On further investigation, the Department surveyed the natural gas customers with declining purchases from Home Petroleum as well as the crude oil customers with declining purchases from Home Petroleum to determine whether either group imported crude oil or natural gas.

The survey showed that none of the crude oil customers imported natural gas. The survey also showed that a few customers had increased imports of crude oil in 1989 together with a decline of crude oil purchases from Home. However, this would not have formed a sufficient basis for a worker group certification since these small changes were more than offset by other customers increasing their purchases of crude oil from Home in 1989.

With respect to Home's natural gas business, sales and production decreased in 1989 compared to 1988 after increasing in the prior year. The Department's survey of Home's natural gas customers showed that none imported natural gas and all but one did not import crude oil. The respondent with increased crude oil purchases represented a small percent of Home's national gas sales in 1988 and 1989.

In summary then, the declining purchases from Home of the natural gas customers with increased crude oil imports and the small crude oil importing customers, would not form a sufficient basis for certification since the natural gas customer's sales accounted for a small percent of Home's sales and the declining purchases of the small crude oil importers were more than offset by other customers increasing their purchases from Home.

Further, the sale of Home Petroleum assets in December 1989 to another domestic oil company was so dominant a cause that layoffs would have occurred regardless of the level of imports of natural gas or crude oil. The Senate Report on the Trade Act mentions that if a cause is "so dominant that the separations and decline in sales or production would have been essentially the same irrespective of the influence of the import increase, * * * the Secretary would not find that increased imports had "contributed importantly". (See United States Senate, Committee on Finance, *Report No. 93-1298, Trade Reform Act of 1974*, HR 10710, p. 133.)

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to former workers of Home Petroleum Corporation, headquartered in Denver, Colorado and operating at various locations in Louisiana and operating out of various field offices in Geary, Oklahoma; Plaza, North Dakota; Rock Springs, Wyoming; Houston, Texas and Gillette, Wyoming.

Signed at Washington, DC, this 26th day of August 1991.

Barbara Ann Farmer,

Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 91-21249 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

Unibar Drilling Fluids, Inc.; Rocky Mountain Division, a/k/a Davis Mud of the Rockies, Inc. Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-25, 759 Denver, Colorado and Operating in Various Locations in the Following States
TA-W-25, 759A Colorado (except Denver)
TA-W-25, 759B North Dakota
TA-W-25, 759C South Dakota
TA-W-25, 759D Montana
TA-W-25, 759E Wyoming
TA-W-25, 759F New Mexico
TA-W-25, 759G Utah
TA-W-25, 759H Nebraska.

In the matter of:

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 July 31, 1991, applicable to all workers of the Rocky Mountain Division of Unibar Drilling Fluids, Denver, Colorado. The notice was published in the **Federal Register** on August 9, 1991 (56 FR 37928).

The Department is amending the certification to indicate the States in the Rocky Mountain Division of Unibar Drilling Fluids, headquartered in Denver, Colorado. Workers at Unibar Drilling Fluids customize drilling muds at drilling sites for unaffiliated firms in the oil and gas industry in the following States: Colorado, North Dakota, South Dakota, Montana, Wyoming, New Mexico, Utah and Nebraska.

Also, new information from the company shows that Unibar Drilling Fluids was also known as (a/k/a) Davis Mud of the Rockies, Inc. Accordingly, Davis Mud of the Rockies, Inc., is a predecessor-in-interest firm to Unibar Drilling Fluids. The notice, therefore is amended to properly reflect the correct worker group.

The amended notice applicable to TA-W-25, 759 is hereby issued as follows:

All workers in the State of Colorado, North Dakota, South Dakota, Montana, Wyoming, New Mexico, Utah and Nebraska of the Rocky Mountain Division of Unibar Drilling Fluids, Inc., Denver Colorado a/k/a Davis Mud of the Rockies, Inc. who became totally or partially separate from employment on or after January 1, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of August 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 21250 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Small Business of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. Monday, September 23, 1991, in room S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Small Business Working Group was formed by the Advisory Council to study issues relating to Small Business for employee benefit plans covered by ERISA.

The purpose of the September 23, meeting is to review public testimony received during a meeting of the work group on September 11, 1991, receive additional public comments and prepare a status report for discussion by the Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 18, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 18, 1991.

Signed at Washington, DC this 29th day of August, 1991.

William E. Morrow,

Executive Secretary, ERISA Advisory Council.

[FR Doc. 91-21210 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Enforcement of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 11:30 a.m. Monday, September 23, 1991, in room S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Enforcement Working Group was formed by the Advisory Council to study issues relating to Enforcement for employee benefit plans covered by ERISA.

The purpose of the September 23, meeting is to review public testimony received during a meeting of the work group on September 12, 1991, receive additional public comments and prepare a status report for discussion by the Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 18, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 18, 1991.

Signed at Washington, DC this 29th day of August, 1991.

William E. Morrow,

Executive Secretary, ERISA Advisory Council.

[FR Doc. 91-21211 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Retiree Medical Benefits of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 1:30 p.m. Monday, September 23, 1991, in room S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Retiree Medical Benefits Working Group was formed by the Advisory Council to study issues relating to Retiree Medical Benefits for employee benefit plans covered by ERISA.

The purpose of the September 23, meeting is to review public testimony received during a meeting of the work group on September 13, 1991, receive additional public comments and prepare a status report for discussion by the Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the Working Group should submit written requests on or before September 18, 1991, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 18, 1991.

Signed at Washington, DC this 29th day of August, 1991.

William E. Morrow,

Executive Secretary, ERISA Advisory Council.

[FR Doc. 91-21212 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting on the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, September 24, 1991, in suite N-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the Sixty-Ninth meeting of the Secretary's ERISA Advisory Council which will begin at 9:30 a.m., is to receive status reports from each of the Council's work groups i.e., Enforcement; Retiree Medical Benefits; Small Business Retiree Plans, and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 18, 1991 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals, or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 18, 1991.

Signed at Washington, DC this 29th day of August, 1991.

William E. Morrow,

Executive Secretary, ERISA Advisory Council.

[FR Doc. 91-21213 Filed 9-4-91; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50-483]

Union Electric Co., Callaway Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of section III.D.1.(a) of appendix J to 10 CFR part 50 to the Union Electric Company (the licensee) for the Callaway Plant, Unit 1, located in Callaway County, Missouri.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant a partial exemption from the requirements of section III.D.1.(a) of appendix J to 10 CFR part 50. This section requires that a set of three Type A tests be performed at approximately equal intervals during each 10-year service period and that the third test of each set be conducted when the plant is shut down for the 10-year plant inservice inspection (ISI). The licensee request is for an exemption from the requirement to perform the third Type A test when the plant is shut down for the 10-year plant inservice inspection (ISI).

The proposed action is in accordance with Item 4 of the licensee's request for exemption dated March 15, 1991.

The Need for the Proposed Action

The proposed exemption is needed since the licensee has adopted an 18-month fuel cycle, which does not lend itself to equal intervals for the periodic Type A tests. Assuming that no incident interferes with the 18-month fuel cycle, the Type A test intervals will be 36 months and 54 months. These intervals can be implemented in any order. Moreover, the licensee does not conduct its ISI program in one refueling outage; rather, the ISI program is conducted throughout each 10-year service period. Without this exemption, the licensee might otherwise be forced to conduct a fourth Type A test during each 10-year service period.

Environmental Impacts of the Proposed Action

The Commission has determined that granting the proposed exemption would have no impact on the reactor primary containment leakage relative to that currently required by section III.D.1.(a) in that the same number of Type A tests will continue to be made as presently required though one of the intervals (i.e., the 54-month interval) will be 4 months longer than that presently specified in the Callaway Technical Specifications. Accordingly, there will be no increase in either the probability or the amount of radiological release from the Callaway Plant in the event of an accident. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the requested exemption.

With regard to potential nonradiological impacts, the proposed subject exemption causes no change in the manner of the plant operation. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts attributed to the facility, but could add to the cost of operating the plant by requiring a fourth Type A test during each 10-year service period. This would result in the expenditure of resources without any compensating benefit.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement related to the operation of Callaway Plant, Unit No. 1," dated January 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, refer to Item 4 of the request for exemptions dated March 15, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and

at Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Rockville, Maryland, this 28th day August 1991.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91-21268 Filed 9-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027]

Sequoyah Fuels Corp.; (Source Materials License No. SUB-1010) Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Memorandum and Order dated August 2, 1991, the Atomic Safety and Licensing Board presiding over the Sequoyah Fuels Corporation license renewal proceeding (ASLBP No. 91-623-01-MLA), pursuant to 10 CFR 2.1205(k)(2), referred the Citizens' Action for a Safe Environment (CASE) "Limited Appearance Intervention and Objection to Renewal" (Petition), dated July 1, 1991, to the NRC Staff for consideration as a petition under 10 CFR 2.206. Kathy Carter-White, Esq., submitted the Petition to the Licensing Board on behalf of CASE. The Petition requests that the Nuclear Regulatory Commission deny Sequoyah Fuels Corporation's (SFC) application to renew its license to operate the Sequoyah Fuels facility (facility) because of "the radionuclides and chemical toxics discharged by Sequoyah Fuels Facility(,) * * * the health affects (sic) to the general public," violations of regulatory requirements, and environmental and external cost concerns.

CASE alleges the following bases for its request:

(1) The SFC documentation purporting to meet a $750,000 decommissioning funding requirement is inadequate because a) the SFC letter of credit and Citibank authorization do not match, in that Citibank's assistant secretary states that Joseph Jaklitsch is a Services Officer, but does not state that a Services Officer may sign and authenticate documents, and does not state whether the letter of credit is a trust certificate or any other instrument which may be authenticated and signed by the specified officers, or whether the letter of credit is held in trust, b) the instrument submitted 1/4/91 and dated 7/27/90 is not *prima facie* binding, and c) a decommissioning funding plan as per 10 CFR 40.36 was to have been submitted at the time of the renewal application request;

(2) SFC is in violation of the license in that on four days in 1988 and 1989, measurements of water effluents were either not made or showed that certain measures fell outside ranges allowed by applicable environmental standards;

(3) SFC promised to retrofit autoclaves on the main process building as a result of the 1986 offsite occurrence shutdown hearings, and has not installed them;

(4) Since the last license renewal, licensing amendments have been made which adversely affect and impair the safety and efficiency of the facility;[1]

(5) Renewal for a term of ten years is twice as long as is statutorily permitted;

(6) SFC is spreading about 270,000 gallons per day of Barium-treated Uranium Raffinate Solvent Extract as "Fertilizer" on approximately 10,000 acres with cumulative loading Maximum Permissible Concentrations set so very high that fatal toxicity would result; in addition, this practice is antithetical to the 12/15/88 NRC "Review of Sequoyah Fuels Corporation 11/14/88 Report Entitled: The Behavior of Five Monitor Wells to Repetitive Evacuation," and soil farming should be halted under the Clean Water Act; and,

(7) The License fails to internalize the social and economic costs of the proposed activity onto the licensee; in 1986, CASE requested the NRC to prepare an Environmental Impact Statement for the facility, and this request was never ruled upon by NRC and remains pending.

Petitioner's request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The NRC will take appropriate action on this request within a reasonable time.

A copy of the Petition is available for inspection and copying the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and the Local Public Document Room, Sallisaw City Library, 101 E. Cherokee, Sallisaw, Oklahoma.

Dated at Rockville, Maryland this 27th day of August, 1991.

[1] CASE claims that this concern can only be thoroughly presented in an evidentiary hearing; the Petition itself gives no specifics relating to such concern.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 91-21269 Filed 9-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Electric Co.; Comanche Peak Steam Electric Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition of July 30, 1991, Michael D. Kohn requested on behalf of the National Whistleblower Center and certain confidential allegers that the U.S. Nuclear Regulatory Commission take action regarding the TU Electric Company (TU Electric or licensee) Comanche Peak Steam Electric Station (CPSES). Petitioner requests that the NRC hold licensing hearings to determine if the licensee made material false statements to the NRC, and institute proceedings in accordance with 10 CFR 2.206 to fine and otherwise sanction TU Electric, to determine if the NRC staff failed to act upon the knowledge of violations by TU Electric, and to remove high-level TU Electric managers responsible for material false statements.

Petitioners assert as bases for these requests that TU Electric managers submitted material false statements, which concealed significant safety flaws in the design of the CPSES pipe support system, to the NRC in order to obtain an operating license for Unit 1. Specifically, Petitioners allege that (1) TU Electric deceived the NRC about the transfer of pipe support reviews between various pipe support groups which used different design criteria to certify pipe supports, (2) TU Electric submitted material false statements to the NRC in order to conceal its practice of certifying pipe supports in violation of 10 CFR appendix B requirements; (3) TU Electric, Citizens Association for Sound Energy (an intervenor), and the NRC staff deliberately withheld information about the transfer of pipe support reviews between support groups from the Atomic Safety Licensing Board (ASLB) during construction permit proceedings, which information TU Electric was obligated to disclose in accordance with the ASLB request to timely inform the Board of matters relating to licensing of CPSES; and (4) TU Electric employees responsible for

material false statements continue to perform critical engineering and quality assurance tasks at CPSES.

The Petition has been referred to the Director of the Office of Nuclear Reactor Regulation pursuant to 10 CFR 2.206. As provided by 10 CFR 2.206, appropriate action will be taken with regard to the specific issues raised by the petition in a reasonable time. In addition, the staff will forward a copy of the Petition to the NRC's Office of Inspector General because the Petition alleges misconduct by the NRC staff.

A copy of the Petition is available for inspection in the U.S. Nuclear Regulatory Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 28th day of August 1990.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 91-21270 Filed 9-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Haddam Neck Plant

Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO, the licensee) is the holder of Facility Operating License No. DPR-61 which authorizes operation of the Haddam Neck Plant. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically the following sections require that:

Section III.D.2.(a), "Type B Tests"

"Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling or other convenient intervals but in no case at intervals greater than 2 years."

Section III.D.3, "Type C Tests"

"Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years."

By letter dated July 10, 1991, CYAPCO requested schedular exemptions from the above requirements. Haddam Neck was last shutdown for refueling in August 1989 and the leak rate tests were performed over a period of the next 4 months. After an 11-month outage Haddam Neck was restarted in July 1990 but did not reach 100% power until September 1990, and has operated essentially continuously since then, a total of 9 months. By October 19, 1991, the Haddam Neck Plant will have operated 13 months and will be ready for refueling. However, the 2 year Type B and C test periods end before the next refueling on various dates beginning August 31, 1991.

III

By letter dated July 10, 1991, CYAPCO requested a schedular exemption from the regulatory requirements cited in section II above. In this section, the staff has evaluated the Type B and C tests. The acceptability of the exemption requests for each item is addressed below. More details are contained in the NRC staff's related Safety Evaluation issued concurrent with this exemption.

Section III.D.2.(a) and III.D.3

As indicated above the intent of appendix J is that isolation valves and the associated penetrations be tested during each refueling outage not to exceed 24 months. Haddam Neck is presently scheduled to conduct a refueling outage on or before October 19, 1991. The exemptions would allow the local leak rate tests (Type B and C) to be postponed until that refueling outage. Such an extension of approximately 4 months is desirable in order to prevent a midcycle shutdown.

CYAPCO has taken aggressive actions to improve the Type C leakages. These efforts have included:

(1) Improving test procedures and methods,

(2) Making modifications to penetrations of poor performers,

(3) Making modifications to the Service Water System to limit silt,

(4) Conducting supplemental Type C tests, and

(5) Pursuing an enhanced testing and maintenance program to identify, test, repair and reduce containment leakage.

The NRC staff has reviewed these actions and agrees these actions should reduce leakage from historically poor penetrations and provide CYAPCO a method to detect and focus its attention on future bad performers. For example during the next outage, CYAPCO is modifying several penetrations to allow Type C test with air rather than water. This will resolve a long term open issue at the plant.

During the last refueling outage an unexpected decision to remove the thermal shield and fuel pin failures extended the outage several months. During this time of approximately 11 months, plant components were not exposed to the normal operating temperatures, pressure and radiation conditions. The time interval of 24 months, specified in appendix J, was based, in part, on the expected degradation of components exposed to the environment resulting from a full 24 months of normal plant operation. The total exposure time for the containment penetration to normal plant operating environment will be only about 13 months.

The 24-month interval requirement for Type B and C penetrations is intended to be often enough to prevent significant deterioration from occurring and long enough to permit the local leak rate tests (LLRTs) to be performed during plant outages. In addition leak testing of the penetrations during plant shutdown is preferable because of the lower radiation exposures to plant personnel. Moreover, some penetrations, because of their intended functions, cannot be tested at power operation. For penetrations that cannot be tested during power operation or those that if tested during plant operation would cause a degradation in the plant's overall safety (e.g., the closing of a redundant line in a safety system), the increase in confidence of containment integrity following a successful test is not significant enough to justify a plant shutdown specifically to perform the LLRTs within the 24-month time period, especially in light of the above discussions.

IV

Pursuant to 10 CFR 50.12(a)(2)(v), the Commission will not consider granting a schedular exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC staff believes that CYAPCO has taken prudent steps to improve the containment integrity and if not for the extended refueling outage would have complied with appendix J.

Based on our evaluation, the NRC staff has concluded CYAPCO has made a good faith effort to comply with the requirements of appendix J and that the special circumstances as described in 10 CFR 50.12(a)(2)(v) exist in that the exemptions would provide only temporary relief from the applicable regulations. Therefore, the staff has determined that the schedular exemptions from 10 CFR part 50, appendix J should be granted.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

A temporary exemption is granted from the requirements of sections III.D.2.(a) and III.D.3, which require a local leak rate test be conducted at intervals not greater than 24 months. For good cause shown, these exemptions extend that interval by approximately 4 months from August 31, 1991 to December 31, 1991.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the quality of the human environment (56 FR 42639).

These exemptions are effective upon issuance.

Dated at Rockville, Maryland this 28th day of August 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-21271 Filed 9-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259 and 50-260]

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1 and 3; Partial Withdrawal of an Amendment Request to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC) has approved the withdrawal of a portion of a Technical Specification (TS) amendment request by the Tennessee Valley Authority (TVA or the licensee) for an amendment to Facility Operating License Nos. DPR-33 and DPR-68, issued to the Browns Ferry Nuclear Plant, Units 1 and 3, respectively. The plant is located in Limestone County, Alabama. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on September 26, 1988 (53 FR 37378).

The items being withdrawn were originally included in amendment requests dated August 2, 1988 and July 13, 1989. The licensee proposed to update and correct Table 3.7.A, "Primary Containment Isolation Valves" to reflect changes due to plant modifications and the appendix J (10 CFR part 50) program. By letter dated June 27, 1991, the licensee has withdrawn these items from the original amendment request.

For further details with respect to this action, see (1) the applications for amendments dated August 2, 1988 and July 13, 1989, (2) the staff's letter forwarding Amendment 193 for Facility Operating License Number DPR-52 dated March 22, 1991 and, (3) the licensee's letter dated June 27, 1991.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland this 28th day of August, 1991.

For the Nuclear Regulatory Commission.

Thierry M. Ross,

Project Manager, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-21272 Filed 9-4-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology (PCAST); Meeting

The President's Council of Advisors on Science and Technology will meet on September 12-13, 1991. The meeting will begin at 9 a.m. in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC. The meeting will conclude at approximately 4 p.m. on Friday, September 13.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda:

1. Briefing of the Council on the current activities of the Office of Science and Technology Policy and of the private sector.
2. Briefing of the Council on current federal activities and policies in science and technology.
3. Discussion of progress of working group panels.

Portions of the September 12-13 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of materials that are formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate discussion of information of a personal nature. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(C)(6).

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Ann Barnett (202) 395-5101, prior to 3 p.m. on September 11, 1991. Ms. Barnett is available to provide specific information regarding time, place, and agenda.

Dated: August 26, 1991.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 91-21248 Filed 9-4-91; 8:45 am]

BILLING CODE 3170-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) of every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1991, shall be at the rate of 28½ cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1991, 37 percent of the taxes collected under sections 3211(b) and 3321(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement

Account and 63 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 26, 1991.
By Authority of the Board.
Beatrice Ezerski,
Secretary to the Board.
[FR Doc. 91-21276 Filed 9-4-91; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29628; File Nos. Amex-86-19; SR-CBOE-86-15; SR-NYSE-86-20; SR-PSE-86-15; and SR-Phlx-86-21]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Changes Relating to Options Eligibility Criteria

August 29, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 [2] thereunder, the American ("Amex"), New York ("NYSE"), Pacific ("PSE"), and Philadelphia ("Phlx") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE") (collectively, the "Exchanges") filed with the Securities and Exchange Commission ("Commission") proposed amendments to their rules governing the selection, and continuing eligibility, of securities underlying exchange-traded options.

The proposed amendments relate to the non-default, net income, number of shareholders, and market price per share criteria as applied to underlying securities. In addition, the rule changes would alter the Exchanges' definition of the terms "security" and "share." The amended rules would ease the standards relating to the selection, and continuing eligibility, of underlying stocks, thereby increasing the number of securities eligible for options trading.

Notice of the proposed rule changes, together with their terms of substance, was given by the issuance of Securities Exchange Act Release Nos. 23417 (July 11, 1986), 51 FR 26084 (File No. SR-Amex-86-19) and 23597 (September 5, 1986), 51 FR 32988 (File Nos. SR-CBOE-86-15, SR-NYSE-86-20, SR-PSE-86-15 and SR-Phlx-86-21.[3] No comments were received by the Commission regarding the proposed rule changes.

After the October 1987 market break, the Commission approved the portion of the Exchanges' proposals relating to stock price maintenance standards.[4] Specifically, the maintenance standards were amended so that a security would continue to remain eligible for options trading unless its market price per share closed below $5 on the majority of business days during any six-month period (at that time, the maintenance standard was $8).[5]

I. The Proposed Rule Changes

Currently, the Exchanges operate under uniform rules which require that an underlying equity security meet certain minimum guidelines for options trading ("initial listing standards") and certain maintenance standards ("maintenance standards") in order for the underlying security to continue to be eligible for options trading.

The Exchanges propose uniform modifications of their initial listing and maintenance standards as follows:

(1) Non-default: The Exchanges propose to delete from their rules the non-default criterion, which presently provides that an issuer and its significant subsidiaries must not have defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases, during the preceding 12 months.

(2) Net Income: The Exchanges propose to delete from the initial listing and maintenance standards the requirement that an issuer and its significant subsidiaries have an aggregate net income of at least $1 million during the preceding eight quarters.

(3) Shareholders: The Exchanges propose to reduce the number of holders of an underlying security required for initial listing from 6,000 to 2,000. The Exchanges also propose to reduce the maintenance standard for the number of holders of an underlying security from 5,400 to 1,600. These modifications reflect, in part, the difficulty the Exchanges have in ascertaining the number of beneficial holders of an underlying security, due to the practice of holding securities in "street" or nominee name.[6]

(4) Market Price: The Exchanges propose that the initial listing standard regarding market price per share of the underlying security be lowered from $10 each day during the three calendar months preceding its selection to $7.50 for the majority for days during the same period.[7]

(5) Definitions: The Exchanges propose to redefine the words "security" and "share" as they appear in the initial listing and maintenance rules, and to substitute the word "security" for the word "stock" where appropriate.[8] These

[1] 15 U.S.C. 78(b)(1) (1986).

[2] 17 CFR 240.19B-4 (1989).

[3] The NYSE filed two amendments to its proposal on January 26, 1990 and January 21, 1991. The first amendment conforms the portion of the proposal regarding the initial market price per share standard to that contained in the other Exchanges' proposals. The second amendment conforms the portion of the proposal regarding the minimum price per share for opening additional series of options contracts to that contained in the other Exchange's proposals. The CBOE filed two amendments to its proposal on July 14, 1986, and February 5, 1990. These amendments remove from the CBOE's proposal references to securities designated as Tier 1 National Market System securities, a security classification that no longer exists. These amendments make all of the proposals identical. In addition, because they are minor in nature and only serve to conform the CBOE's and NYSE's proposals with the other exchanges' proposals, the Commission has approved them without separately publishing them for comment. In this regard, the Commission notes that in 1986 the Exchanges' original proposals were noticed and subject to the full 21-day comment period.

[4] The Exchanges asked that the Commission approve the stock price maintenance standards because, due to the decline in prices of many stocks during the October 1987 market break, a number of issues became subject to delisting under the then current options listing maintenance standards. See letter from Craig R. Carberry, Director, Options Compliance, PSE to Howard Kramer, Assistant Director, Division of Market Regulation, Commission, dated April 13, 1988.

[5] See Securities Exchange Act Release No. 25961 (August 3, 1988), 53 FR 29974.

[6] "Street name" is used to describe those securities held in the name of a broker or another nominee instead of a customer. Holding securities in "street name" facilitates more efficient transfer of the shares upon resale.

[7] The Commission understands that the standard would work as follows. To meet the market price per share criteria, a security must close at or above $7.50 per share on a majority of business days during the three calendar months preceding the month containing the selection date (the date on which the Commission receives a listing certificate pursuant to section 12(d) of the Act), as well as the majority of business days prior to the selection date in the month that contains the selection date. For example, if an exchange wishing to list an option on a security selects the option on July 15, then the security must have closed at or above $7.50 per share for a majority of business days in April, May, June, and up to July 15, the selection date.

[8] The NYSE'S proposal, in contrast to the other exchanges' proposals, uses "stock" instead of "security." The NYSE's proposed definitions of "stock," however, is the same as the other exchanges' proposed definition of "security" and has no substantive effect n the NYSE's proposal that would make it differ from the other exchanges' proposals.

modifications are intended to enable the initial listing and maintenance rules to authorize the Exchanges to propose to list options on suitable securities other than common stock.[9]

Under the proposals, the Exchange will retain the standard that an issuer be in compliance with all applicable requirements of the Act as well as trading volume and float criteria.[10] Issuers of underlying securities on which options are traded must, among other things, continue to comply with the requirements of sections 13 and 14 of the Act concerning periodic reports and other reports.

II. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

When options trading commenced in 1973, the Commission believed it was necessary for the securities underlying options to meet certain minimum standards regarding both the quality of the issuer and the quality of the market for a particular security. These standards were imposed to ensure that those issuers upon whose securities options were to be traded were widely-held, financially sound companies whose shares had trading volume and float substantial enough so as not to be readily susceptible to manipulation. At that time, the Commission determined that the imposition of these standards was reasonable in view of the pilot nature of options trading and the limited experience of investors with options trading. In view of the fact that standardized options are no longer a pilot program and public customers over the past 18 years have become increasingly familiar with the various options products and strategies, the Commission believes it would be consistent with the Act to approve the Exchanges' proposals to relax some of the options eligibility and maintenance standards.

With regard to proposals to lower the quality of issuer standards with respect to the non-default and net income criteria, the Commission believes investors and the public interest will not be harmed because the eligibility criteria still will require that issuers comply with Commission reporting requirements. Accordingly, the Commission believes the amount of information available in the marketplace concerning the financial health of any particular issuer would provide investors with sufficient information concerning any possible risks associated with trading options on that particular issuer's security.

The Commission also believes, for several reasons, that relaxing some of the quality of market standards (*i.e.*, number of shareholders and market price) will not result in increased opportunities for intermarket manipulation and abuse. First, because several of the standards are left unchanged (*i.e.*, public float and trading volume), only actively traded securities with a large public float will be available for options trading. Second, the reduced standards are not so low as to permit options on illiquid or low-priced stocks. Specifically, reducing the required number of shareholders from 6,000 to 2,000 still ensures that only stocks with a sufficiently wide shareholder base for a liquid trading market can have options overlying them. As to lowering the minimum price standard from $10 to $7.50, options still will not be permitted to be listed on stocks so low in price that they present special manipulation concerns.

The Commission believes the lower eligibility criteria will be beneficial to the marketplace. The easing of the Exchanges' initial and continuing standards for the eligibility of securities underlying options contracts will increase the number of eligible securities for options trading. This will allow market participants to hedge against price fluctuations on a wider range of securities. Options trading provides investors with a vehicle to transfer and hedge against risk and thereby facilitates the efficient allocation of risk among investors.

Finally, the Commission believes that the Exchanges' new definitions of "security" and "share," which track the definition of equity security in Rule 3a11-1 under the Act, are consistent with the Act. The Commission believes that the new definitions ultimately may provide a wider range of equity securities for which market participants may use options to hedge against future price fluctuations.[11]

Accordingly, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of section 6.[12]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule changes (File Nos. SR-Amex-86-19; SR-CBOE-86-15; SR-NYSE-86-20; SR-PSE-86-15; SR-Phlx-86-21) be and hereby are approved. Such approval is effective on October 21, 1991.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-21283 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

[9] Specifically, the Exchanges propose that the word "security" be defined to mean any equity security, as defined in Rule 3a11-1 under the Act, which is appropriate for options trading. The word "shares" shall mean the unit of trading of such security. As discussed *infra* at note 11 and accompanying text, however, Commission approval of the current Exchange proposals does not eliminate the requirement that the Exchanges submit rule filings pursuant to Section 19(b) of the Act when they desire to list a new options product other than an option on a common stock.

[10] In particular, the initial and maintenance standards for trading volume remain, respectively, at 2,400,000 shares and 1,800,000 shares traded over the preceding twelve months. The initial and maintenance public float standards also remain at 7,000,000 and 6,300,000 shares, respectively.

[11] The Commission, however, believes that the Exchanges must file separate rule changes pursuant to Section 19(b) of the Act for options on securities other than common stock. The present proposals only enable the Exchanges to establish options contracts on these securities. Additional Commission approval is required for the listing of options on these securities. For example, the Commission believes that additional Commission approval is required for options contracts overlying shares of mutual funds.

[12] 15 U.S.C. 78f (1982).

[13] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-29627; File No. SR-GSCC-91-03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Proposed Rule Change Relating to the Establishment of a New Information Field for Comparison Purposes

August 29, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b), notice is hereby given that on July 23, 1991, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would add a field to GSCC's trade data format allowing submitting members to enter

the name of a non-member executing firm. GSCC would use this field to compare trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) GSCC is planning to implement a non-member, "executing firm" information field as an enhancement to its comparison service. GSCC believes that such feature would assist members in comparing trades, by identifying the executing party to the trade. This in turn would bolster reconciliation of unmatched trade data, and would provide the benefits of GSCC's comparison process to a broader range of trades.

The proposal provides that trade data could be submitted to GSCC by a member (the "submitting member") on behalf of a non-member firm (the "executing firm") that it clears for through the addition to the comparison system of two new fields: (1) Executing party associated with the member, and (2) executing party associated with the contraparty member. Upon implementation of this proposal, as a general matter, comparison would occur only if the information regarding the identities of each of the executing firms to a trade and their submitting members all matches; there would be, however, the following qualifications to this principle.

(a) If an executing firm field is blank upon submission of data on a side of a trade, GSCC would presume that there is no executing firm on that side of the trade.

(b) If a contra-party submitting member field is blank upon submission but the contraparty executing firm is provided, and a member has provided notice to GSCC that it wishes to be deemed the contraparty submitting member on trades involving such executing firm, GSCC may presume that such member is the contraparty submitting member.

(c) If trade data does not compare due to unmatched executing firm information, GSCC may compare the trade based on a match between the two submitting members.

(d) GSCC would offer a new service pursuant to which it would maintain a "translation table" unique to each member (whether submitting on behalf of an executing firm or not) and would, if requested, translate the member's internal contra participant identifiers to a valid GSCC member identifying number. This would be of assistance to GSCC members that, for operational reasons, have more than one contra trading account set up for a given member.

(e) Pursuant to another new service to be offered by GSCC, if a side submitted by a member (whether submitting on behalf of an executing firm or not) against another member does not compare as submitted, but the matching side is submitted by a third member that is affiliated with the second member, GSCC may compare the trade as if the first member had submitted the trade against the third member.

If a submitting member is a netting member, a netting eligible trade that it has submitted on behalf of an executing firm would be included in the net, and the submitting member would be obligated to GSCC as regards such trade to the same degree as if it itself had executed such trade. Therefore, such trade would be considered for purposes of calculating the submitting member's mark and margin requirements. Notwithstanding the above, an eligible trade submitted by a submitting member of behalf of an executing firm would not be included in the net if the submitting member has informed GSCC in writing, in a form and manner satisfactory to GSCC, that it does not wish, because of the type of relationship that it has with the executing firm, (*i.e.*, it does not normally guarantee settlement of such firm's trades) to have the trades executed by such firm be netted and novated by GSCC. Moreover, if, as described above, trade data submitted by a member that does not contain matching executing broker information is compared by GSCC based on a match of the submitting members' data, the trade would not go into the net if one of such members has provided notice to GSCC, in a form and manner satisfactory to GSCC, that the executing firm on whose behalf it submitted is a firm whose trades it does not wish to have netted and novated by GSCC.

A submitting member would be billed for all activity submitted on behalf of an executing firm.

GSCC notes that these proposed rules changes would not result in its interacting directly with non members. Thus, there would continue to be no direct submission of trade data to GSCC by non members. Also, comparison output still would not be provided by GSCC directly to non members. Moreover, comparisons generated by GSCC would not address the nature of the relationship (*e.g.*, principal/agent) between an executing firm and its submitting member.

(2) The proposed rule change would assist members in comparing trades, by identifying the executing party to the trade; this in turn would bolster reconciliation of unmatched trade data. In general, the proposed rule change would provide the benefits of GSCC's comparison process to a broader range of trades. Thus, they are consistent with the requirements of the Act, and, in particular, sections 17A(b)(3)(A) and 17A(b)(3)(F).

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule would have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not yet been solicited or received. Members would be notified of the rule filing, and comments would be solicited, by an Important Notice. GSCC would notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of GSCC. All submissions should refer to File No. SR-GSCC-91-03 and should be submitted by September 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-21284 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29630; File No. SR-NASD-91-16]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Suspension and Cancellation of an Associated Person's Registration as a Result of Failure To Pay Dues, Fees, or Assessments Charged by the Association

August 29, 1991.

The National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission") on April 4, 1991,[1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b-4 thereunder.[3] The proposal amends Article VI, sections 3 and 4 of the NASD By-Laws [4] in order to provide for the suspension or cancellation of the registration of an associated person in the event that person fails to pay fees, dues or assessments charged by the Association. The NASD has stated that the primary rationale for the proposed rule is to encourage associated persons to pay fees, dues and assessments in connection with the NASD's arbitration process.

Notice of the proposed rule change, as amended, together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Release No. 29451, July 17, 1991) and by publication in the **Federal Register** (56 FR 34080, July 25, 1991). No comments were received on the proposal. This order approves the proposed rule change.

Pursuant to Article VI, section 1 of the NASD By-Laws,[5] the Board of Governors has the authority to charge fees, dues and assessments to members, issuers, and persons using the facilities and systems operated or controlled by the NASD. Many of these fees are described in Schedule A of the By-Laws [6] and include such things as examination fees, annual assessments, and filing fees. Article VI, section 3 of the By-Laws presently authorizes the NASD, to suspend or cancel the membership of any member firm which fails to pay fees, dues, assessments or other charges, after providing 15 days written notice in accordance with the NASD's Code of Procedure.[7] For example, failure to pay NASD arbitration forum fees could result in the suspension or cancellation of a firm's membership. Section 3, however, does not apply to associated persons who fail to pay fees, dues, or assessments. Although Article V, section 2 of the Rules of Fair Practice [8] authorizes the NASD, after providing 7 days written notice, to revoke the registration of an associated person who has failed to pay any fine or cost imposed in connection with disciplinary proceedings or proceedings conducted under the Code of Procedure, no provision of the NASD's By-Laws, Rules of Fair Practice, Code of Arbitration Procedure, or Code of Procedure provides for the suspension or cancellation of an associated person's registration for the failure to pay arbitration forum fees.[9] The NASD has indicated that the number of associated persons who fail to pay forum fees is increasing.

Although the rule filing is proposed primarily to allow the NASD to suspend or cancel the registration of any individual who remains delinquent in the payment of arbitration forum fees, it is sufficiently broad to encompass other instances in which associated persons have failed to submit fees, dues, assessments or other charges owed for the use of NASD systems or facilities. The NASD believes that this proposal is warranted to protect the integrity of the arbitration process and the marketplace, and to provide uniformity in the treatment of associated persons failing to pay fees.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 15A(b)(6), 15A(b)(7), and 15A(b)(8) of the Act [10] and the rules and regulations thereunder. Pursuant to section 15A(b)(6), the proposed rule change will assist in removing impediments to and perfecting the mechanism of a free and open market, and in general, protect investors and the public interest. Sections 15A(b)(7) and 15A(b)(8) require that the rules of a national securities association include provisions to assure that members and persons associated with members be appropriately and fairly disciplined for violations of any provision of the Act, the rules and regulations promulgated thereunder, the MSRB Rules, or the Association's Rules. The proposed rule change will further these goals by conforming the treatment of associated persons in arrears in the payment of any dues, fees, or other charges with the existing standard of treatment of associated persons who fail to pay fines and costs in connection with disciplinary and other proceedings held pursuant to the Code of Procedure. The Commission believes, for the reasons stated above, that the proposed rule change satisfies these statutory requirements.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the

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[1] On July 12, 1991, the NASD filed Amendment No. 1 to the proposed rule change, in response to a request of the Commission staff. Amendment No. 1 clarifies the language of the proposed amendment.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b-4 (1990).

[4] NASD Securities Dealers Manual, By-Laws, CCH ¶¶ 1173-1174.

[5] *Id.* at ¶ 1171.

[6] *Id.* at ¶¶ 1751-65.

[7] *Id.* at ¶ 3064.

[8] *Id.* at ¶ 2302.

[9] On May 7, 1991, the Commission approved section 41(g) to the NASD's Code of Arbitration Procedure. See Securities Exchange Act Release No. 29166 (May 7, 1991), 56 FR 22029 (May 13, 1991). The new section provides that fees and assessments imposed by arbitrators under sections 43 and 44 of the Code are immediately payable upon receipt of the award.

[10] 15 U.S.C. 78o-3 (1988).

above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-21285 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29626; File No. SR-NYSE-91-7]

Self-Regulatory Organizations; New York Stock Exchange; Order Approving Proposed Rule Change Relating to Specialists' Liquidating Transactions

August 29, 1991.

I. Introduction

On March 4, 1991, the New York Stock Exchange ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Exchange Rule 104.10(6) to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a "long" position, or zero plus tick, when covering a "short" position, without Floor Official approval. The Exchange also proposes to amend this Rule to set forth affirmative action that specialists would be required to take subsequent to effecting various types of liquidating transactions. The NYSE proposes to implement the proposed rule change for a one year period.

The proposed rule change was published for comment in Securities Exchange Act Release No. 28977 (March 15, 1991), 56 FR 12290 (March 22, 1991). No comments were received on the proposal.

II. Description of the Proposal

NYSE Rule 104, which is the primary NYSE rule governing the activities of its specialists, restricts a specialist's purchases or sales of his or her speciality stock to those dealings that are reasonably necessary to permit the specialist to maintain a fair and orderly market.[3]

A specialist's dealer responsibilities consist of "affirmative" and "negative' obligations. In accordance with their affirmative obligations, specialists are obligated to trade for their own accounts to minimize order disparities and contribute to continuity and depth in the market. Conversely, pursuant to their negative obligations, specialists are precluded from trading for their own accounts unless such dealing is necessary for the maintenance of a fair and orderly market. In view of these obligations, the price trend in a security should be determined not by specialist trading, but by the movements of the incoming orders that initiate the trades. Rule 104.10(6), which contains one of the specialist's "negative" obligations, sets forth distinct prohibitions against specialist trades on destabilizing ticks (*i.e.*, purchase on plus or zero plus ticks and sales on minus or zero minus ticks).[4] Rule 104.10(6) provides that transactions by a specialist to liquidate or decrease his or her position in a specialty stock must be effected in a reasonable and orderly manner in relation to general market conditions, the market conditions of the particular security, and the adequacy of the specialist's positions to the needs of the market. Rule 104.10(6) also provides that, unless a specialist has Floor Official approval, he or she should avoid liquidating all, or substantially all, of a position by selling stock at prices below the last different price (on a direct plus or zero plus tick) or by purchasing stock at prices above the last different price (on a direct minus or zero minus tick), unless the transaction is reasonably necessary in relation to the specialist's overall position in his or her specialty stocks.[5]

The Exchange proposes to amend Rule 104.10(6) regarding how specialists can "reliquify" a dealer position. When reliquifying, a specialist is reducing a large inventory position in order to be able to fully participate on the contra side of the market during periods of substantial buying or selling interest. The amended rule would permit a specialist, when reliquifying, to sell "long" inventory stock on a zero minus tick, or purchase stock to "cover" a "short" position on a zero plus tick, without Floor Official approval. In addition, the NYSE proposes to amend Rule 104.10(6) to emphasize the specialist's affirmative role in providing stabilizing dealer participation to the marketplace, especially during periods of volatile or unusual market activity, involving significant price movement in a security, where reliquifications may be required to facilitate the maintenance of a fair and orderly market. In this regard, Rule 104.10(6) would be amended to provide that:

—Liquidations involving the principal selling of stock on a direct minus tick, or the purchasing of stock on a direct plus tick, will require Floor Official approval, and should be effected only in conjunction with the specialist's re-entering the market on the opposite side of the market from the liquidating transaction where the imbalance indicates that the immediate succeeding transactions would result in a lower (higher) price following the sale (purchase);

—During any period of volatile or unusual market conditions resulting in a significant price movement in a security, the specialist should re-enter the market following a liquidation transaction which was effected by selling stock on a direct minus or zero minus tick, or purchasing stock on a direct plus or zero plus tick and, at a minimum, participate as dealer to the extent of his or her usual level of dealer participation in the subject security;

—During such periods of unusual price movement in a security, any series of such liquidating or purchasing transactions effected within a brief period of time should be accompanied by the specialist's re-entry in the market and effecting transactions which reflect a significant degree of dealer participation.

The Exchange states that its proposed amendments to Rule 104.10(6) are necessary to facilitate specialists' ability

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[11] 17 CFR 200.30-3(a)(12) (1990).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] In general, a specialist's activities are circumscribed by section 11 of the Act (15 U.S.C. 78k) and the rules thereunder, and by the rules of the exchange where the specialist is registered. Commission Rule 11b-1(a)(2), which sets forth the primary responsibilities of a specialist, states that a specialist's course of dealings for his or her own account must "assist in the maintenance, so far as practicable, of a fair and orderly market." 17 CFR 240.11b-1(a)(2). Rule 11b-1(a)(2) also states, however, that a specialist should restrict his or her dealings so far as practicable to those reasonably necessary to permit him or her to maintain a fair and orderly market.

[4] A plus tick is a price above the price of the last preceding sale. A zero plus tick is a price equal to the last sale if the last preceding transaction at a different price was at a lower price. Conversely, a minus tick is a price below the price of the last preceding sale. A zero minus tick is a price equal to the last sale if the last preceding transaction at a different price was at a higher price.

[5] Rule 104.10(6) also provides that, unless a specialist has Floor Official approval, he or she should avoid: failing to re-enter the market where necessary, after effecting transactions such as those described above; and failing to maintain a fair and orderly market during liquidation. The Exchange proposes to delete these two provisions and replace them with new language described *Infra*. Rule 104.10(6) also contains a provisio that the prohibitions on a specialist liquidating a position on a destabilizing tick do not apply to purchases or sales of securities made by a specialist odd-lot dealer to offset positions established in executing odd-lot orders for customers on that day. The NYSE is not proposing any changes to this subsection.

to maintain fair and orderly markets through reliquification, particularly during unusual market conditions. In addition, the Exchange believes that the proposed amendments to Rule 104.10(6) strike an appropriate balance between a specialist's affirmative and negative obligations by ensuring that specialists have flexibility to liquidate or decrease positions, while at the same time emphasizing their responsibility to re-enter the market following reliquifying transactions.

The Exchange proposes to implement the proposed rule change as a one-year pilot. To monitor compliance with the proposed rule change during the pilot period, the Exchange states that it will utilize existing surveillance techniques, including computer programs, to monitor liquidation transactions effected by specialists on any destabilizing tick.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of sections 6 and 11 of the Act.[6] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest.[7] The Commission also believes that the proposal is consistent with section 11(b) of the Act and Rule 11b-1 thereunder, which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.[8]

Both the Act and Exchange rules reflect the crucial role played by specialists in providing stability, liquidity, and continuity in the Exchange's auction market. Recognizing the importance of the specialist in the auction market, the Act, as well as exchange rules, imposes stringent obligations upon specialists.[9] Primary among these obligations are the requirements to maintain fair and orderly markets and to restrict specialist dealings to those that are "reasonably necessary" in order to maintain a fair and orderly market.[10]

The importance of specialist performance to the quality of Exchange markets was highlighted during the 1987 and 1989 market breaks. In the Division of Market Regulation's ("Division") report on the October 1987 market break ("1987 Market Break Report"), the Division examined specialist performance on the NYSE on October 19 and 20, 1987.[11] The Division found that, during the periods of the greatest volatility in 1987, particularly on October 19, 1987, NYSE specialists had to act as the primary, or sometimes the only, buyers for many of the specialty stocks because of the lack of buying interest by upstairs firms.[12] The increased volume of order flow, coupled with the lack of participation on the part of upstairs firms, resulted in NYSE specialists having to take larger dealer positions.[13] Although many NYSE specialists appeared to perform well under the adverse conditions, specialist performance during this period varied widely.

The Division also examined NYSE specialist performance during the volatile conditions of October 13 and 16, 1989 and found that specialist performance during that time was similar in many respects to specialist performance during the October 1987 Market Break ("October 1989 Report").[14] Specifically, the Division found that, during these two periods of extreme market volatility, specialists were confronted with extraordinary order imbalances that required unprecedented capital commitments.[15] As in October 1987, specialists as a whole on October 13, 1989, were substantial buyers in the face of heavy selling pressure, although performance varied among specialists.

Both the 1987 Market Break Report and the October 1989 Report reaffirmed the importance of specialist participation in countering market trends during periods of market volatility. At the same time, the reports emphasized the importance the Commission placed on the NYSE's ability to ensure that all specialists comply with their affirmative and negative market making obligations during such periods.

One area of specialist performance specifically reviewed by the October 1989 Report involved specialists' compliance with the negative obligations imposed by NYSE Rule 104.10(6)(i). That Rule states that, unless the specialist has the prior approval of a Floor Official, he or she should avoid liquidating all or substantially all of a dealer position on a destabilizing tick (*i.e.*, purchases on plus or zero plus ticks and sales on minus or zero minus ticks) unless the transaction is reasonably necessary in relation to the specialist's overall position in the stocks in which he or she is registered. In the October 1989 Report, the Division requested that the NYSE examine the language of this rule, which appeared to provide specialists with unnecessarily broad latitude for effecting transactions on destabilizing ticks.

The proposed rule change is responsive to the request regarding Rule 104.10(6)(i) as well as the conclusions of the two market break reports. The NYSE, recognizing that market conditions may necessitate that a specialist participate heavily in a rapidly declining market, has proposed amendments to Rule 104.10(6) to provide specialists with flexibility in liquidating specialty stock positions in order to facilitate their ability to maintain fair and orderly markets, particularly during unusual market conditions. At the same time, the amendments also would strengthen the specialist's concomitant obligation to participate as a dealer on the opposite side of the market after a liquidating transaction.

Under the proposal, a specialist may liquidate a position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick only if such transactions are reasonably necessary for the maintenance of a fair and orderly market and only if the specialist has obtained the prior approval of a Floor Official. Liquidations on a zero minus or a zero plus tick, which currently require Floor Official approval, could be effected under the proposal without a Floor Official's approval, but would continue to be subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, a specialist would be required to reenter the market on the opposite side of the market from the liquidating transaction to offset any

[6] 15 U.S.C. 78f and 78k (1988).

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] 15 U.S.C. 78k(b) (1988).

[9] Rule 11b-1 under the Act, 17 CFR 240.11b-1 (1990); NYSE Rule 104.

[10] 17 CFR 240.11b-1(a)(2).

[11] See Division of Market Regulation, The October 1987 Market Break, February 1988, at xvii, 4-1.

[12] See 1987 Market Break Report, 4-23, 4-26 to 4-27. Generally, "upstairs firms," or block trading desks of large broker dealers (as opposed to specialists and other traders on the NYSE floor), can, can, at times, provide an additional source of liquidity for NYSE-listed issues through their trading activities. During the 1987 market break, however, particularly on October 19, very little buying was effected by upstairs firms, forcing specialists to be the contra-side to large blocks of stock. See 1987 Market Break Report at 4-23 to 4-24, 4-27.

[13] See 1987 Market Break Report at 4-68.

[14] See Division of Market Regulation, Market Analysis of October 13 and 16, 1989, at 3-4, 33-44.

[15] 1987 Market Break Report at 4-8; October 1989 Report, at 23-26.

imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in a significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile market conditions or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

Thus, the amendments to Rule 104.10(6) would reinforce the specialist's affirmative obligation to maintain a fair and orderly market by providing stabilizing dealer participation to the marketplace, especially during periods of volatile or unusual market activity. For example, during periods of high market volatility, not only would specialists continue to be obligated to temper disparities between supply and demand, but would specifically have to reenter the market after a liquidating transaction. Similarly, the amendments to Rule 104.10(6) would reinforce the negative market making obligations of specialists. For example, a specialist would not be permitted to reliquify in the absence of a large dealer position; rather he or she would only be able to do so if reasonably necessary to enable him or her to maintain a fair and orderly market. Thus, the new amendments to Rule 104.10(6) would not allow the specialist to use the rule as a vehicle for trading.

During future periods of market volatility, accompanied by increasing volume and selling pressure, specialists may be under extreme pressure to keep the markets orderly and continuous by entering the market as buyers. In these instances, the Commission believes that the amendments to Rule 104.10(6) should assist specialists in tempering sudden price movements and keeping any general price movements orderly, thereby furthering the maintenance of fair and orderly markets consistent with sections 6 and 11 under the Act.

The NYSE currently provides statistics on the percentage of proprietary destabilizing transactions executed by specialists to the Market Performance and Allocation Committees as a guideline on specialist performance. As a result of the new amendments to Rule 104.10(6), such statistics will now reflect zero plus and zero minus reliquification transactions separately, in conjunction with the overall stabilization percentage, in order to preserve the data's usefulness as an indicator of stabilizing participation.

The Commission believes that including a review of destabilizing transactions by specialists into specialist performance reviews should help to ensure that specialists are undertaking these transactions only in situations where they are needed to maintain fair and orderly markets. The Commission emphasizes that reliquifications are not precluded during periods of significant price movements, but they should be accompanied by the necessary dealer participation against the trend of the market, even in situations where continuity and depth reflect variations that may normally be experienced in the stock.

In addition, the Commission believes that approval of the NYSE proposal for a one year pilot period will provide the Commission and the Exchange an opportunity to monitor the operation of the rule during periods of unusual or volatile market conditions. This one year period also will allow the Commission and the Exchange the opportunity to monitor specialist compliance with the new rule to ensure that specialists are properly assuming their responsibilities of re-entering the market following liquefying transactions.

Finally, in its rule filing, the NYSE indicated that, during the one year pilot period, the Exchange would develop criteria to monitor liquidation transactions effected by specialists on any destabilizing tick. In this regard, the Commission requests that the Exchange submit a report, by June 2, 1992, setting forth the criteria developed by the Exchange to determine whether any reliquifications by specialists were necessary and appropriate in connection with fair and orderly markets and providing information gathered regarding the Exchange's monitoring of liquidation transactions effected by specialists on any destabilizing tick. In addition, the Commission requests that the NYSE provide, among other things, the following information in its report:

- A review of all liquidation transactions effected by specialists on any destabilizing ticks;
- A review of liquidating transactions by specialists to determine that the required Floor Official approval was obtained where necessary;
- A review of liquidating transactions in light of dealer participation levels and re-entry into the market in terms of timing and support (*e.g.*, whether the specialist's transactions were counter to the market trend).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change is approved for a one year pilot period ending on August 29, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-21286 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

August 29, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Horizon Healthcare Corp.
Common Stock, $.01 Par Value (File No. 7-7198)

K-Mart Corp.
$3.41 Depository Shares (Representing ¼ Share Series A Convertible Preferred) (Pfd. Equity Red. Cum.) (File No. 7-7199)

Martin Lawrence Limited Editions
Common Stock, $0.01 Par Value (File No. 7-7200)

Mellon Bank Corp.
9.6% Series I Preferred, $1.00 Par Value (File No. 7-7201)

Tosco Corp.
$4.375 Series F Cumulative Convertible Preferred (File No. 7-7202)

U.S. Healthcare Inc.
Common Stock, $.005 Par Value (File No. 7-7203)

Venture Stock Inc.
Common Stock, $1.00 Par Value (File No. 7-7204)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 20, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve

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[16] 15 U.S.C. 78s(b)(2) (1988).

[17] 17 CFR 200.30 3(a)(12) (1990).

the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-21194 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18293; 812-7284]

The Laurel Funds, Inc., et al.; Application

August 29, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Laurel Funds, Inc. ("Laurel"), and all other future series of the Laurel Funds for which Mellon Bank, N.A. serves as investment adviser; Mellon Bank, N.A. and Frank Russell Investment Management Company (together, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 17(d) of the Act and Rule 17d-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the operation of a joint trading account in repurchase agreements.

FILING DATES: The application was filed on July 7, 1989 and amended on April 16, 1990, March 12, 1991 and May 30, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 23, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, The Laurel Funds, Inc., 909 A Street, Tacoma, WA 98402; Mellon Bank, N.A., One Mellon Bank Center, Pittsburgh, PA 15258; Frank Russell Investment Management Company, 909 A Street, Tacoma, WA 98402.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Laurel is an open-end management investment company incorporated in Maryland and consisting of 11 series: Laurel Prime Money Market I Fund, Laurel U.S. Treasury Money Market I Fund, Laurel Tax-Exempt Money Market Fund, Laurel Stock Fund, Laurel Ginnie Mae Fund, Laurel Intermediate Government Bond Fund, Laurel Prime Money Market II Fund, Laurel U.S. Treasury Money Market II Fund, Laurel Short-Term Bond Fund, and Laurel Tactical Asset Allocation Fund (individually, a "Fund," together, the "Funds"). Mellon Bank, N.A., a national banking association and wholly-owned subsidiary of Mellon Bank Corporation, serves as Laurel's investment adviser (the "Adviser") and as Laurel's custodian (the "Custodian").

2. Laurel has entered into an administration agreement with Frank Russell Investment Management Company (the "Administrator"), a registered investment adviser under the Investment Advisers Act of 1940. The Administrator supervises all noninvestment aspects of Laurel's operations and maintains certain of Laurel's books and records. The Administrator also proposes to oversee the compliance of Laurel and the Adviser with the repurchase agreement guidelines as set forth in this application. The Administrator, however, does not render investment advice to Laurel.

3. Currently, each Fund may have uninvested cash balances in its custodial account that would not otherwise be invested in portfolio securities at the end of each trading day. These assets are typically invested in federal securities or overnight repurchase agreements with a bank, major brokerage house or primary U.S. government securities dealer in order to earn additional income for the Funds. Three of the Funds, Prime I, Treasury I and Government II, however, do not have sufficient assets to enter into repurchase agreements on a daily basis. As a consequence, cash held by these Funds remains idle.

4. For each of the Funds large enough to enter in repurchase agreements, the Adviser each morning begins negotiating the interest rate for repurchase agreements for that day and identifying the securities required as collateral. The estimated amount of the required collateral is based on preliminary information indicating the amount of the current day's available cash that otherwise will not be invested that day. The projection may be adjusted during the day to reflect any reduction in uninvested assets or any additional amount that becomes available during the day, in an effort to use effectively the highest appropriate portion of each Fund's assets.

5. Under the present system there can remain, in the respective account of each Fund, assets that are received too late or that are not of sufficient size to be effectively invested in a separate transaction or at a competitive rate. Furthermore, separately securing repurchase agreements results in certain inefficiencies and increased costs, and limits the return that some or all of the Funds otherwise could achieve.

6. The Funds therefore seek to invest their cash balances more productively by establishing a joint account for the purpose of entering into repurchase agreements. If the requested relief is granted, the Funds would deposit all or a portion of their uninvested cash balances in a single joint account, the daily balances of which would be used to enter into one or more overnight (or weekend or holiday) repurchase agreements in the total amount equal to the aggregate daily balance in the account.

7. Particular United States government obligations to be held as collateral would be identified and the Funds' Custodian bank would be notified. The securities either would be wired to the account of the Custodian bank at the proper Federal Reserve Bank, transferred to a subcustodial account of the Fund at another qualified bank, or redesignated and segregated on the records of the Custodian bank if the Custodian bank is already the recordholder of the collateral for the repurchase agreement.

8. All of the Funds presently are authorized to invest in repurchase agreements. Each Fund has established uniform systems and standards for entering into repurchase agreements. These systems and standards comply with requirements regarding repurchase agreements set forth by the Commission

in its published releases, guidelines and interpretations with respect to repurchase agreements, including, to the full extent of Applicants' knowledge, all no-action letters, and address, among other things, issuer quality and collateral requirements. All joint repurchase agreement transactions will be effected in accordance with Investment Company Act Rel. No. 13005 (February 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release proposing, reproposing, or adopting any new rule, or any release proposing, reproposing, or adopting any amendments to any existing rule.

9. Each Fund would participate in the proposed joint account on the same basis as every other Fund in conformity with its fundamental investment objectives and restrictions. Any future Fund that participates in the joint account would be required to do so on the same terms and conditions as the existing Funds have set forth herein.

10. The Adviser would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures, and ensuring the equal treatment of each Fund.

11. Each Fund shall retain the sole rights of ownership of all of its assets, including interest payable on the assets invested in the account.

12. Applicants believe that a Fund's investment in the joint account will not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceedings, or of any other participant Fund in the joint account. Each Fund's liability on any repurchase agreement purchased by the joint account will be limited to its interest in such repurchase agreement.

13. Applicants believe that the joint account will save the Funds transaction fees, allow the Funds to negotiate higher rates of return than can be obtained for smaller repurchase agreements, reduce the possibility of errors by reducing the number of trade tickets, and allow individual Funds not large enough in terms of assets to invest their idle cash in repurchase agreements on a daily basis, thereby enhancing shareholder investment return. Applicants estimate that, if the joint account is put in place, the Funds would experience aggregate annual savings of approximately $11,250 in transaction fees.

14. The directors of the Funds have satisfied themselves that the proposed method of operating the joint account would not result in any conflict of interest between any of the Funds or between a Fund and the Adviser. They have further determined that there does not appear to be any basis upon which to predict greater benefit to one Fund than to another. They also have considered that, although the Adviser would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the Funds and their shareholders because the joint account would be a more efficient and productive way of administering these daily investment transactions. On the basis of these considerations, the directors have determined that the operation of the joint account would be free of any inherent bias favoring one Fund over another and should eliminate bias due to size or lack thereof in any transaction. They have further determined that future participation in such joint trading account by one or more Funds that do not presently exist would not alter their conclusions with respect to participation by the present Funds and that it would be desirable to permit such future participation by the present Funds and that it would be desirable to permit such future participation without the necessity of applying for an amendment to the requested order.

Applicants' Conditions

As an express condition to obtaining an exemptive order, Applicants agree to operate the joint account according to the following procedures:

1. Laurel will establish a separate cash account with the Custodian into which the Funds would deposit all or a portion of their daily uninvested cash balances.

2. Cash in the joint account would be invested solely in repurchase agreements collateralized by suitable United States government obligations, i.e., obligations issued or guaranteed as to principal or interest by the government of the United States or by any of its agencies or instrumentalities. Such repurchase agreements would satisfy the uniform standards established by the Funds for such investments.

3. All investments held by the joint account would be valued on an amortized cost basis.

4. Each Fund relying on rule 2a-7 under the Act in order to value its assets on the basis of amortized cost would use the average maturity of the repurchase agreements in the joint account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such account on that day.

5. In order to assure that there would be no opportunity for one Fund to use any part of a balance of the joint account credited to another Fund, no Fund would be allowed to create a negative balance in the account for any reason, although it would be permitted to draw down its entire balance at any time.

6. Each Fund would participate in the income earned or accrued in the joint account, including all instruments held in the joint account, on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

7. The administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g-1 thereunder.

8. The Adviser will administer and invest the cash balances in the joint account and will not collect any separate fee for the management of the account.

9. Each Fund's investment in the joint account shall be documented daily on the books of each Fund as well as on the books of the Custodian.

10. All repurchase agreements will have an overnight, over the weekend or over a holiday duration, and in no event a duration of more than seven days.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-21287 Filed 9-4-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0377]

Wells Fargo Capital Corp.; License Surrender

Notice is hereby given that Wells Fargo Capital Corporation, 420 Montgomery Street, 9th Floor, San Francisco, California, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Wells Fargo Capital Corporation was licensed by the Small Business Administration on November 15, 1988.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on August 22, 1991 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 28, 1991.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 91-21236 Filed 9-4-91; 8:45 am]

BILLING CODE 8025-01-M

Region IX Regional Advisory Council Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, will hold a public meeting at 2 p.m. on Thursday, September 26, 1991, at the Pacific Telesis, 3rd Floor Conference Room, 675 Hegenberger Road, Oakland, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Michael R. Howland, District Director, U.S. Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105-1988, telephone (415) 744-6801.

Dated: August 28, 1991.

Valarie Tolson,

Acting Director, Office of Advisory Councils.

[FR Doc. 91-21237 Filed 9-4-91; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Public Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Wichita, will hold a public meeting at 12 noon on Thursday, September 26, 1991, in Salon "E" of the Marriott Hotel, 9100 E. Corporate Hills Drive, Wichita, Kansas, to discuss such matters as may be presented by members, staff of the U.S Small Business Administration, or others present.

For further information, write or call Gary L. Cook, District Director, U.S. Small Business Administration, Wichita District Office, 110 East Waterman, Wichita, Kansas 67202, telephone (316) 269-6566.

Dated: August 28, 1991.

Valarie Tolson,

Acting Director, Office of Advisory Councils.

[FR Doc. 91-21238 Filed 9-4-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1466]

Advisory Committee on International Communications and Information Policy, Subcommittee on Industrialized Country Policy; Meeting

The Department of State announces that the Subcommittee on Industrialized Country Policy of the Committee on International Communications and Information Policy will hold an open meeting on Wednesday, September 25, 1991, from 10 a.m. to 12 noon in room 6909, Department of State, 2201 "C" Street, NW., Washington, DC 20520.

The meeting will deal with the work program of the ICCP and its various working parties and experts groups over the next year, along with the telecommunications activities of the OECD's Centre for European Economies in Transition dealing with the emerging democracies of Central and Eastern Europe.

The subcommittee will discuss U.S. international communications and information policy as it relates to U.S. policy toward the Organization for Economic Cooperation and Development (OECD), principally through its Committee on Information, Computer and Communications Policy (ICCP). Mr. Kenneth Leeson, Chairman of the Subcommittee, will chair the meeting, assisted by Ms. Cathy Slesinger, co-chairman of the Subcommittee. Mr. Richard C. Beaird, Deputy U.S. Coordinator and Deputy Director, Bureau of International Communications and Information Policy, U.S. Department of State, and Chairman of the ICCP, will participate in the meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and individual passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting.

Prior to the meeting, persons who plan to attend should so advise the office of Mr. Timothy C. Finton, Department of State, Washington, DC; telephone (202) 647-5230. They must provide Mr. Finton with their name, title, company name, social security number, and date of birth. All attendees must use the "C" Street entrance to the building.

Dated: August 23, 1991.

Timothy C. Finton,

Chairman, U.S. Delegation to the ICCP.

[FR Doc. 91-21186 Filed 9-4-91; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1469]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group A Meetings; Meeting

The Department of State announces that Study group A (Policy and Services) of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Tuesday, October 1, 1991; Wednesday, October 16, 1991; and Tuesday, October 22, 1991 in Conferenced Room 1107, all three meetings to commence at 9:30 a.m. at the Department of State, 2201 C Street NW., Washington, DC 20520.

The agenda for the October 1 meeting will include a debriefing and review of the results of the August/September meeting of Study Group III and preparations for the November meeting of Study Group I. The October 16 meeting will include preparations for the October 28-November 1 meeting of CCITT Resolution No. 18 in Geneva. The October 22 meeting will deal primarily with the finalization of the delegation activities for both CCITT Study Group I and Resolution No. 18 and the future schedule of work activities. A more detailed draft agenda for the Study Group A meetings will be developed at each of the meetings.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made five (5) days in advance of the meeting. Persons who plan to attend should so advise the Office of Earl S. Barbely, Department of State, (202) 647-2592, FAX (202) 647-7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: August 21, 1991.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 91-21187 Filed 9-4-91; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1470]

Secretary of State's Advisory Committee on Private International Law; Annual Meeting and Review of Developments in Private International Law; Meeting

The Secretary of State's Advisory Committee on Private International Law (ACPIL) will hold its annual meeting on Friday, October 4, 1991 from 9:30 a.m. to 5:30 p.m. at the Department of State in Washington, DC.

The purpose of the meeting will be to review trends and developments in the private international law (PIL) field and consider future topics and work efforts that should be undertaken on unification of private law at the international level. The meeting agenda will include a review of developments in international organizations specializing in this field of work, including the Hague Conference on Private International Law, the Specialized Conferences on Private International Law sponsored by the Organization of American States (OAS), the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for Unification of Private Law (UNIDROIT), and non-governmental organizations such as the International Chamber of Commerce (ICC).

Copies of the proposed agenda and relevant documents may be requested from the Legal Adviser's Office by contacting Harold S. Burman at (202) 653-9852, by fax at (202) 632-5283, or by writing to the Office of the Legal Adviser (L/PIL), suite 501, 2100 "K" Street, NW., Washington, DC 20037-7180.

The meeting will be held in Conference Room 1107 at the State Department; participants should use the diplomatic entrance at 22d and "C" Streets for this meeting. Members of the general public may attend up to the capacity of the meeting room. As access to the building is controlled, the office indicated above should be notified not later than Friday, September 27 of the name, affiliation, address and phone number of persons wishing to attend. In order to facilitate planning for the meeting, members of the public are requested to indicate particular issues on which they expect to comment. Persons interested but unable to attend the meeting are welcome to submit comments or proposals to the address indicated above.

Dated: August 22, 1991.

Peter H. Pfund,

Vice-Chair, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 91-21188 Filed 9-4-91; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended August 23, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47706.
Date filed: August 21, 1991.
Parties: Members of the International Air Transport Association.
Subject: TC2 Mail Vote 505 (Amman-Beirut fares).
Proposed Effective Date: September 1, 1991.

Docket Number: 47713.
Date filed: August 23, 1991.
Parties: Members of the International Air Transport Association.
Subject: SNATC/2044 dated July 30, 1991, R-1 to R-10, Resolution No. 22.
Proposed Effective Date: January 1, 1992.

Docket Number: 47716.
Date filed: August 23, 1991.
Parties: Members of the International Air Transport Association.
Subject: CAC/Reso/169 dated August 7, 1991. Expected Resolutions R-1 to R-3.
Proposed Effective Date: September 15, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-21160 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 23, 1991

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: 47707.
Date filed: August 21, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 18, 1991.
Description: Application of American Airlines, Inc., pursuant to section 4401 of the Act and subpart Q of the Regulation applies for amendment of its certificate of public convenience and necessity for Route 389 so as to add Santa Cruz, Bolivia, as an intermediate point on segment 1.

Docket Number: 47708.
Date filed: August 21, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 18, 1991.
Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity for Route 543. That certificate, as issued by Order 90-5-5, May 3, 1990, presently authorizes American to provide foreign air transportation of persons, property, and mail between Miami, Florida, and Caracas, Venezuela. By this application, American seeks to add Maracaibo, Venezuela, as a co-terminal point with Caracas.

Docket Number: 47709.
Date filed: August 21, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 18, 1991.
Description: Application of U.S.-Africa Airways, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity so as to authorize USAA to provide foreign air transportation of persons, property and mail between various points in the United States, on the one hand, and points in Southern Africa, on the other.

Docket Number: 47711.
Date filed: August 23, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 20, 1991.
Description: Application of Tower Air, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity, or amendment of its current certificate,

to provide scheduled combination service between New York, NY and Athens, Greece.

Docket Number: 47712.

Date filed: August 23, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 20, 1991.

Description: Application of Delta Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for a new or amended certificate of public convenience and necessity to permit Delta to provide foreign air transportation between New York, New York and Orlando, Florida, on the one hand, and London, England (via Stansted Airport), on the other hand.

Docket Number: 47714.

Date filed: August 23, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 20, 1991.

Description: Application of Sun Country Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations requests issuance of a certificate (permanent if possible) to engage in scheduled foreign air transportation of persons, property and mail on a permissive basis: Between a point or points in the United States, via other intermediate points, and a point or points in Norway, Denmark and Sweden.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-21161 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 147, Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the thirty-seventh meeting of Special Committee 147 to be held September 11-13, 1991, in the RTCA Conference Room, 1140 Connecticut Avenue NW., suite 1020, Washington, DC, 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Review of meeting agenda; (3) Approval of minutes of the thirty-sixth meeting held on May 16-17, 1991, RTCA paper no. 321-91/SC147-466 (previously distributed); (4) TCAS Program status reports; (a) Manufacturers' update; (b) FAA TCAS Program; (c) TCAS Transition Program; (d) TCAS III; (5) Reports of working group activities; (a) Pilot Working Group/Separation Assurance Task Force; (b) Requirements Working Group; (6) Review of plans for end-to-end verification and validation process; (7) Review of EUROCAE Working Group 34 activities; (8) Review of action items from last meeting; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 28, 1991.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 91-21227 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 168, Lithium Batteries; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the fourth meeting of Special Committee 168 to be held September 26-27, 1991, in the RTCA Conference Room, 1140 Connecticut Avenue NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the Third Meeting minutes, RTCA Paper No. 290-91/SC168-26; (3) Technical presentations; (4) Report of working groups; (5) Further development of a strawman MOPS preparatory to First Draft; (6) Working group sessions; (7) Assignment of tasks; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 28, 1991.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 91-21228 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 91-40; Notice 1]

Receipt of Petition for Determination That Nonconforming 1989 Mercedes-Benz 200TE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1989 Mercedes-Benz 200TE passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1989 Mercedes-Benz 200TE that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is October 7, 1991.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and

after January 31, 1990, unless NHTSA has determined that

(I) The motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards. * * *

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

G&K Automotive Conversion, Inc. of Anaheim, California (Registered Importer No. R-90-007) has petitioned NHTSA to determine whether the 1989 Mercedes-Benz 200TE, Model ID 124.081 passengers cars are eligible for importation into the United States. The vehicle which G&K believes is substantially similar is the 1989 Mercedes-Benz 300TE, Model ID 124.090, and it has submitted information indicating that Mercedes-Benz of North America offered the 1989 Mercedes-Benz 300TE for sale in the United States. This model was manufactured by Daimler-Benz A.G. and was certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner notes that the agency, on its own initiative, has already made a determination of substantial similarity covering 1989 Model 300TE vehicles that Daimler-Benz A.G. did not certify and offer for sale in the United States (55 FR 47418). It alleges that the 300TE and non-conforming 200TE model vehicles differ "mainly in engine size and minor comfort or cosmetic options which go with it."

The petitioner stated that both the 200TE and the U.S.-companion model 300TE share the same basic design, with identical wheelbase, front and rear track, and overall length, width, and height. The petitioner further noted that although Daimler-Benz A.G. had offered five diesel-powered and five gasoline-powered models of this design in Germany, the company concluded upon researching the United States market that it need only import a single gasoline-powered models for the 1989 model year, the 300TE. Noting that the German government, unlike the United States, requires a manufacturer to take a vehicle's power rating and achievable top speed into consideration in certifying its safety performance, the petitioner stated that any variations in the parts supplied on the model 200TE and the U.S. companion model 300TE may be attributed to such differing regulatory requirements. The petitioner emphasized, however, that any differences in the parts supplied on the model 200TE would not diminish that vehicle's safety performance.

G&K submitted information with its petition intended to demonstrate that the 1989 model 200TE, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1989 model 300TE that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specially, the petitioner claims that the 1989 model 200TE is identical to the certified 1989 model 300TE with respect to compliance with Standards Nos. 102 Transmission Shift Level Sequence * * *, 103 Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 105 Hydraulic Brake Systems, 106 Brake Hoses, 107 Refecting Surfaces, 109 New Pneumatic Tires, 113 Hood Latch Systems, 116 Brake Fluids, 124 Accelerator Control Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 203 Impact Protection for the Driver From the Steering Control System, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 206 Door Locks and Door Retention Components, 207 Seating Systems, 208 Occupant Crash Protection, 209 Seat Belt Assemblies, 210 Seat Belt Anchorages, 211 Wheel Nuts, Wheel Discs and Hubcaps, 212 Windshield Retention, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, and 302 Flammability of Interior Materials.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) Installation of U.S.-model headlamp assemblies and bulbs, including sidemarker lamps and reflex reflectors; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 Tire Selection and Rims: Installation of a tire information placard.

Standard No. 111 Rearview Mirrors: Replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 Theft Protection: Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 Vehicle Identification Number: Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 Power Window Systems: Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 214 Side Door Strength: Installation of reinforcing beams.

Standard No. 301 Fuel System Integrity: Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1989 model 200TE must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: October 7, 1991.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(II) and (C)(iii); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on August 29, 1991.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 91-21229 Filed 9-4-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Gold Coast Federal Savings Bank; Plantation, Florida; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Gold Coast Federal Savings Bank, Plantation, Florida ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 23, 1991.

Dated: August 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-21255 Filed 9-4-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 172
Thursday, September 5, 1991

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).

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-91-26A]

Emergency Notice

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT; 56FR42378—dated August 27, 1991.

CHANGE OF DATE OF MEETING:

Original Date: September 10, 1991 at 9:00 a.m.

New Date: September 11, 1991 at 9:00 a.m.

Notice is given that a Commission meeting was scheduled at 9:00 a.m., on September 10, 1991 and in conformity with 19 C.F.R. § 201.37(a), Commissioners Brunsdale, Newquist, Rohr, and Lodwick have voted to change the date of the meeting to September 11, 1991 at 9:00 a.m.

Commissioners Brunsdale, Newquist, Rohr, and Lodwick determined by circulation of an action jacket that Commission business requires the change in the date of this meeting, affirmed that no earlier notice of the change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: August 30, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-21364 Filed 9-3-91; 11:04 am]

BILLING CODE 7020-02-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 1:00 p.m., Tuesday, September 10, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, N.W., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Central Liquidity Facility Line of Credit for FY 1992. Closed pursuant to exemptions (4), (8), and (9)(A)(ii).
3. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Administrative Actions under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
5. Appeal by FCU of Regional Director's Decision. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Personnel Policy. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91-21392 Filed 9-3-91; 1:52 pm]

BILLING CODE 7535-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 11:00 a.m., Friday, September 13, 1991.

PLACE: Amway Grand Plaza Hotel, Pearl at Monroe, Grand Rapids, Michigan 49503-2666, (616) 774-2000.

STATUS: Open.

BOARD BRIEFINGS:

1. Economic Commentary.
2. Central Liquidity Facility Report and Report on CLF Lending Rate.
3. Insurance Fund Report.
4. Legislative Update.

MATTERS TO BE CONSIDERED:

1. Minutes of Previous Open Meetings.
2. Central Liquidity Facility's Reserving Policy.
3. Central Liquidity Facility's Agent Commitment Fee.
4. Final Rule: Section 701.21(h), NCUA's Rules and Regulations, Member Business Loans.
5. National Credit Union Share Insurance Fund (NCUSIF) Insurance Premium.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91-21393 Filed 9-3-91; 1:52 pm]

BILLING CODE 7535-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act

(Public Law 94-409) [5 U.S.C. Section 552b]

DATE AND TIME: Thursday, September 5, 1991, 1:00 p.m.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Emergency Meeting to discuss and ratify the Parole Commission's 1993 budget.

AGENCY CONTACT: Keith Bratt, Budget Officer, United States Parole Commission, (301) 492-5974.

Dated: August 30, 1991.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 91-21357 Filed 9-3-91; 10:22 am]

BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 56, No. 172
Thursday, September 5, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 901199-1021]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

Correction

In rule document 91-19829 beginning on page 41309 in the issue of Tuesday, August 20, 1991, make the following corrections:

On page 41309, in the second column, under **SUPPLEMENTARY INFORMATION:**

a. In the first paragraph, in the fourth line from the end, insert "part 611 for the foreign fishery and at 50 CFR" between "CFR" and "part 675".

b. In the fourth paragraph, in the fifth line from the end, insert "rate" between "bycatch" and "standards".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Office of Energy Research

Fusion Energy Advisory Committee; Open Meeting

Correction

In notice document 91-20651 appearing on page 42610 in the issue of Wednesday, August 28, 1991, in the first column, in the first paragraph, in the fifth line, insert "Energy" after "Fusion".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89-552; FCC 91-74]

Private Land Mobile Radio Services; Use of the 220-222 MHz Frequency Band

Correction

In rule document 91-9397 beginning on page 19598 in the issue of Monday, April 29, 1991, make the following correction:

§ 90.213 [Corrected]

On page 19602, in amendment 29 to § 90.213, in footnote 18, in the fifth line, "±0.000015" should read "±0.00015".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 96

[DA 91-946]

Nonsubstantive Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Service

Correction

In rule document 91-19511 beginning on page 40800 in the issue of Friday, August 16, 1991, make the following correction:

On page 40800, in the third column, in paragraph 4, in the first line, "§ 97.301(i)" should read "§ 97.303(i)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement Number 150]

Availability of Funds for Fiscal Year 1991 Modified System for AIDS Case Reporting and Ascertainment of HIV-Related Morbidity

Correction

In notice document 91-18815 beginning on page 37710 in the issue of Thursday, August 8, 1991, make the following correction:

On page 37710, in the second column, in the fifth full paragraph, in the sixth line, "23-" should read "12-".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 91N-0122]

RIN 0905-AB68

Food Labeling; Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Guidelines for Voluntary Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Identification of the 20 Most Frequently Consumed Raw Fruit, Vegetables, and Fish; Definition of Substantial Compliance

Correction

In proposed rule document 91-15771, beginning on page 30468, in the issue of Tuesday, July 2, 1991, make the following corrections:

1. On page 30474, in the third column, in the third full paragraph, in the fifth line, "nutrient" should read "nutrition".

2. On page 30475, in the 1st column, in the 23d line, the last sentence is corrected to read as follows:

"This procedure may result in underdeclaration of some nutrients (e.g., vitamin C) and overdeclaration of others (e.g., sodium) when variability is high, but the values that it provides fairly represent the nutrient levels that the consumer can depend upon receiving from a product over time."

3. On page 30480, in the first and second columns, in Table 3, the first four lines should read as follows:

TABLE 3.—THE FRUIT IN DECREASING ORDER BY SALES, PRODUCTION, OR CONSUMPTION

PMA [1]	UFFVA [2]	ERS, USDA [3]
Banana	Banana	Banana
Apple	Apple	Apple
Watermelon	Orange	Orange
Orange	Watermelon	Watermelon

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(WY-920-08-4120-11); WYW124646]

Invitation for Coal Exploration License; Cheyenne, WY

Correction

In notice document 91-16694, beginning on page 32225 in the issue of Monday, July 15, 1991, make the following corrections:

On page 32225, in the second column, in the first **SUMMARY** paragraph, in the last line, "Coverse" should read "Converse". And in the second paragraph, in the second line, "for" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 26339; Amdt. No. 93-62]

RIN 2120-AE21

Operation of Jet Aircraft in Commuter Slots at O'Hare International Airport

Correction

In rule document 91-19736 beginning on page 41200 in the issue of Monday, August 19, 1991, make the following corrections:

1. On page 41201, in the first column, in the first full paragraph, in the fifth line, "of" should read "for".

2. On the same page, in the third column, in the sixth line, insert "equally" after "apply".

3. On page 41202, in the second column, in the first full paragraph, in the eighth line from the bottom, "100" should read "110".

4. On page 41203, in the third column, in the third full paragraph, in the seventh line, "commenter" should read "commuter".

5. On page 41206, in the first column, in the first full paragraph, in the third line, "it" should read "if".

BILLING CODE 1505-01-D

federal register

Thursday
September 5, 1991

Part II

Department of the Interior

Bureau of Indian Affairs

Lower Brule Sioux Liquor Code; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Lower Brule Sioux Tribal Liquor Code

August 19, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 9, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Ordinance No. LB-89-C was duly adopted by the Lower Brule Sioux Tribal Council on June 7, 1989. The ordinance imposes restrictions on the sale of alcohol beverages in the area of Indian Country under the jurisdiction of the Lower Brule Sioux Indian Tribe by superseding the previous Ordinance which was published in the **Federal Register** on May 4, 1954, 19 FR 2573 and October 21, 1966, 31 FR 13610. Sales of alcoholic beverages are prohibited except as authorized by the Ordinance. Violations are deemed a Class "A" offense as defined in the Lower Brule Sioux Tribal Law and Order Code.

DATES: This ordinance is effective as of September 5, 1991.

FOR FURTHER INFORMATION CONTACT: Hilda A. Manuel, Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., MS 2612-MIB, Washington, DC 20240-4001; telephone (202) 208-4400, FTS/268-4400.

SUPPLEMENTARY INFORMATION: The Ordinance reads as follows: *Whereas,* the Lower Brule Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934; and

Whereas, the Lower Brule Sioux Tribe is desirous of insuring the health and safety of all people of the Lower Brule Reservation, residents and visitors alike;

Now therefore, be it ordained, that the Lower Brule Sioux Tribe does hereby adopt the following: "No person shall sell any alcoholic beverage except as authorized under the provisions of this section. Any person doing such shall be guilty of an offense and upon conviction thereof shall be sentenced to incarceration for a period not to exceed six (6) months or fined not more than $500.00, or both. This offense shall be deemed a Class "A" offense;" and

Be it further ordained, that the provisions of this Ordinance shall not apply to the purchase and sale of wines used by ordained rabbis, priests, ministers, or pastors of any church or established religious organization for sacramental purposes within the Lower Brule Sioux Reservation.

David J. Matheson,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91-21183 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Thursday
September 5, 1991

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 61

Amendment of the Compliance Date for the Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Private Pilots With Fewer Than 400 Hours of Flight Time; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 24695; Amdt. No. 61-91]

RIN 2120-AE11

Amendment of the Compliance Date for the Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Private Pilots With Fewer Than 400 Hours of Flight Time

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule extends, until August 31, 1993, the compliance date for the requirement that recreational pilots and non-instrument-rated private pilots with fewer than 400 hours of flight time receive an annual flight review consisting of a minimum of 1 hour each of flight and ground instruction. This amendment is necessary to provide the Federal Aviation Administration (FAA) adequate time in which to complete its rulemaking addressing the petitions of the Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) to delete the annual flight review. This amendment suspends the annual flight review requirement while the rulemaking is under way, and thereby precludes the need for large numbers of pilots to conduct this additional ground and flight instruction in the interim.

DATES: *Effective Date:* This final rule is effective September 5, 1991. Comments must be received on or before October 7, 1991.

ADDRESSES: Comments on this final rule may be delivered to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24695, 800 Independence Avenue SW., room 915G, Washington, DC 20591. Comments may be inspected in room 915G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Glista, Regulations Branch (AFS-850), General Aviation and Commercial Division, 800 Independence Avenue SW., Washington, DC 20591, telephone: (202) 267-8150.

SUPPLEMENTARY INFORMATION

Availability of Amendment

Any person may obtain a copy of this amendment by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number (Docket No. 24695) of this amendment. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The requirement for an annual flight review for recreational and non-instrument-rated private pilots with fewer than 400 hours of flight time (hereafter, the affected pilots) was issued in the final rule entitled "Certification of Recreational Pilots and Annual Flight Review Requirements for Recreation Pilots and Non-Instrument-Rated Private Pilots With Fewer Than 400 Flight Hours" [Amendment 61-82; 54 FR 13028; March 29, 1989]. That final rule resulted, in part, from a petition for rulemaking submitted by the National Association of Flight Instructors [47 FR 11026; March 15, 1982]. The final rule was based upon Notice of Proposed Rulemaking No. 85-13 [50 FR 26286; June 25, 1985].

The original effective date for the recreational pilot final rule, which contains the annual flight review requirement, was August 31, 1989. This means that 1 year later, as of August 31, 1990, the affected pilots would have had to complete the additional ground and flight instruction.

As a result of petitions from AOPA and EAA to delete the annual flight review, and other numerous inquiries questioning the sufficiency of the data used to justify the annual flight review requirement, the FAA initiated a review of the documents and data that were used to justify the adoption of the annual flight review requirement. On March 27, 1990, the FAA completed a preliminary study of these documents and data. As a result of this review, the FAA determined that the documents and data sources it used to develop the annual flight review requirement may have been insufficient. Therefore, on November 30, 1990, the FAA extended the compliance date for the annual flight review rule to August 31, 1991 [Amendment 61-89; 55 FR 50312; December 5, 1990]. During the interim, the FAA has been studying the data to make a final determination as to the need for the annual flight review and currently is working on a rulemaking project that will address this issue.

Reason for No Notice and Immediate Adoption

This amendment is being adopted without notice and public comment procedure because delay would have a significant economic impact on the general aviation community. Large numbers of recreational and private pilots would be required to receive 2 hours, at a minimum, of ground and flight instruction on a yearly basis at an estimated annual cost of $8.4 million in 1992. The FAA needs more time to complete work on the rulemaking project that proposes to delete the annual flight review requirement for the affected pilots; requiring these persons to complete an annual review in the interim would constitute an undue burden.

The FAA finds that publication of this amendment for notice and public comment prior to its issuance is impracticable and contrary to the public interest. Because a similar amendment was previously published with a request for comments, publication of this amendment for prior comment could not reasonably be expected to result in the receipt of new information. Because compliance with the current rule would be an undue burden on the general aviation public, and in order for this amendment to be equally relieving for all affected persons, I find that it should be made effective in fewer than 30 days.

Interested persons, however, are invited to submit such post-publication comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

General Discussion of This Final Rule

As a result of unforeseen delays in developing the above proposed rule, the FAA will be unable to issue a final rule prior to the August 31, 1991, compliance date of the annual flight review. Therefore, the FAA has determined that further extension of the compliance date of the annual flight review rule until August 31, 1993, is in the public interest. This amendment responds, in part, to the AOPA and EAA petitions.

Economic Statement

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if benefits to society for each regulatory change outweigh potential costs. Accordingly, the FAA has investigated the economic impacts of this rule. Based upon the results of its investigation, the FAA concludes that this amendment is cost-beneficial.

The benefits of this rule extending the effective date of requiring the affected pilots to undergo an annual flight review are the substantial cost-savings to these pilots. The FAA estimates that approximately 130,000 pilots would have been affected by the annual flight review requirement between August 31, 1991, and August 31, 1993. The cost-savings to these pilots are estimated to be $12.8 million. These estimated cost-savings were calculated using representative rental rates for flight instruction and for ground instruction by category of aircraft.

Based on its preliminary evaluation of the relevant data, the FAA has not identified any costs or any potential reduction in safety associated with this spot amendment. The purpose of this amendment is to avoid imposing unnecessary costs on the public during the period FAA is taking regulatory action to address the requirement for annual flight reviews for the affected pilots. A separate regulatory evaluation has not been prepared for this spot amendment; however, a regulatory evaluation with data relevant to this spot amendment will be prepared for the rule addressing the annual flight review.

Federalism Impact

The amendment adopted herein does 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 amendment does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

This amendment delays the compliance date, until August 31, 1993, of the annual flight review requirement for the affected pilots that was established in Amendment 61–89, "Certification of Recreational Pilots and Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Pilots with Fewer than 400 Hours" final rule.

The FAA has determined that the amendment is not a major regulation under the criteria of Executive Order No. 12291 but is significant, because of the number of persons affected and public interest in this issue, under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034; February 26, 1979].

List of Subjects in 14 CFR 61

Aeronautical knowledge, Aviation Safety, Cross-country flight privileges, Eligibility requirements, Limitations, Operational experience, Student Pilots.

The Amendment

Accordingly, part 61 of the Federal Aviation Regulations (14 CFR part 61) is amended as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

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

Authority: 49 U.S.C. appendix 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g).

2. By amending § 61.56 by revising the introductory text of paragraph (d) to read as follows:

§ 61.56 Flight Review.

* * * * *

(d) Except as provided in paragraph (e) of this section, after August 31, 1983—

* * * * *

Issued in Washington, DC, on August 30, 1991.

James B. Busey,

Administrator.

[FR Doc. 91–21242 Filed 8–30–91; 2:39 pm]

BILLING CODE 4910–13–M

federal register

Thursday
September 5, 1991

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121 and 135

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities; Final Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 121 and 135

[Docket No. 25148: Amdt. No. 121-225, 135-40]

RIN 2120-AD65

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On November 14, 1988, the FAA issued a final rule requiring specified aviation employers and operators to submit and implement anti-drug programs for personnel performing sensitive safety- and security-related functions. This final rule modifies that rule by excluding most entities conducting operations that do not require a part 121 or 135 certificate. Entities conducting sightseeing flights in an airplane or rotorcraft for compensation or hire will continue to be covered by the rule.

EFFECTIVE DATE: October 5, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. William R. McAndrew, Office of Aviation Medicine, Drug Abatement Branch (AAM-220), Federal Aviation Administration, 400 7th Street, SW., Washington, DC 20590; telephone (202) 366-6710.

SUPPLEMENTARY INFORMATION:.

Background

On November 14, 1988, the FAA issued a final anti-drug rule requiring certain aviation employers and operators to develop and to implement an anti-drug program for employees performing specified aviation activities (53 FR 47024; November 21, 1988). The FAA has amended the final rule several times to address implementation problems and clarify the requirements of the rule.

After issuance of the final rule, the FAA became aware of the need to reevaluate the inclusion of those aviation operators otherwise excluded from part 121 and part 135 requirements. For this reason, the FAA extended for one year the compliance deadline for operators as defined in § 135.1(c) of the Federal Aviation Regulations (FAR) (14 CFR 135.1(c)) (hereinafter "135.1(c) operators") (55 FR 10756; March 22, 1990). The operations conducted by these 135.1(c) operators include student instruction, nonstop sightseeing flights conducted within a 25-mile radius of the airport of takeoff, ferry or training flights, aerial work operations, sightseeing flights in hot air balloons, nonstop flights within a 25-mile radius of the airport of takeoff for parachute jumps, FAA-approved helicopter flights conducted within a 25-mile radius of the airport, rotorcraft operations under part 133, and Federal election campaign flights conducted under § 91.321 (formerly 91.59).

In the notice extending the compliance deadline, the FAA stated that it would evaluate the need for further rulemaking to remove these operators from the rule. As a result, the FAA conducted a thorough review of the appropriate scope of the anti-drug rule.

Based on its review, the FAA issued an NPRM on February 12, 1991 (56 FR 6542) proposing to drop virtually all of the 135.1(c) operators from the coverage of the anti-drug rule. The one exception was sightseeing flights covered by § 135.1(b)(2) that are conducted in airplanes or rotorcraft for compensation or hire.

Discussion of Comments

General Overview

The comment period for the NPRM closed April 1, 1991. The FAA received over 700 comments in response to the NPRM. Of this number, approximately 260 comments were received from agricultural operators, approximately 290 from flight instructors, over 30 from hot air balloonists, and over 60 from glider owners and pilots. Many commenters fell into more than one category.

The majority of the commenters stated their support for the proposed rule. Those commenters that went beyond a summary statement of support for, or opposition to, the proposed change varied in scope. The National Transportation Safety Board (NTSB) and approximately 9 other commenters opposed the proposed rule.

Specific Issues

Clarification of Covered Operators

Over 90 commenters, all of whom strongly supported the proposed rule, requested that the FAA define "operator" in § 135.1(c) to make it clear that the anti-drug rule applies only to those operators who conduct sightseeing flights in airplanes or rotorcraft for compensation or hire. Most of these commenters were interested in ensuring that sightseeing conducted in hot air balloons or gliders be excluded from the scope of the anti-drug rule. Several of these commenters noted that since the preamble discussion in Notice No. 91-6 in several places refers to "aviation entities conducting sightseeing flights with airplanes and rotorcraft," they believe their requested addition of the words "in an airplane or rotorcraft" to § 135.1(c) is consistent with the intent of the NPRM.

The Soaring Society of America stated that adding the words "in an airplane or rotorcraft" to § 135.1(c) is acceptable, but states that a preferred alternative is to amend both § 135.1 (b)(2) and (b)(5) so that the former will cover "powered aircraft" and the latter " unpowered aircraft." SSA admits that amending § 135.1(c) "is simpler and summarizes regulatory intent exactly."

Several commenters recommended that all sightseeing flights should be excluded or that the applicability to sightseeing flights should be limited in some way so that not every compensated sightseeing flight in an airplane or rotorcraft would be covered. One commenter suggested that the applicability could exclude flights within 25 nautical miles of the departure airport in airplanes with five passengers or fewer or that the applicability include only scheduled sightseeing flights. Other suggested cutoffs were: Only test persons flying more than 25 hours per year of sightseeing flights; exclude operators who use small airplanes of six seats or fewer; and specifically target the intended sightseeing operations by aircraft size, type, and/or crew complement.

FAA Response

As was stated in the preamble to the NPRM, the FAA's intent is to include under the anti-drug program only those sightseeing flights covered by § 135.1(b)(2) that are conducted in airplanes and rotorcraft for compensation or hire. The final rule language in § 135.1(c) has been changed to clearly reflect this intent.

The FAA did not adopt the Soaring Society of America's recommendation to amend § 135.1(b). The suggested change would affect more than the scope of the anti-drug rule, since § 135.1(b) addresses the general exclusions from part 135.

The FAA does not agree that some or all commercial sightseeing flights in airplanes or rotorcraft should be excluded from application of the rule. Commercial sightseeing operations usually involve members of the general public who have paid for a ride in an airplane or rotorcraft. For purposes of the anti-drug rule, the FAA has determined that the safety implications of such operations are comparable to that of other operations that routinely involve carriage of passengers. These passengers should be given the protection inherent in other passenger-

carrying operations for compensation or hire that have an approved anti-drug program, without regard to size or scope of the operations or the number of flights per year a particular operator might conduct.

Clarification of Covered Instructors

Several commenters stated that the requirements concerning testing of instructors should be clarified. These commenters noted that the NPRM proposed to remove from the scope of the anti-drug rule student instruction conducted under § 135.1(b)(1), thus intending to leave under the scope of the anti-drug rule only instruction conducted by parts 121 and 135 certificate holders as part of their required training programs (see subpart N of part 121 and subpart H of part 135). Since some aviation entities that hold part 121 or 135 certificates also provide student instruction under parts 61 and 141 that is completely unrelated to their training program required by part 121 or 135, these commenters want assurance that the rule would not apply to this instruction.

FAA Response

The FAA agrees with these commenters. The NPRM was intended to remove from rule coverage student instruction that is unrelated to the holding of or operations under a part 121 or 135 certificate. Since student instruction under parts 61 and 141 could continue to be given by an aviation entity holding a part 121 or 135 certificate if it were to surrender its certificate, it is obviously not related to its certificated operations. Hence, this instruction is not within the intended scope of the rule. In a parallel situation previously addressed, the FAA issued guidance that flight crewmembers of aviation entities holding part 121 or 135 certificates are not required to be drug tested if the flight operations they conduct are not subject to parts 121 or 135, e.g., corporate flights conducted under part 91. Similarly, the FAA has advised that employees of parts 121 and 135 certificate holders performing security functions unrelated to aviation operations under parts 121 and 135 are not covered by the anti-drug rule, e.g., security guards at the corporate headquarters. The FAA takes this opportunity to reaffirm its position that the scope of the anti-drug rule is rooted in the operations subject to parts 121 and 135.

Comments Opposing the NPRM

The NTSB is opposed to the proposed rule. The board maintains that, "while these commercial operators are not providing transportation to passengers except in highly restricted circumstances, they often fly in the same air space as other parts 121 and 135 operators." The NTSB is also concerned that flight instructors are being considered for exemption from the regulations, since they are "role models" for their students.

Most other commenters that opposed the proposed rule stated that these operations are conducted in the same airspace in which part 121 and part 135 operations are conducted and believe that there is a potential threat to the traveling public. One commenter, a drug testing consortium, asserted that the FAA has succumbed to political pressure, electing to exclude the 135.1(c) operations with insufficient justification. The commenter believed that public safety would be adversely affected by the change. Additionally, the commenter maintained that FAA's cost figures of $950 per year per affected employee are too high and insupportable.

FAA Response

The FAA has concluded that the overall effect of this amendment will be to the benefit of the public. Drug testing programs involve both cost and intrusiveness; therefore, regulations to require such programs are properly limited to situations where there is a significant threat potential to the public. Moreover, by limiting the applicability of the anti-drug rule to aviation entities that provide transportation services to the public, the FAA and the industry will best be able to utilize their resources to increase aviation safety.

With regard to the comments of the NTSB noting that operations of the types listed in § 135.1(b) are often conducted in the same airspace as operations conducted under part 121 and part 135, this fact alone is not sufficient justification for including them in the drug program. As stated in the preamble of the NPRM, the operations listed in § 135.1(b) do not require operating certificates from the FAA and historically have not been subject to the stringent operating rules of either part 121 or part 135. The NPRM proposed to exclude those operators who, under the FAA's historical statutory and regulatory delineations, are sufficiently tangential to commercial aviation to warrant a lesser degree of regulatory oversight. In addition, the FAA never proposed to apply the anti-drug rule requirements to all of the other operations conducted under part 91 even though these operations also use the same airspace as is used in operations under parts 121 and 135.

Neither is the FAA persuaded that being a "role model" is sufficient reason to retain flight instructors under the drug testing rule unless the instruction is related to part 121 or 135 operations. Of course, many individuals giving instruction separate from a part 121 or 135 context will be covered by a drug testing program as a result of other aviation activities, e.g., flying for a part 121 or 135 certificate holder.

In response to the comment that FAA's cost figures were too high and insupportable, the FAA does not dispute the fact that fees could be substantially lower than $950 per year. The NPRM stated that the maximum cost savings to any operator was estimated to be $950 per affected employee per year in 1990 dollars.

Comments Suggesting Rule Changes Beyond The Scope of The Rule

Approximately 19 commenters suggested other rule changes beyond the scope of Notice 91-6. Issues addressed include proposals for other kinds of drug testing programs, public funding of drug testing, and responsibilities of other government agencies.

Regulatory Evaluation Summary

Executive Order 12291, dated February 17, 1981, directs Federal Agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for the regulatory change outweigh the potential costs to society.

This rulemaking will eliminate aviation entities currently defined as § 135.1(c) operators, except those conducting sightseeing flights in airplanes and rotorcraft for compensation and hire from being covered by and needing to be in compliance with the requirements of the anti-drug rule. The original analysis of the anti-drug rule included the costs and benefits for all affected entities and concluded that the overall rule had a positive cost-benefit ratio. This rule will exclude some of those entities (i.e., most § 135.1(c) operators). While the potential public safety risk for those being excluded would be less than for those remaining under the anti-drug rule, the compliance costs for those excluded by this rule could have been expected to be higher. As a result, the FAA concludes that, for those remaining entities covered by the anti-drug rule, the benefits will exceed the costs by an even greater amount.

Regulatory Flexibility Determination

The FAA has determined that most of the § 135.1(c) operators are small

entities each of which employ few affected employees. The exclusion of these operators, other than those conducting sightseeing flights in an airplane or rotorcraft, from compliance with the anti-drug rule will not have a significant positive or negative impact on these entities. The Agency has determined that this rulemaking will not have a significant economic impact on a substantial number of small entities. The estimated $950 maximum cost savings to any operator per year per affected employee, is substantially less than the $3,800 threshold in 1990 dollars derived by FAA for significant economic impact. Less than one-third of the small entities subject to the proposed rulemaking would meet the threshold for significant impact.

Trade Impact Statement

This rule will affect only a limited number of domestic aviation operations performed under the provisions of the FARs; therefore, it will have no impact on trade opportunities for United States firms doing business overseas or foreign firms doing business in the United States.

Paperwork Reduction Act Approval

The recordkeeping and reporting requirements of the final anti-drug rule, issued on November 14, 1988, were previously submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1980. The OMB approval is under control number 2120-0535. Because this final rule does not amend the recordkeeping and reporting requirements, it is not necessary to amend the prior approval received from OMB.

Federalism Implications

The final rule 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, the FAA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic pact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects

14 CFR Part 121

Air carriers, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

14 CFR Part 135

Air carriers, Air taxi, Air transportation, Aircraft, Airmen, Airplanes, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 121 and 135 of the Federal Aviation Regulations (14 CFR parts 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. Appendix I of Part 121 is amended in section II by revising the definitions for "employee" and "employer" and in Section IX. A. by revising paragraph (5), as set forth below.

* * * * *

II. Definitions * * *.

* * * * *

Employee is a person who performs, either directly or by contract, a function listed in section III of this appendix for a part 121 certificate holder, a part 135 certificate holder, an operator as defined in § 135.1(c) of this chapter, or an air traffic control facility not operated by, or under contract with, the FAA or the U.S. military. Provided, however, that an employee who works for an employer who holds a part 135 certificate and who holds a part 121 certificate is considered to be an employee of the part 121 certificate holder for the purposes of this appendix.

"Employer" is a part 121 certificate holder, a part 135 certificate holder, an operator as defined in § 135.1(c) of this chapter, or an air traffic control facility not operated by, or under contract with, the FAA or the U.S. military. Provided, however, that an employer may use a person to perform a function listed in section III of this appendix, who is not included under that employer's drug program, if that person is subject to the requirements of another employer's FAA-approved anti-drug program.

* * * * *

IX. Employer's Drug Testing Plan. A. Schedule for submission of plans and implementation. * * *

* * * * *

(5) Each employer or operator, who becomes subject to the rule as a result of the FAA's issuance of a part 121 or part 135 certificate or as a result of beginning operations listed in § 135.1(c) shall submit an anti-drug plan to the FAA for approval, within the timeframes of paragraphs (2), (3), or (4) of this section, according to the type and size of the category of operations. For purposes of applicability of the timeframes, the date that an employer becomes subject to the requirements of this appendix is substituted for December 21, 1988.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

3. The authority citation for part 135 is revised to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1421–1431, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

4. Section 135.1(c) is revised to read as follows:

§ 135.1 Applicability.

* * * * *

(c) For the purpose of §§ 135.249, 135.251, and 135.353 "operator" means any person or entity conducting non-stop sightseeing flights for compensation or hire in an airplane or rotorcraft that begin and end at the same airport and are conducted within a 25 statute mile radius of that airport.

* * * * *

Issued in Washington, DC, on August 30, 1991.

James B. Busey,

Administrator.

[FR Doc. 91-21243 Filed 8-30-91; 2:39 pm]

BILLING CODE 4910-13-M

federal register

Thursday
September 5, 1991

Part V

Department of Education

34 CFR Part 682
Guaranteed Student Loan and PLUS Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 682

RIN 1840-AB41

Guaranteed Student Loan and PLUS Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Guaranteed Student Loan (GSL) and PLUS programs (34 CFR part 682). The proposed regulations are needed to further implement the Secretary's Default Reduction Initiative.

DATES: Comments must be received on or before October 21, 1991.

ADDRESSES: Comments should be addressed to Pamela A. Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4310, ROB-3), Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Pat Newcombe or Pamela A. Moran, Telephone Number (202) 708-8242. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1989, the Secretary published in the **Federal Register** a notice of proposed rulemaking (NPRM) (54 FR 24128) proposing two regulatory default reduction measures designed to reduce defaults in the GSL and Supplemental Loans for Students (SLS) Programs. The Secretary recently published in the **Federal Register** final regulations implementing one of those proposals, with revisions resulting from the numerous public comments received in response to the June 5, 1989 NPRM. However, due to the controversial nature of the proposed revision of § 682.610(h) included in the NPRM and the many operational difficulties identified by commenters during the comment period, the Secretary is proposing instead a revised § 682.600 and is soliciting public comment on the proposed regulations.

Regulatory Changes

The proposed regulations would make an important change in the GSL, SLS, and PLUS programs. A private school that offers an undergraduate nonbaccalaureate vocational training program would be required, as a condition for participation in the GSL, SLS, and PLUS programs, to adopt one or more of the measures identified in the proposed regulations to protect the Federal interest and ensure that students at the school will not be prevented from completing their studies if the school ceases to provide instruction in a particular program before a borrower completes that program of study. A more detailed explanation of this change follows.

Section 682.600 Agreement between an eligible school and the Secretary for participation in the Guaranteed Student Loan and PLUS Programs

The Secretary proposes to add a new paragraph (d) to this section. This provision would require each private school that offers an undergraduate nonbaccalaureate vocational training program, as a condition for participation in the GSL, SLS, and PLUS programs, to implement a "school closure plan" including one or more of the elements described in the regulation. The plan must protect the interests of the Federal government and the student borrowers enrolled in the school if the school ceases to provide instruction in a particular program before a borrower completes that program of study. The Secretary originally proposed, in the June 5, 1989 NPRM, a requirement that a private school as described above enter into a "teachout" agreement with another school, under which the latter school would agree to offer each borrower enrolled in the original school an opportunity to complete his or her program of study if the original school stopped providing instruction in a particular program before the borrower completed that program of study. The Secretary also solicited comments on alternative proposals to the teachout agreement to achieve the Department's goal of protecting the interests of students and the Federal government in these situations.

The many comments received on this provision were virtually unanimous in their objections to the proposal of a mandatory teachout agreement based on what the commenters believed were difficult logistical and operational problems. The commenters suggested that there were a number of programs already in place under existing State laws or accrediting agency policies that addressed the problems faced by students whose schools closed and recommended that the Department adopt these existing programs rather than mandate a teachout agreement. Finally, many commenters suggested other alternatives to address the problem.

Based on the Department's review of the comments in response to the June 5, 1989 NPRM, the Secretary has decided not to publish final regulations requiring teachout agreements at this time. Further, the Secretary believes that because of the operational difficulties identified by some commenters, the teachout proposal alone may not ensure the level of comprehensive student consumer protection he desires. Therefore, the Secretary is soliciting public comment on a proposal that would require schools to adopt one or more of several acceptable approaches to dealing with a potential school termination of teaching activities in a particular program of study before a borrower completed that program of study.

The alternative approaches included as options in the proposed regulations were identified from comments received in response to the Secretary's requests for alternatives in the June 5, 1989 NPRM. Under the proposed regulations, a school to which the regulations apply would have to adopt a closure plan including one or more of the following elements: (1) School coverage under a State-administered tuition recovery fund that provides for a *pro rata* refund, as that term is defined in 34 CFR 682.606(c)(1), to be paid to the lender on behalf of the affected students; (2) a bond or letter of credit, payable on demand to the Secretary, that covers at least 50 percent of one academic year's tuition, fees, and other charges for all covered students; (3) participation in a program administered by the school's accrediting commission that provides either a satisfactory teachout of affected students or a *pro rata* refund, as defined in 34 CFR 682.606(c)(1), of institutional charges for the enrollment period in which the school closed; (4) the implementation of a teachout agreement as originally proposed; and (5) coverage by a "pooled-risk" arrangement administered by the school's accrediting commission. A school that has more than one location may be required to include different elements in its plan for different locations. This would be the situation when only some of the school's locations are in a State having a State-administered tuition recovery plan. In this situation, the school's plan would have to identify which of the plan

elements described in the regulations would be used by the locations outside of that State.

The Secretary is concerned about the solvency of the funds from which refunds would be made in three of the proposed options; the State-administered fund, the accrediting agency fund, and the "pooled-risk" arrangement. The Secretary feels that it is vital to set acceptable fund levels to assure the effectiveness of these options in meeting the Department's goals. However, the Secretary does not, at this time, have the information necessary to propose specific acceptable fund levels. Therefore, the Secretary is requesting that commenters suggest financial requirements for each of these three proposed options. These requirements should be based on each fund's risk of loss. Based on the comments, the Secretary intends to set specific financial requirements for these options in the final regulations.

Executive Order 12291

The proposed regulations have been reviewed in accordance with Executive Order 12291. The regulations are classified as nonmajor because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

Certain reporting, recordkeeping, and compliance requirements are imposed on guarantee agencies, lenders, and schools by the regulations. However, these requirements would not have a significant impact because they would not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1980

Section 682.600(d) contains an information collection requirement. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget for its review.

Annual public reporting burden for this collection of information is estimated to average one hour per response for 638 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in ROB-3, room 4310, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: August 29, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend part 682 of title 34 of the Code of Federal Regulations as follows:

PART 682—GUARANTEED STUDENT LOAN AND PLUS PROGRAMS

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087-2, unless otherwise noted.

2. Section 682.600 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 682.600 Agreement between an eligible school and the Secretary for participation in the Guaranteed Student Loan and PLUS Programs.

* * * * *

(d)(1) A private school that offers an undergraduate nonbaccalaureate program designed to prepare students for a particular vocational, trade, or career field shall, as a condition for participation in the GSL, SLS, and PLUS programs, have in effect at all times a plan, containing one of more of the elements in paragraph (d)(2) of this section, that provides for the equitable treatment of enrolled students and the Secretary in the event that the school terminates teaching activities in a particular program of study prior to the students' completion of the program of study.

(2) A school is considered to have in effect a plan that meets the requirements of this section only if its plan includes one or more of the following elements:

(i) Coverage under a State-administered tuition recovery fund that provides for payment from the fund directly to the lender of at least a *pro rata* refund, as defined in § 682.606(c)(1), of the tuition, fees, and other institutional charges assessed an enrolled student on whose behalf a GSL, SLS, or PLUS loan was made for the period of enrollment during which the school terminated teaching activities in a particular program of study prior to the student's completion of that program of study.

(ii) A surety bond or letter of credit payable on demand to the Secretary, posted by the school or another entity on behalf of the school, in an amount equal to at least 50 percent of one academic year's tuition, fees, and other charges for all enrolled students on whose behalf a GSL, SLS, or PLUS loan will be made for the current period of enrollment at that private school and that provides for the payment to lenders of *pro rata* refunds as defined in § 682.606(c)(1).

(iii) Coverage under a program and fund administered by the school's accrediting commission that includes—

(A) Written procedures for arranging a teachout, including the provisions in paragraph (d)(2)(iv) of this section for teachouts performed under teachout agreements, for enrolled students in attendance at the school when the school terminates teaching activities in a particular program of study; and

(B) If no such teachout is provided when the school terminates teaching activities in a particular program of study, the payment of a *pro rata* refund

as defined in § 682.606(c)(1), to the lender for each enrolled student on whose behalf a GSL, SLS, or PLUS loan was made for the period of enrollment during which the school terminated teaching activities in a particular program of study.

(iv) A teachout agreement with one or more other schools (the teachout school(s)) offering similar educational programs and with which the original school has no business connection, that contains the following provisions:

(A) The teachout schools shall agree that, if the original school terminates its teaching activities in a particular program of study in which it enrolls a student to whom or on whose behalf a GSL, SLS, or PLUS loan is made for attendance at the original school, the teachout school will offer each student enrolled in that course of study at the original school when the teaching activities are terminated a reasonable opportunity to promptly resume and complete his or her course of study, or a substantially similar course of study, in the geographic area in which the original school provided the course of study.

(B) The teachout school shall agree to provide this opportunity without additional charge to the student, except that the teachout school may assess the student charges for periods of enrollment that the student is required to undertake to complete the course of study undertaken at the original school, as the student incurs those charges, up to the amount not yet paid by the student, that the original school would have been entitled to collect for those periods of enrollment from the student had the original school not terminated teaching activities in the program of study prior to the student's completion of that program of study.

(C) The original school shall agree that, in the event a teachout becomes necessary, it shall provide, in a timely manner, individual notice to each student of the availability of the teachout and diligently advertise the availability of a teachout.

(v) Coverage under a "pooled-risk" arrangement administered by the school's accrediting commission that ensures that at least a *pro rata* refund, as defined in § 682.606(c)(1), of the tuition, fees, and other institutional charges assessed an enrolled student on whose behalf a GSL, SLS, or PLUS loan was made for the period of enrollment during which the school terminated teaching activities in a particular program of study, will be paid directly to the lender.

(3) A school shall submit written evidence of the existence of the element or elements under this paragraph selected as its closure plan to the school's accrediting agency, the principal guarantee agency which guarantees loans for its students, and the Secretary. A school that selects the teachout alternative under paragraph (d)(2)(iv) of this section shall, as required written evidence of the teachout arrangement, submit a copy of its catalog or brochure and its enrollment contract which include information regarding the details of the teachout.

* * * * *

[FR Doc. 91-21190 Filed 9-4-91; 8:45 am]

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federal register

Thursday
September 5, 1991

Part VI

Environmental Protection Agency

Presolicitation Notice for Environmental Education Grants; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3992-7]

Presolicitation Notice for Environmental Education Grants

Purpose of Notice

This notice is to alert educators that a solicitation for proposals will be published on or after October 1, 1991. In the Fall of 1991 EPA will be seeking applicants for cooperative agreements or grants to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training as specified in section 6 of the National Environmental Education Act (Pub. L. 101-619).

Background

On November 16, 1990 the National Environmental Education Act (NEEA) was signed by the President. Section 6 of the Act requires that the Environmental Protection Agency (EPA) solicit for projects, select suitable projects from among those proposed, supervise such projects, evaluate the results of projects, and disseminate information on the effectiveness and feasibility of the practices, methods, techniques and processes.

Authorization and Appropriation

There is authorized to be appropriated to the Environmental Protection Agency to carry out this Act not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996. Of such sums appropriated in a fiscal year, 38 percent shall be available for the environmental education grants program in Section 6 of the Act. The President's 1992 budget request recommends that Congress appropriate a $7,000,000 portion of the authorized amount, of which, approximately $2,600,000 is recommended to carry out section 6 of the Act.

Questions and Answers

Who may submit proposals/applications in response to the grant solicitation when it is published?

Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization (includes community organizations), or noncommercial educational broadcasting entity may submit an application, upon publication of the solicitation in the **Federal Register** on or after October 1, 1991.

May a teacher/educator apply?

Only organizations are eligible. Teachers need their institution or association to apply on their behalf.

What activities will be eligible for grant support?

The eligible activities shall include but not be limited to:

1. Design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;
2. Design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;
3. Projects to understand and assess a specific environmental issue or a specific environmental problem;
4. Provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and
5. Design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

Which projects will have priority?

In making grants pursuant to this section, EPA shall give priority to those proposed projects which will develop:

1. A new or significantly improved environmental education practice, method, or technique;
2. An environmental education practice, method, or technique which may have wide application; and
3. An environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the EPA, is of a high priority.

Who will perform projects and activities?

The Act requires that each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and EPA. EPA approval is required prior to the awarding of funds.

Are matching funds required?

Federal funds for projects shall not exceed 75 percent of the total cost of such projects. The non-Federal share of project costs may be provided by in-kind contributions and other noncash support. In-kind contributions often include salaries or other costs which are verifiable.

How much money may be requested?

EPA is encouraging requests for "grass roots" grants for $5,000 or less. At least 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000. The statutory ceiling for any one grant is $250,000.

When should proposals be submitted?

A solicitation notice describing more details about proposal/application requirements and the window for accepting submissions will be published in the **Federal Register** on or after October 1, 1991, and distributed to interested parties who are on the EPA mailing list.

How will the selection be made?

EPA will screen the proposals using external panels. EPA Regional Offices will review the proposals pertaining to their Region and provide recommendations as to the best proposals to the Office of Environmental Education.

If I'm awarded a grant, what reports must I complete?

All grantees will be expected to submit final reports for EPA approval prior to receipt of the balance of grant funds. The reporting details will be suited to the grant. Grantees for larger grants, greater than $5,000, may be expected to report on quarterly progress as well as final project completion. Since the networking of information is important, grantees may be asked to transmit information to a collection point by computer.

How will interested people be notified?

On or after October 1, 1991, EPA will publish in the **Federal Register** a solicitation for environmental education grant proposals. The notice will describe the information to be included in proposals and other information needed to permit EPA to assess the project. The contact for requesting a copy of the solicitation notice is: EEG—Solicitation, Office of Environmental Education (A107), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 847-3036.

Lewis S.W. Crampton,

Associate Administrator, Office of Communications and Public Affairs.

[FR Doc. 91-21264 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-M

federal register

Thursday
September 5, 1991

Part VII

Department of the Interior

Bureau of Indian Affairs

San Carlos Irrigation Project, Arizona; Notice

DEPARTMENT OF THE INTERIOR

San Carlos Irrigation Project, Arizona

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: General notice.

SUMMARY: The general notice is issued to fix the per acre assessment rate for the operation and maintenance of irrigation facilities of the Joint Works of the San Carlos Irrigation Project to properly reflect the cost of labor, materials, equipment and services.

EFFECTIVE DATE: The rates stated in this public notice become effective October 1, 1991, and will remain effective until changed by action of the Area Director.

FOR FURTHER INFORMATION CONTACT: Project Engineer, San Carlos Irrigation Project, P.O. Box 250, Coolidge, Arizona 85228, telephone (602) 723-5439.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 25 U.S.C. 385).

ASSESSMENT RATE: Pursuant to the Act of Congress approved June 7, 1924 (43 Stat. 476) and supplementary acts, the Repayment Contract of June 8, 1931, as amended, between the United States and San Carlos Irrigation and Drainage District, and in accordance with applicable provision of the Order of the Secretary of the Interior of June 15, 1938, the basic assessment rate for the operation and maintenance of the Joint Works of the San Carlos Irrigation Project for Fiscal Year 1993 and subsequent fiscal years until further notice is hereby fixed at $29.95 for each assessable acre of land.

Payment—The assessment is due and payable on or before the 15th of May prior to the fiscal year the assessment is for, as provided for in the Act of Congress of June 7, 1924 (43 Stat. 475-476) as implemented by the Repayment contract Between the United States and the San Carlos Irrigation and Drainage District, as supplemented on November 12, 1935 and May 29, 1947) and the Secretarial Order Defining Joint, District and Indian Works of the San Carlos Federal Irrigation Project; Turning over Operation and Maintenance of District works to the San Carlos Irrigation and Drainage District.

Duty of Water—Payment of the assessment will entitle the water user to their proportionate share of available water.

Barry W. Welch,

Phoenix Area Director.

[FR Doc. 91-21273 Filed 9-4-91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Thursday
September 5, 1991

Part VIII

Department of Defense

48 CFR Parts 215, 237, and 252
Federal Acquisition Regulation Supplement; Uncompensated Overtime; Interim Rule

DEPARTMENT OF DEFENSE

48 CFR Parts 215, 237, and 252

Federal Acquisition Regulation Supplement; Uncompensated Overtime

AGENCY: Department of Defense, (DOD).

ACTION: Interim rule and request for comments.

SUMMARY: The Defense Federal Acquisition Regulations Supplement is amended by revising parts 215, 237, and 252 to implement section 834 of the FY 1991 DoD Authorization Act (Pub. L. 101-510), which requires, to the maximum extent practicable, that DoD acquire services on the basis of the tasks to be performed rather than on the basis of the number of hours provided.

A proposed rule was published in the **Federal Register** (56 FR 21121) on May 7, 1991. As a result of analyzing public comments, significant changes have been made in the proposed rule that have an impact on the public. Therefore, an interim rule is being issued.

Note: This rule amends the 1988 edition of DFARS, not the 1991 edition which was published July 31, 1991 (56 FR 36280).

DATES: *Effective Date:* August 19, 1991.

Comment Date: Comments on the interim rule should be submitted in writing to the address shown below on or before October 7, 1991, to be considered in the formulation of the final rule. Please cite DAR Case 90-316 in all correspondence related to this issue.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Ms. Barbara J. Young, OUSD(A)DP(DARS), Pentagon, Washington, DC 20301-3000.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Young, (703) 697-7266, FAX No. (703) 697-9845.

SUPPLEMENTARY INFORMATION:

A. Background

Section 834 of the FY 1991 DoD Authorization Act (Pub. L. 101-510) requires the Secretary of Defense to prescribe regulations to ensure, to the maximum extent practicable, that services are acquired on the basis of the task to be performed rather than on the basis of the number of hours provided. This interim rule amends DFARS 215.605 to provide guidance on evaluating competitive acquisitions for services. It amends DFARS 215.608 to provide guidance to contracting officers on factors to consider when evaluating proposals to ensure the use of uncompensated overtime does not degrade the level of technical expertise required to perform Government contracts. It amends DFARS 237.102 by adding DoD policy that services should be acquired, to the maximum extent practicable, on the basis of the task to be performed rather than on the basis of the number of hours provided. The interim rule adds DFARS 237.170 to provide guidance and prescribe a new solicitation provision on uncompensated overtime. The new solicitation provision is prescribed for use in all solicitations estimated at $100,000 or more for the acquisition of services on the basis of the number of hours to be provided. The solicitation provision requires offerors to identify uncompensated overtime they are proposing, including uncompensated overtime in indirect rates. It further requires that offerors' accounting practices used to estimate uncompensated overtime be consistent with their cost accounting practices used to accumulate and report uncompensated overtime hours.

The major changes from the proposed to interim rule are: (1) Added general policy statement that use of uncompensated overtime is not encouraged, (2) deleted clause 252.37-XXXX, Uncompensated Overtime, (3) revised the threshold from $1 million to $100,000 for using the solicitation provision 252.237-7001, Identification of Uncompensated Overtime, (4) added the requirement that an offeror's accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours, (5) clarified a requirement for identification of uncompensated overtime included in indirect rates, and (6) added guidance to the contracting officer on factors to consider when evaluating proposals to ensure the use of uncompensated overtime does not degrade the level of technical expertise required to perform Government contracts. Remaining revisions are clarifications.

B. Regulatory Flexibility Act

This interim rule may have a significant impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Therefore, an initial Regulatory Flexibility Analysis has been performed. Comments from small businesses concerning the affected DFARS Subparts will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 91-610 in all correspondence.

C. Paperwork Reduction Act

The proposed rule does impose reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.* OMB approval was granted under approval #0704-0331.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this regulation as an interim rule. It is determined that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement section 834 of the FY 1991 DoD Authorization Act, Public Law 101-510. Pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this notice will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 215, 237 and 252

Government procurement.

Claudia L. Naugle,

Editor, Defense Acquisition, Regulations Council.

Therefore, 48 CFR parts 215, 237, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 215, 237, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and FAR Subpart 1.3.

PART 215—CONTRACTING BY NEGOTIATION

2. Section 215.605 is amended by adding paragraph (c) (S-70) to read as follows:

215.605 Evaluation factors.

* * * * *

(c) (S-70) In competitive acquisitions of services—

(i) Evaluation and award should be based, to the maximum extent practicable, on best overall value to the Government in terms of quality and other factors.

(ii) The weighting of costs must be commensurate with the nature of the services being acquired.

(A) It may be appropriate to award to an offeror, based on technical and quality considerations, at other than the lowest price when—

(*1*) The effort being contracted for departs from clearly defined efforts; and

(*2*) Highly skilled personnel are required.

(B) It may be appropriate to award to the technically acceptable offeror with the lowest price when—

(1) Services being acquired are of a routine or simple nature;

(2) Highly skilled personnel are not required; and

(3) The product to be delivered is clearly defined at the outset of the acquisition.

* * * * *

3. Section 215.608 is amended by adding paragraph (S-71) to read as follows:

215.608 Proposal evaluation.

* * * * *

(S-71) Contracting officers shall ensure that the use of uncompensated overtime in contracts to acquire services on the basis of the number of hours provided (see 237.170) will not degrade the level of technical expertise required to fulfill the Government's requirements. When acquiring such services, contracting officers shall conduct a risk assessment, and evaluate for award on that basis, any proposals received that reflect factors such as:

(1) Unrealistically low labor rates or other costs that may result in quality or service shortfalls; and

(2) Unbalanced distribution of uncompensated overtime among skill levels and its use in key technical positions.

PART 237—SERVICE CONTRACTING

4. Section 237.102 is added to read as follows:

237.102 Policy.

To the maximum extent practicable, acquire services on the basis of the task to be performed rather than on the basis of the number of hours to be provided.

5. Sections 237.170 through 237.170-3 are added to read as follows:

237.170 Uncompensated overtime.

237.170-1 Scope.

This section implements section 834 of Public Law 101-510 (10 U.S.C. 2331).

237.170-2 General policy.

(a) Use of uncompensated overtime is not encouraged.

(b) When services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed, the solicitation shall require offerors to identify uncompensated overtime hours and the uncompensated overtime rate for Fair Labor Standards Act—exempt personnel included in their proposals and subcontractor proposals. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

237.170-3 Solicitation provision.

Use of the provision at 252.237-7001, Identification of Uncompensated Overtime, in all solicitations, estimated at $100,000 or more, for services to be acquired on the basis of the number of hours to be provided.

6. Section 252.237-7001 is added to read as follows:

252.237.7001 Identification of uncompensated overtime.

As prescribed in 237.170-3, use the following provision:

Identification of Uncompensated Overtime (Aug. 1991)

(3) Definitions.

As used in this provision—

Uncompensated overtime means the hours worked in excess of an average of 40 hours per week by employees who are exempt from the Fair labor Standards Act (FLSA), without additional compensation. Compensated personal absences, such as holidays, vacations, and sick leave, shall be included in the normal work week for purposes of computing uncompensated overtime hours.

"Uncompensated overtime" rate is the rate which results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week. For example, 45 hours proposed on a 40-hour work week basis at $20.00 would be converted to an uncompensated overtime rate of $17.78 per hour. ($20×40) divided by 45=$17.78.

(b) For any hours proposed against which an uncompensated overtime rate is applied, the Offeror shall identify in its proposal the hours in excess of an average of 40 hours per week, by labor category, and the uncompensated overtime rate per hour, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

(c) The Offeror's accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours.

(d) Proposals which include unrealistically low labor rates, or which do not otherwise demonstrate cost realism, will be considered in a risk assessment and evaluated for award in accordance with that assessment.

(e) The Offeror shall include a copy of its policy addressing uncompensated overtime with its proposal.

(End of provision)

[FR Doc. 91-21174 Filed 9-4-91; 8:45 am]

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federal register

Thursday
September 5, 1991

Part IX

The President

Proclamation 6329—Minority Enterprise Development Week, 1991

Federal Register
Vol. 56, No. 172
Thursday, September 5, 1991

Presidential Documents

Title 3—

The President

Proclamation 6329 of September 3, 1991

Minority Enterprise Development Week, 1991

By the President of the United States of America

A Proclamation

America has demonstrated to the world that when individuals have the freedom to pursue their dreams and to put their talents and ideas to work, we all benefit. As more and more nations recognize the value of free enterprise and private initiative—and reform their economies according to market-oriented principles—the United States must act to strengthen its competitiveness.

If the United States is to remain a leader in the expanding global marketplace, we must redouble our efforts to produce high quality goods and services. We must also maximize the talent and potential of our people, our most important resource. Every American must have the knowledge and skills—including the technical skills—that are needed to enjoy full, productive lives in our rapidly changing world. That is one reason why we have launched AMERICA 2000, our national strategy to achieve excellence in education.

I am confident that this strategy will succeed because we Americans are a proud and determined people. Those qualities are exemplified by minority entrepreneurs, who have long been recognized for their determination to overcome obstacles and to create better lives for themselves and for their children. This week, we salute the more than 1 million minority business owners across the United States for helping to build a stronger America. These hardworking men and women are contributing to the economic development of their communities, and they are creating jobs and opportunities for their neighbors. For example, according to the U.S. Department of Commerce, minority businesses generate more than $78.5 billion annually in gross receipts. More than 250,000 of these businesses have paid employees, providing jobs for an estimated 845,000 people.

This week, as we celebrate the achievements of our Nation's minority entrepreneurs, we also reaffirm our commitment to promoting equal opportunity, high quality education, and effective job training for all Americans. In so doing, we will enhance our Nation's strength and productivity while creating more vibrant communities and improved standards of living for every citizen.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 22 through September 28, 1991, as Minority Enterprise Development Week. I encourage the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

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

George Bush

[FR Doc. 91-21504
Filed 9-4-91; 11:09 am]
Billing code 3195-01-M

federal register

Thursday
September 5, 1991

Part X

Office of Personnel Management

Administrative Careers With America Examination; Notice of Proposed Changes and Request for Comments

OFFICE OF PERSONNEL MANAGEMENT

Administrative Careers With America

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed changes; request for comments.

SUMMARY: In accordance with a court order in *National Treasury Employees Union* v. *Newman*, No. 90-1165 (D.C.C., July 22, 1991), the Office of Personnel Management (OPM) is inviting comments from interested parties on the Administrative Careers With America (ACWA) examinations covering various entry-level positions at the GS-5/7 levels.

DATES: Comments must be received by November 4, 1991.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Career Entry, Office of Personnel Management, room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 606-0960.

SUPPLEMENTARY INFORMATION: OPM announced the ACWA examinations on April 19, 1990, covering positions that were formerly filled under the Professional and Adminstrative Careers Examination (PACE). Use of the PACE was terminated in 1982 under the terms of a consent decree in *Luevano* v. *Devine* (Civil Action No. 79-271). Unlike the PACE, which used a single written test measuring general knowledge and abilities for all positions, the ACWA uses a combination of measures for seven occupational groups. Key features of the ACWA examination are:

Written Tests

The ACWA examinations employ separate written tests for each of six occupational groups: (1) Health, safety and environmental occupations; (2) writing and public information occupations; (3) business, finance, and management occupations; (4) personnel, administration, and computer occupations; (5) benefits review, tax, and legal occupations; and (6) law enforcement and investigations occupations. The ACWA tests use logic based questions that measure the math and verbal skills and reasoning ability needed to perform successfully in the types of positions being filled and that relate to situations the applicants would encounter in those jobs. By grouping occupations which call for similar knowledges, skills, and abilities, OPM can provide relevant written tests for most of the occupations formerly filled under PACE.

Individual Achievement Record

In addition to the ability test questions, the ACWA examinations also include a new feature called the Individual Achievement Record (IAR). The IAR evaluates how well applicants have used the opportunities they have had in school, work, and outside activities. It is similar to biodata questionnaires that have been used successfully in private industry, but it excludes any questions about attributes (e.g., parents' educational level) which are not within an applicant's control. Each applicant's score is based on both the written test and the IAR.

Professional Positions

Some positions formerly filled through the PACE are in occupations, such as economist and psychologist, which have minimum educational requirements. Written tests are not commonly used to evaluate candidates for entry-level jobs in such professional occupations. Consequently, the written tests and IAR are not used for those positions under the ACWA. Instead, applicants are evaluated based on their education and experience, as is the practice in other examinations covering professional occupations.

Proposed Changes

OPM has been monitoring the effectiveness and validity of the ACWA written tests and IAR and is considering program changes to make the ACWA more effective. OPM is considering a shortened version of the written test. The length of the tests would be reduced from 3¼ hours to 1¼ hours. Additionally, a 10-minute "warm-up" test would provide applicants with the opportunity to become familiar with the test format and to practice before the actual examination. OPM proposed to authorize agency personnel, if they so desire, to administer the written test for all or specific ACWA occupational groups. OPM is conducting walk-in testing or has published test schedules in areas where there are large numbers of applicants.

OPM solicits the views of agencies, the public, and other interested parties on how the program is working, what problems have been encountered, and on the changes to the program proposed in this Notice. We will consider these comments when making program decisions in determining the future of ACWA.

(Legal Authority: 5 U.S.C. 3301(2))

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-21503 Filed 9-4-91; 11:46 am]

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