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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 458

[Docket No. 0119s]

Special California Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts, as a final rule, an interim rule which was published in the **Federal Register** on Wednesday, July 3, 1991, at 56 FR 30489. The interim rule provided a special three-year program of crop insurance protection against loss of California citrus production.

DATES: This final rule is effective on January 3, 1992.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235–1168.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 1996.

James E. Cason, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Wednesday, July 3, 1991, FCIC published an interim rule in the **Federal Register** at 56 FR 30489. The interim rule issued a new part 458 in chapter IV of title 7 of the Code of Federal Regulations, known as the Special California Crop Insurance Regulations (7 CFR part 458), effective for the 1992 through 1994 crop years.

Written comments were solicited for 60 days after publication in the **Federal Register**, and the rule was scheduled so that any amendment made necessary by public comment could be published in the **Federal Register** as quickly as possible. No comments were received, therefore, the interim rule published at 56 FR 30489 is hereby adopted as a final rule without change.

List of Subjects in 7 CFR Part 458

Crop insurance; Special California citrus crop insurance.

Final Rule

Accordingly, the interim rule adding part 458 which was published in the **Federal Register** on Wednesday, July 3, 1991, at 56 FR 30489, is hereby adopted as a final rule.

Authority: 7 U.S.C. 1506, 1516.

Done in Washington, DC on November 25, 1991.

James E. Cason,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 92–15 Filed 1–2–92; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Parts 1001, 1004, and 1124

[Docket No. AO–14–A65, etc; DA–91–013]

Milk in the New England, Middle Atlantic and Pacific Northwest Marketing Areas; Interim Amendment of Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim amendment of rules.

SUMMARY: This action changes on an interim basis the classification and pricing of skim milk used to produce nonfat dry milk (NFDM) under the New England, Middle Atlantic and Pacific Northwest Federal milk orders. As amended, the price for milk used to make NFDM would be established from market prices for such product rather than the Minnesota-Wisconsin price, which primarily reflects the value of milk used to make cheese. More than the required number of producers in each of the marketing areas affected have approved the issuance of the interim amendments.

EFFECTIVE DATE: Upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

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

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a

substantial number of small entities. The interim amendments will facilitate the orderly disposition of the reserve milk supplies associated with these three markets.

Prior documents in this proceeding:

Notice of Hearing: Issued July 16, 1991; published July 22, 1991 (56 FR 33395).

Tentative Decision: Issued December 10, 1991; published December 19, 1991 (56 FR 65801) and corrected December 23, 1991 (56 FR 66482).

Revised Tentative Decision: Issued December 24, 1991; to be published January 2, 1992.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings on the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended on an interim basis, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to Section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the orders as hereby amended on an interim basis, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended on an interim basis, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make these interim amendments to the New England, Middle Atlantic and Pacific Northwest orders effective upon publication of this document in the **Federal Register**. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing areas.

The interim amendments to these orders are known to handlers. The tentative decisions containing the proposed amendments to these orders were issued in December 1991.

The changes effected by these interim amendments will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these order amendments effective upon publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date of these amendments for 30 days after their publication in the **Federal Register**.

(Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of these interim amendments to each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders, and

(3) The issuance of these interim amendments to each of the specified orders is approved by more than the required number of producers who during the determined representative period were engaged in the production of milk for sale in each of the respective marketing areas.

List of Subjects in 7 CFR Parts 1001, 1004 and 1124

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New England, Middle Atlantic and Pacific Northwest marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended on an interim basis, as follows:

The authority citation for 7 CFR parts 1001, 1004 and 1124 continues to read as follows:

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

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

1. Section 1001.40 is amended by revising paragraph (c)(1)(iii) and adding a new paragraph (d) to read as follows:

§ 1001.40 Classes of utilization.

* * * * *

(c) * * *

(1) * * *

(iii) Any milk product in dry form, except nonfat dry milk.

* * * * *

(d) *Class III–A milk.* Class III–A milk shall be all skim milk and butterfat used to produce nonfat dry milk.

2. Section 1001.43 is amended by adding a new paragraph (f) to read as follows:

§ 1001.43 General classification rules.

* * * * *

(f) Class III–A milk shall be allocated in combination with Class III milk and the quantity of producer milk eligible to be priced in Class III–A shall be determined by prorating receipts from pool sources to Class III–A use on the basis of the quantity of total receipts of bulk fluid milk products allocated to Class III milk at the plant.

3. Section 1001.50 is amended by adding a new paragraph (d) to read as follows:

§ 1001.50 Class prices.

* * * * *

(d) *Class III–A price.* The Class III–A price for the month shall be the average Central States Extra Grade nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential times 35 and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month.

4. Section 1001.54, Announcement of class prices, is revised to read as follows:

§ 1001.54 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class III and Class III–A prices for the preceding month, and on or before the 15th day of each month the Class II price for the

following month computed pursuant to § 1001.50(b).

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. Section 1004.40 is amended by revising paragraph (c)(1)(iii) and adding a new paragraph (d) to read as follows:

§ 1004.40 Classes of utilization.

* * * * *

(c) * * *

(1) * * *

(iii) Any milk product in dry form, except nonfat dry milk.

* * * * *

(d) *Class III-A milk.* Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk.

2. Section 1004.43 is amended by adding a new paragraph (d) to read as follows:

§ 1004.43 General classification rules.

* * * * *

(d) Class III-A milk shall be allocated in combination with Class III milk and the quantity of producer milk eligible to be priced in Class III-A shall be determined by prorating receipts from pool sources to Class III-A use on the basis of the quantity of total receipts of bulk fluid milk products allocated to Class III use at the plant.

3. Section 1004.50 is amended by revising the section heading and adding a new paragraph (g) to read as follows:

§ 1004.50 Class and component prices.

* * * * *

(g) Class *III-A price.* The Class III-A price for the month shall be the average Central States Extra Grade nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential value per hundredweight of 3.5 percent milk and rounded to the nearest cent, and subject to the adjustments set forth in paragraph (c) of this section for the applicable month.

4. Section 1004.53 is amended by revising paragraph (a)(2) to read as follows:

§ 1004.53 Announcement of class prices and component prices.

* * * * *

(a) * * *

(2) The Class III and Class III-A prices for the preceding month; and

* * * * *

5. Section 1004.60 is amended by adding a new paragraph (k) to read as follows:

§ 1004.60 Handler's value of milk for computing uniform prices.

* * * * *

(k) For producer milk in Class III-A, add or subtract as appropriate an amount per hundredweight that the Class III-A price is more or less, respectively, than the Class III price.

6. Amend § 1004.71(b)(2) by changing the reference "§ 1004.62" to "§ 1004.61".

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1. Section 1124.40 is amended by revising paragraph (c)(1)(iii) and adding a new paragraph (d) to read as follows:

§ 1124.40 Classes of utilization.

* * * * *

(c) * * *

(1) * * *

(iii) Any milk product in dry form, except nonfat dry milk.

* * * * *

(d) *Class III-A milk.* Class III-A milk shall be all skim milk and butterfat used to produce nonfat dry milk.

2. Section 1124.43 is amended by adding a new paragraph (e) to read as follows:

§ 1124.43 General classification rules.

* * * * *

(e) Class III-A milk shall be allocated in combination with Class III milk and the quantity of producer milk eligible to be priced in Class III-A shall be determined by prorating receipts from pool sources to Class III-A use on the basis of the quantity of total receipts of bulk fluid milk products allocated to Class III use at the plant.

3. Section 1124.50 is amended by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 1124.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

(d) *Class III-A price.* The Class III-A price for the month shall be the average Western Grade A nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times 8.5, plus the butterfat differential times 35 and rounded to the nearest cent.

4. Section 1124.53 is revised to read as follows:

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III and Class III-A prices for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1124.50(b).

Signed at Washington, DC, on: December 27, 1991.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 92-106 Filed 1-2-92; 8:45 am]

BILLING CODE 3410-02-M

Foreign Agricultural Service

7 CFR Part 1530

Sugar To Be Re-exported in Sugar Containing Products: Correction

AGENCY: Foreign Agricultural Service (FAS), USDA.

ACTION: Correction to final regulation.

SUMMARY: FAS is correcting two minor errors which appeared in the final rule published in the **Federal Register** on July 8, 1991 (56 FR 30857), which amended 7 CFR part 1530, subpart B, for Sugar to be Re-exported in Sugar Containing Products.

EFFECTIVE DATE: August 7, 1991.

FOR FURTHER INFORMATION CONTACT: Cleveland H. Marsh, Team Leader, Import Policies & Trade Analysis Division, Foreign Agricultural Service, room 5531-South Building, U.S. Department of Agriculture, Washington, DC 20250-1000; Telephone (202) 720-2916.

SUPPLEMENTARY INFORMATION:

Correction of Publication

The publication on July 8, 1991 of the final regulation which was the subject of FR Doc. 91-16133, is corrected as follows:

§ 1530.205 [Corrected]

1. On page 30865, first column, in § 1530.205, the section heading "§ 1530.205 Proof of export." is corrected to read "§ 1530.205 Proof of export and notice of drawback claims.".

§ 1530.206 [Corrected]

2. On page 30865, second column, in amendatory instruction 12, in line two, "paragraph (a)" is corrected to read "paragraph (b)".

Signed at Washington, D.C. on December 27, 1991.

Philip Mackie,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 92-9 Filed 1-2-92; 8:45 am]

BILLING CODE 3410-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A (Extensions of Credit by Federal Reserve Banks) to reflect its recent approval of a reduction in discount rates at each Federal Reserve Bank. The discount rate is the interest rate that is charged depository institutions when they borrow from their district Federal Reserve Banks. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

EFFECTIVE DATE: The amendments to Regulation A were effective December 27, 1991. The discount rate changes were effective on the dates specified in §§ 201.51 and 201.52.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary of the Board (202/452-3257); for the hearing impaired *only*, Telecommunications Device for the Deaf (TTD) (202/452-3544), Dorothea Thompson, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Reserve Bank extensions of credit. The discount rate is the interest rate that is charged depository institutions when they borrow from their district Federal Reserve Banks.

The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks effective on the dates specified below. The reduction was made on the basis of cumulating evidence, notably monetary and credit conditions, as well as current economic conditions, that point to a receding of inflationary pressures. This action, together with the cumulative effects already in train from previous actions, should provide the basis for a resumption of sustained economic expansion. This reduction in part will realign the discount rate with short-term market interest rates.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of these amendments because the Board for the "good cause" stated above finds that delaying the changes in the discount rates listed in Regulation A to allow notice and public comment on the changes is impracticable, unnecessary, and contrary to the public interest.[1]

The provisions of 5 U.S.C. 553(d) generally prescribing 30 days' prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the discount rates listed in Regulation A is contrary to the public interest.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the changes will not have a significant adverse economic impact on a substantial number of small entities. The changes reduce rates of interest charged to borrowers from Reserve Banks, and the amendments will have no general effect on regulatory burdens for all depository institutions, no specific effect on such burdens for small depository institutions, and have no particular adverse effect on other small entities.

List of Subjects in 12 CFR Part 201

Banks, banking; Credit; Federal Reserve System.

For the reasons outlined above, the Board of Governors amends 12 CFR part 201 as set forth below:

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: Secs. 10(a), 10(b), 13, 13a, 14(d) and 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 357, 374, 374a and 461); and sec. 7(b) of the International Banking Act of 1978 (12 U.S.C. 347d).

2. Section 201.51 is revised to read as follows:

§ 201.51 Short-term adjustment credit for depository institutions.

The rates for short-term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	3.5	Dec. 20, 1991
New York	3.5	Dec. 20, 1991
Philadelphia	3.5	Dec. 20, 1991
Cleveland	3.5	Dec. 20, 1991
Richmond	3.5	Dec. 20, 1991
Atlanta	3.5	Dec. 20, 1991
Chicago	3.5	Dec. 20, 1991
St. Louis	3.5	Dec. 24, 1991
Minneapolis	3.5	Dec. 23, 1991
Kansas City	3.5	Dec. 20, 1991
Dallas	3.5	Dec. 20, 1991
San Francisco	3.5	Dec. 20, 1991

3. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit for depository institutions.

(a) *Seasonal credit.* The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	3.5	Dec. 20, 1991
New York	3.5	Dec. 20, 1991
Philadelphia	3.5	Dec. 20, 1991
Cleveland	3.5	Dec. 20, 1991
Richmond	3.5	Dec. 20, 1991
Atlanta	3.5	Dec. 20, 1991
Chicago	3.5	Dec. 20, 1991
St. Louis	3.5	Dec. 24, 1991
Minneapolis	3.5	Dec. 23, 1991
Kansas City	3.5	Dec. 20, 1991
Dallas	3.5	Dec. 20, 1991
San Francisco	3.5	Dec. 20, 1991

(b) *Other extended credit.* The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	3.5	Dec. 20, 1991
New York	3.5	Dec. 20, 1991
Philadelphia	3.5	Dec. 20, 1991
Cleveland	3.5	Dec. 20, 1991
Richmond	3.5	Dec. 20, 1991
Atlanta	3.5	Dec. 20, 1991
Chicago	3.5	Dec. 20, 1991
St. Louis	3.5	Dec. 24, 1991
Minneapolis	3.5	Dec. 23, 1991
Kansas City	3.5	Dec. 20, 1991
Dallas	3.5	Dec. 20, 1991
San Francisco	3.5	Dec. 20, 1991

[1] The Board's Rules of Procedure provide that advance notice and deferred effective date will ordinarily be omitted in the public interest for changes in discount rates. 12 CFR 262.2(e).

These rates apply for the first 30 days of borrowing. For credit outstanding for more than 30 days, a flexible rate will be charged which takes into account rates on market sources of funds, but in no case will the rate charged be less than the basic discount rate plus one-half percentage point. Where extended credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period and in relatively large amounts, the 30-day time period may be shortened.

By order of the Board of Governors of the Federal Reserve System, December 27, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-43 Filed 1-2-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-44; Amendment 39-8101, AD 91-24-14]

Airworthiness Directives: Pratt & Whitney (PW) JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to PW JT8D series turbofan engines, that requires a record search, a review of maintenance records, and a one-time inspection and replacement, if necessary, of a specific No. 4-½ bearing seal spacer. This AD also requires oil system breather checks on certain engines. This amendment is prompted by reports of unapproved No. 4-½ bearing seal spacers that have been distributed to JT8D overhaul shops and operators. This condition, if not corrected, could result in failure of the No. 4-½ bearing which could result in low pressure turbine shaft fracture, uncontained engine failure, inflight shutdown, or possible aircraft damage.

DATES: Effective January 21, 1992.

Comments must be received no later than February 3, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 21, 1992.

ADDRESSES: Send comments in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, or deliver in duplicate to room 311 at the above address.

Comments may be inspected at the above location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: John E. Golinski, Engine Certification Office, ANE-140, Engine & Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, (617) 273-7121.

SUPPLEMENTARY INFORMATION: The FAA has determined that approximately 200 unapproved No. 4-½ bearing seal spacers, Part Number (P/N) 525961, have been distributed to JT8D overhaul shops and operators. The unapproved spacers were neither manufactured nor shipped to customers by PW, the only approved manufacturer of this part. Engineering analysis and evaluation has been conducted on 6 unapproved spacers. This technical assessment indicated that the observed characteristics of the unapproved spacers would result in rapid deterioration of the seal elements and that failure is anticipated to occur within 600 hours time in service. The variability in the critical features of these 6 spacers is reasonably constant, and it is anticipated that other unapproved spacers will not significantly deviate from this sample. The 600 hour time interval has been established considering the potential variability in quality aspects of the unapproved spacers.

The extent and source of distribution of these unapproved spacers are not completely known at this time. The information provided through the reporting requirements of this AD will be used by the FAA in an effort to determine these factors. In addition, this information will be used to validate the engineering analysis conducted on the sample of unapproved spacers. Therefore, this AD may be revised based on further assessment of the information received. Further information pertaining to unapproved parts can be obtained from Advisory Circular 21-29, "Reporting Suspected Unapproved Parts."

The No. 4-½ bearing seal spacer, P/N 525961, is used on all JT8D engine models. It is a critical component of the No. 4-½ bearing ring seal assembly which isolates the No. 4-½ bearing from high pressure compressor air. Operation of a JT8D engine with an unapproved bearing seal spacer could result in the failure of the No. 4-½ bearing which could cause a fracture of the low pressure turbine shaft. Therefore, immediate corrective action is required to correct an unsafe condition that could result in fracture of the low pressure turbine shaft, uncontained engine failure, inflight shutdown, or possible damage to the aircraft.

Since these spacers may have been installed on engines of this type design, this AD requires a search of the purchasing records for the No. 4-½ bearing seal spacer, P/N 525961, and a review of the engine maintenance records to determine if an approved spacer is installed in the engine. This AD also requires a one-time inspection of No. 4-½ bearing seal spacers that are not confirmed to be approved spacers. Further, this AD requires on-wing oil system breather checks on certain engines to check for higher breather pressure due to rapid seal wear caused by the unapproved spacer.

Since operation with this unapproved spacer could result in an uncontained engine failure, inflight shutdown, or damage to the aircraft, there is a need to minimize the exposure of aircraft to this condition. Accordingly, safety in air transportation requires adoption of this regulation without prior notice and public comment and requires immediate adoption of this regulation. Therefore, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and opportunity for prior public comment, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-ANE-44, 12 New England Executive Park, Burlington, Massachusetts 01803-5299. All communications received by the deadline date indicated above will be considered by the Administrator, and the AD may be changed in light of the comments received.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g), and 14 CFR 11.89.

§ 39.13 [Amended]

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

91-24-14 Pratt & Whitney: Amendment No. 39-8101, Docket No. 91-ANE-44.

Applicability: Pratt & Whitney (PW) JT8D-1, -1A, -1B, -5, -7, -7A, -7B, -9, -9A, -11, -15, 15A, -17, -17A, -17R, -17AR, -209, -217, -217A, -217C, and -219 turbofan engines installed on but not limited to Boeing 727 and 737 series aircraft, McDonnell Douglas DC-9 series and MD-80 series aircraft.

Compliance: Required as indicated, unless previously accomplished.

To prevent No. 4-½ bearing failure, uncontained engine failure, inflight shutdown, or possible aircraft damage accomplish the following:

(a) Within 15 days after the effective date of this AD, conduct a search and review of the following:

(1) Purchasing records for the No. 4-½ bearing seal spacer, P/N 525961, to identify the purchase source.

(2) Engine maintenance records to determine if the No. 4-½ bearing seal spacer, P/N 525961, was installed by PW in a new or overhauled JT8D engine.

(b) If the records indicate that the No. 4-½ bearing seal spacer, P/N 525961, was purchased directly from PW customer parts support or the spacer was installed by PW in a new or overhauled JT8D engine, no further action is required.

(c) If the records indicate that the No. 4-½ bearing seal spacer, P/N 525961, was not obtained directly from PW customer parts support, or was not installed by PW, or if the purchase source is unknown, accomplish the following:

(1) For No. 4-½ bearing seal spacers, P/N 525961, not installed in JT8D engines, perform the following one-time inspection prior to installation in an engine or within 45 days after the effective date of this AD, whichever occurs first.

(i) Visually inspect to confirm the presence of hardface on the spacer. An approved No. 4-½ bearing seal spacer will have hardface which exhibits a shiny machined appearance. An unapproved spacer does not have hardface.

(ii) Visually inspect to confirm that the spacer is a silver color. The unapproved spacer is manufactured from a different material and has a bronze color.

(iii) Determine the material hardness of the No. 4-½ bearing seal spacer in accordance with industry standard practices on a non-hardfaced and non-plated surface of the spacer, such as the bore inner diameter. Acceptable material hardness is Rockwell C32 to C38, or its equivalent.

(iv) A No. 4-½ bearing seal spacer, P/N 525961, that does not satisfy all three of the above inspections is considered unairworthy and shall not be placed in service.

Note: Data pertaining to the location of the hardface and plated surfaces are contained in Section 72-53-37, of PW Engine Manual, P/N 481672 for JT8D-1 thru -17AR series engines, and PW Engine Manual, P/N 773128 for JT8D-200 series engines.

(2) For engines that are not installed on aircraft, and that have a No. 4-½ bearing seal spacer, P/N 525961, with less than 600 hours total time in service on the effective date of this AD, disassemble the engine sufficiently to perform a one time inspection in accordance with the inspection requirements of paragraphs (c)(1) (i), (ii) and (iii) of this AD, prior to returning the engine to service.

(i) A spacer that does not satisfy all the inspection criteria is considered unairworthy and shall not be returned to service.

(ii) A spacer that has been inspected in accordance with the criteria listed in paragraph (c)(1) (i), (ii), and (iii) of this AD, and has satisfied that criteria, does not require a reinspection.

(3) For engines that are installed on aircraft and that contain a No. 4-½ bearing seal spacer, P/N 525961, with less than 600 hours time in service on the effective date of this AD, accomplish the following:

(i) Perform an oil system breather check on the engine within 100 hours time in service after the effective date of this AD in accordance with PW JT8D Maintenance Manual, Section 72-00-00, Troubleshooting-02, pages 120, 121, and 122, dated August 1, 1991, and pages 123, 124, 135, and 136, dated May 15, 1990, or PW JT8D Maintenance Manual, Section 72-00, Engine Troubleshooting, page 117 dated May 1, 1990, and pages 118, 119, 120, 121, 122, 123, and 124, dated September 1, 1986, as applicable.

(ii) Thereafter, repeat the oil system breather check required by paragraph (c)(3)(i) of this AD at intervals not exceeding 100 hours time in service since the last check until the No. 4-½ bearing seal spacer has accumulated 600 hours total time in service. Engine breather checks are not required when time in service on the seal spacer is greater than or equal to 600 hours.

(iii) Remove engines from service if the check indicates high breather pressure as defined in the applicable Sections of PW JT8D Maintenance Manual referenced in Paragraph (c)(3)(i) of this AD.

(iv) At the next shop visit after the effective date of this AD, when the engine is disassembled sufficiently to gain access to the affected spacer, perform a one time inspection in accordance with the inspection requirements of paragraphs (c)(1) (i), (ii), and (iii) of this AD, but no later than January 31, 1999. Performance of the one time inspection constitutes terminating action for the breather check requirements of paragraph (c)(3) (i) and (ii) of this AD.

(A) A spacer that does not satisfy all the inspection criteria is considered unairworthy and must not be returned to service.

(B) A spacer that has been inspected in accordance with the criteria listed in paragraph (c)(1)(i), (ii), and (iii) of this AD, and has satisfied that criteria, does not require a reinspection.

Note: Applicable maintenance manuals are JT8D Maintenance Manual, P/N 481671 for JT8D-1 thru -17AR series engines, and JT8D Maintenance Manual, P/N 773127 for JT8D-200 series engines.

(4) For engines (uninstalled or installed) containing a No. 4-½ bearing seal spacer, P/N 525961, having greater or equal to 600 hours total time in service on the effective date of this AD, perform a one-time inspection in accordance with the inspection requirements of paragraphs (c)(1)(i), (ii), and (iii) of this AD, at the next shop visit when the engine is disassembled sufficiently to gain access to the affected spacer, but no later than January 31, 1999.

(i) A spacer that does not satisfy all the inspection criteria is considered unairworthy and must not be returned to service.

(ii) A spacer that has been inspected in accordance with the criteria of paragraph (c)(1)(i), (ii), and (iii) of this AD, and has

satisfied that criteria, does not require a reinspection.

(d) Within 30 days after the inspection requirements of paragraph (c)(1) of this AD have been accomplished, report the following information, if an unapproved spacer has been found: (1) Inspection results, (2) Time in Service of the spacer, and (3) Source of purchase of the spacer. This information is to be forwarded to the Manager, Engine Certification Office, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

Information collection requirements contained in this regulation have been approved by the Office of Management Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control No. 2120-0056.

(e) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where this AD can be accomplished.

(f) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics, or operations, as appropriate), an alternative method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

(g) The oil system breather checks shall be done in accordance with the following Sections of Pratt & Whitney JT8D Maintenance Manuals:

Document No.	Page No.	Date
72-00-00	120, 121, 122 123, 124, 135, 136	8/1/91 5/15/90
Total Pages: 7		
72-00	117 118, 119, 120, 121, 122, 123, 124	5/1/90 9/1/86
Total Pages: 8		

The incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment (39-8101, AD 91-24-14) becomes effective January 21, 1992.

Issued in Burlington, Massachusetts, on December 16, 1991.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-8 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-259-AD; Amendment 39-8139; AD-02-03]

Airworthiness Directives; Boeing Model 727 and 727-100 Series Airplanes Equipment With a Main Deck Cargo Door Installed in Accordance With Supplemental Type Certificate (STC) SA1368SO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to certain Boeing Model 727 and 727-100 series airplanes, equipped with a main deck cargo door installed in accordance with STC SA1368SO. This action requires that all seven cargo door latch lockpins be operative and properly engaged prior to flight, and repair of inoperative latch lockpins. This amendment is prompted by the results of an audit of the cargo door installation which revealed that a revision to the STC allowed for as many as three cargo door latch lockpins to be inoperative during flight. The actions specified in this AD are intended to prevent an inadvertent in-flight opening of the main deck cargo door, with resultant major structural damage and possible reduced controllability of the airplane.

DATES: Effective January 21, 1992.

Comments for inclusion in the Rules Docket must be received on or before March 4, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-259-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Avera, Aerospace Engineer, Systems and Equipment Branch, ACE-130A, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991-3020; fax (404) 991-3606.

SUPPLEMENTARY INFORMATION: During an audit of a cargo door installation on a Boeing Model 727 series airplane, an unsafe condition was discovered with respect the the latch locking mechanism installed in accordance with Supplemental Type Certificate (STC) SA1368SO. A revision to the STC limitations information permitted as many as three of the seven cargo door latch lockpins to be inoperative. However, in accordance with the intent of Federal Aviation Regulation (FAR) 25.783(f), all cargo door latch lockpins must be operative and properly engaged prior to flight. Service history has shown that airplanes that do not have a means to lock each latch of an outward opening cargo door are subject to in-flight failures of the doors. This condition, if not corrected, could result in an inadvertent in-flight opening of the main deck cargo door, with resultant major structural damage and possible reduced controllability of the airplane.

Since the unsafe condition described is likely to exist or develop on other Boeing Model 727 and 727-100 series airplanes of the same type design, equipped with a main deck cargo door installed in accordance with STC SA1368SO, this AD is being issued to prevent an inadvertent in-flight opening of the main deck cargo door, with resultant major structural damage and possible reduced controllability of the airplane. This AD requires that all seven cargo door latch lockpins be operative and properly engaged prior to flight, and repair of inoperative latch lockpins.

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

Comments Invited

Although this section is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the

Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-259-AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

92-02-03. Boeing: Amendment 39-8139. Docket No. 91-NM-259-AD.

Applicability: Model 727 and 727-100 series airplanes; equipped with a main cargo deck door installed in accordance with Supplemental Type Certification (STC) SA1368SO; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an inadvertent in-flight opening of the main deck cargo door, accomplish the following:

(a) Within 30 days after the effective date of this AD and thereafter prior to takeoff, each time the cargo door is cycled, verify that all seven cargo door latch lockpins are operative. Inoperative latch lockpins must be repaired, prior to further flight, in accordance with an FAA-approved method.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), ACE-115A, FAA, Small Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Atlanta ACO, ACE-115A.

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

(d) This amendment (39-8139), AD 92-02-03 becomes effective January 21, 1992.

Issued in Renton, Washington, on December 23, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-49 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-268-AD; Amendment 39-8141; AD 92-02-05]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes Equipped With a Cargo Conversion Modification Installed in Accordance With Supplemental Type Certificate (STC) SA1802SO or SA421NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-8 series airplanes equipped with a certain cargo conversion modification. This action requires a revision to the FAA-approved Airplane Flight Manual Supplement to include detailed procedures for use of the cargo door warning light system; and repetitive inspections of the cargo door warning system wiring to detect damage to the wiring or the door latching roller mechanism, and repair or replacement of damaged components. This amendment is prompted by two recent occurrences of inadvertent in-flight openings of the cargo door on certain modified Model DC-8-63 series airplanes. The actions specified in this AD are intended to prevent loss of the cargo door, damage to flight control surfaces, and reduced controllability of the airplane.

DATES: Effective January 21, 1992.

Comments for inclusion in the Rules Docket must be received on or before March 4, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-268-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Mr. David Cundy, Aerospace Engineer, Airframe Branch, ACE-120A, FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, GA 30349; telephone (404) 991-2910; fax (404) 991-3606.

SUPPLEMENTARY INFORMATION: Since August 1991, there have been two occurrences of inadvertent in-flight openings of the cargo door on Model DC-8-63 series airplanes which had been modified in accordance with Supplemental Type Certificate (STC) SA1802SO. The second occurrence resulted in significant structural damage to the airplane. Investigation of this occurrence revealed that procedures for use of the cargo door warning light system were not included in the Airplane Flight Manual Supplement. In addition, the cargo door wire bundle, which powers the cargo door operating and indicating system, was frayed and crimped. Failure of this system could result in a false indication that the cargo door is properly closed and locked. These conditions, if not corrected, could result in loss of the cargo door, damage to flight control surfaces, and reduced controllability of the airplane.

Since the unsafe condition described is likely to exist or develop on other McDonnell Douglas Model DC-8 series airplanes of the same type design, including those modified in accordance with STC SA421NW, this AD is being issued to prevent loss of the cargo door, damage to flight control surfaces, and

reduced controllability of the airplane. This AD requires a revision to the FAA-approved Airplane Flight Manual Supplement to include detailed procedures for use of the cargo door warning light system. In addition, this AD requires repetitive inspections of the cargo door wire bundle to detect crimped, frayed, or chafed wires; inspection for damaged and loose or missing mounting hardware, and repair of any damaged wiring or hardware mounting components, if necessary; and repetitive inspections of the cargo door latch rollers to ensure that all twelve rollers can be rotated freely by hand and, if necessary, replacement of discrepant roller components or repair of rollers which do not rotate freely.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of there comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-268-AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(G); and 14 CFR 11.89.

§ 39.13 [Amended]

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

92-02-05. McDonnell Douglas: Amendment 39-8141. Docket 91-NM-268-AD.

Applicability: Model DC-8-61, -62, -63, and -73 series airplanes equipped with a cargo conversion modification installed in accordance with Supplemental Type Certificate (STC) SA1802SO; and Model DC-8-21, -32, -33, and -51 series airplanes equipped with a cargo conversion modification installed in accordance with STC SA421NW; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the cargo door, damage to flight control surfaces, and reduced controllability of the airplane, accomplish the following:

(a) Within 7 days after the effective date of this AD, revise the Limitations Section of the appropriate FAA-approved Airplane Flight Manual Supplement (AFMS) by replacing item 5 in the AFMS for SA1802SO, and item 6 in the AFMS for SA421NW, with the following. (This may be accomplished by inserting a copy of this AD into the AFMS.)

"Prior to initiating the cargo door closing sequence, a flight crew member must verify that the cargo door warning light is illuminated. After the door closing sequence is complete, and visual verification has been made that the latches are closed and the lockpins are properly engaged, a flight crew member must verify that the cargo door warning light is extinguished, and then conduct a PRESS-TO-TEST of the warning light to ensure that the light is operational. Pull all cargo door circuit breakers prior to takeoff. Methods for documentation of compliance with the preceding procedures must be approved by the FAA Principal Maintenance Inspector (PMI)."

(b) Within 7 days after the effective date of this AD, and thereafter at intervals not to exceed 100 hours time-in-service, perform the following inspections:

(1) Inspect the cargo door wire bundle between the exit point of the cargo liner and the attachment point on the cargo door to detect crimped, frayed, or chafed wires; and inspect for damaged, loose, or missing hardware mounting components. Prior to further flight, repair any damaged wiring or hardware mounting components in accordance with FAA-approved maintenance procedures.

(2) Inspect the cargo door latch rollers in the lower sill of the cargo door opening of the airplane to ensure that all twelve rollers can be freely rotated by hand. Prior to further flight, replace any discrepant roller components found, and repair any rollers that cannot be rotated freely by hand, in accordance with FAA-approved maintenance procedures.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), ACE-115A, FAA, Small Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Atlanta ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the

requirements of this AD can be accomplished.

(e) This amendment (39-8141), AD 92-02-05, becomes effective January 21, 1992.

Issued in Renton, Washington, on December 23, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-50 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-78-AD; Amendment 39-8136; AD 91-25-03 R1]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes and C-9 (Military) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This amendment corrects information in an existing airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9 series airplanes. The AD currently requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this rule are not met, and that the new wear limits be incorporated into the FAA-approved maintenance inspection program. This action corrects a typographical error in the listing of the part numbers of the affected landing gear brakes.

EFFECTIVE DATE: December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Gfrerer, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5338.

SUPPLEMENTARY INFORMATION: On November 14, 1991, the FAA issued AD 91-25-03, Amendment 39-8104, which was published in the **Federal Register** on November 26, 1991 (56 FR 59868). That AD is applicable to certain McDonnell Douglas DC-9 series airplanes, and requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this rule are not met, and that the new wear limits be incorporated into the FAA-approved maintenance inspection program. That action was prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. The requirements of the AD are intended to prevent loss of the main landing gear braking effectiveness during a high energy RTO.

Since issuance of that AD, the FAA has discovered a typographical error in the listing of affected brake part numbers that appears in paragraph (a) of the final rule. One of the ABS brake part numbers for Model DC-9-30 series airplanes was inadvertently listed as "9569788-7." The correct part number is "9560788-7." (This correct part number was listed in the notice of proposed rulemaking that preceded the final rule.)

Action is taken herein to correct this error and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (FAR). No other change has been made to the substance of the rule. The effective date of the rule remains December 31, 1991.

The final rule is being reprinted in its entirety (as follows) for the convenience of affected operators.

Since this action only corrects a typographical error in a final rule, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Correction

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

91-25-03 R1. McDonnell Douglas: Amendment 39-8136. Docket Number 91-NM-78-AD.

Applicablity: Model DC-9 series, including C-9 (military), airplanes equipped with Aircraft Braking System (ABS) brake part numbers identified in paragraph (a), of this AD, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 270 days after the effective date of this AD, inspect the landing gear brakes, having brake numbers listed below, for wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake within these limits.

Series airplane	ABS brake part No.	Maximum wear limit (inches)
DC-9-10	9560746A	0.3
	B9560746A	0.3
	9560743	0.3
	A9560743	0.3
	B9560743	0.3
DC-9-20/30	9560786	0.3
	A9560786	0.3
	B9560786	0.3
DC-9-30	9560955	0.3
	9560788	0.3
	A9560788	0.3
	B9560788	0.3
	9560788-2/-3/-5/-6	0.3
	9560788-7	0.7
DC-9-30/40/50.	B9560861	0.3
	9560861-1	0.2
	9560861-2	0.3
	9560861-3	0.8

(b) Within 270 days after the effective date of this AD, incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance inspection program.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

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

(e) This amendment (39-8136), AD 91-25-03 R1, is effective December 31, 1991.

Issued in Renton, Washington, on December 23, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-51 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA90

Wage and Hour Division

29 CFR Part 506

RIN 1215-AA

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports

AGENCIES: Employment and Training Administration, Labor; and Wage and

Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; extension of effective date.

SUMMARY: The Department of Labor has promulgated regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports. This document extends the expiration date of the interim final rule.

DATES: *Effective Dates:* May 28, 1991, through March 31, 1992.

In FR Doc. 91-12718, 56 FR 24648 (May 30, 1991), the Department of Labor published an interim final rule effective through December 31, 1991. This document extends the expiration date through March 31, 1992.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart F, and 29 CFR part 506, subpart F, contact David O. Williams, Chair, Immigration Task Force, Employment and Training Administration, Department of Labor, room N-4470, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 535-0174 (this is not a toll-free number).

On 20 CFR part 655, subpart G, and 29 CFR part 506, subpart G, contact Solomon Sugarman, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 30, 1991, the Department of Labor (DOL) published in interim final rule adding, at 20 CFR part 655, subparts F and G, and at 29 CFR part 506, subparts F and G, regulations for filing and enforcement of attestations by employers seeking to use certain alien crewmembers to perform longshore work at U.S. ports, pursuant to section 258 of the Immigration and Nationality Act. 56 FR 24648 (May 30, 1991); see 8 U.S.C. 1288. Public comments were invited through July 29, 1991, and the interim final rule was effective from May 28, 1991, through December 31, 1991.

DOL has determined that it requires additional time to review and consider the information presented in the public and agency comments. This review will extend past December 31, 1991. So as not to have an interruption in the regulations governing the program, DOL is extending the expiration date for the interim final by three months, before which time a final rule is expected to be published.

Accordingly, FR Doc. 91-12718, 56 FR 24648 (May 30, 1991), is amended, by revising the first sentence in the "**DATES**" section to read "*Effective dates:* May 28, 1991, through March 31, 1992."

Signed at Washington, D.C., this 30th day of December, 1991.

Lynn Martin,

Secretary of Labor.

[FR Doc. 91-31333 Filed 12-31-91; 11:34 am]

BILLING CODE 4510-30-M, 4510-27-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 87F-0332]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-chlorotrifluoroethylene copolymer in repeated use articles intended for use in contact with food. This action is in response to a petition filed by Ausimont USA, Inc.

DATES: Effective January 3, 1992; written objections and requests for a hearing by February 3, 1992. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in 21 CFR 177.1380(a)(4), effective January 3, 1992.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parkawn Dr. Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 6, 1987 (52 FR 42728), FDA announced that a food additive petition (FAP 7B4040) had been filed by Ausimont USA, Inc., Fluoropolymer Division, P.O. Box 2332 R, Morristown, NJ 07960, proposing that § 177.1380 *Fluorocabon resins* (21 CFR 177.1380) be amended to provide for the safe use of ethylene-chlorotrifluoroethylene copolymer in articles intended for repeated use contact with food.

In its evaluation of the safety of this additive, FDA has reviewed the safety of both the additive itself and the starting materials used to manufacture the additive. Although the additive itself has not been found to cause cancer, it has been found to contain minute amounts of chloroform, a carcinogen, used in the manufacturing process. Residual amounts of reactants and manufacturing aids, such as chloroform, are commonly found a contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (H. Rept. 2234, 85th Cong., 2d Sess. 4 (1958)). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer, or Delaney clause, of the Food Additives Amendment (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it

contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*. 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of the additive, ethylene-chlorotrifluoroethylene copolymer, will result in extremely low levels of exposure to the additive. The agency calculated the estimated daily intake of the additive based on several factors, including the migration of the additive under the most severe intended conditions of use and the probable concentration of the additive oligomers in the daily diet from its use in contact with repeat use food contact articles. The agency estimated the daily intake of the additive oligomers to be 28 nanograms per person per day.

FDA does not ordinarily consider chronic testing necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here.

Because ethylene-chlorotrifluoroethylene copolymer, which may contain chloroform, has not been shown to cause cancer, the Delaney anticancer clause (section 409(c)(3)(A) of the act) does not apply to it. However, FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper bound limit of risk presented by chloroform, the carcinogenic chemical that may be present as an impurity in the additive.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see e.g., 49 FR 13018 at 13019, April 2, 1984). This risk evaluation of the carcinogenic impurity, chloroform, has two aspects: (1) Assessment of the worst case exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Chloroform

Based on the fraction of the daily diet that may be in contact with surfaces containing ethylene-chlorotrifluoroethylene copolymer, and on the level of chloroform that may be present in the additive, FDA estimated the hypothetical worst case exposure to chloroform from the use of ethylene-chlorotrifluorethylene copolymer food contact articles to be less than 2 nanograms per person per day (Ref. 3). The agency used data in a 1985 study by Jorgenson et al., in male Osborne Mendel rats and female B6C3F1 mice to estimate the upper bound limit of lifetime human risk from exposure to this chemical stemming from the proposed use of ethylene-chlorotrifluoroethylene copolymer (Ref. 4). The results of the bioassay demonstrated that chloroform was carcinogenic in male rats when administered in drinking water.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee (the committee) reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on chloroform. The committee further concluded that an estimate of the upper bound human risk from exposure to chloroform stemming from the proposed use of ethylene-chlorotrifluoroethylene copolymer could be calculated from these data.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the study with male rats (the most sensitive animals) to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive.

Based on a worst case exposure of less than 2 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to chloroform from the use of ethylene-chlorotrifluoroethylene copolymer is 1×10^{-11}, or less than 1 in 100 billion (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to chloroform is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to chloroform that might result from the proposed use of ethylene-chlorotrifluoroethylene copolymer repeat use food-contact articles.

B. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of chloroform impurity in the food additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the low level at which chloroform may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to this impurity, even under worst case assumptions, is very low (less than 1 in 100 billion).

C. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use for the additive in repeat use food-contact articles is safe. Based on this information the agency has also concluded that the additive will have its intended technical effect and therefore, § 177.1380 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approved the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

D. Potential Environmental Effects

The agency has carefully considered the potential environmental effects of this action, including potential effects on stratospheric ozone and potential impacts associated with incineration of halogenated polymers.

1. Potential Effects On Stratospheric Ozone

This action will permit a new use for one of the chlorofluorocarbons (CFC's), a class of chemicals that has been implicated in the destruction of the stratospheric ozone layer. During its review of this petition, FDA consulted with the Environmental Protection Agency (EPA) to determine whether FDA approval of the petition would be consistent with EPA's efforts to control CFC's. On March 3, 1989, EPA advised FDA that the proposed new use of this CFC would not be inconsistent with EPA's current regulatory program to protect stratospheric ozone, which restricts allowable production in lieu of controls on particular uses (40 CFR Part 82). EPA advised FDA that approval would not add to total CFC emissions to the atmosphere but would instead mean that less CFC's were available for current uses. EPA stated that the rate of CFC emissions from the proposed use will be far less than from most current uses of these chemicals. EPA also noted that the projected use of CFC's is very small, that the recycling system proposed by the petitioner would capture virtually all of the CFC emissions, and that it should be feasible to switch to a chemical alternative to CFC's when one becomes available.

2. Potential Impacts Associated With Incineration of Halogenated Polymers

In the **Federal Register** of November 22, 1989 (53 FR 47264), FDA published a notice of intent to prepare an environmental impact statement (EIS) on the effects of the proposed amendments to its food additive regulations to provide for the safe use of vinyl chloride polymers. In the notice of intent, FDA considered whether several food additive petitions that involved halogenated polymers, including the subject petition, should be included as part of the environmental review of the proposed rule on vinyl chloride. FDA decided not to consider the environmental impact of the subject petition in the EIS. This petition concerns a copolymer that will be used in food-processing plants as piping to carry various foods, including hot water. In contrast to disposable food-packaging materials, this type of product is likely to be disposed of by methods other than incineration, such as special landfills. Consequently, any environmental impact associated with incineration of this halogenated polymer would be averted.

Based on full consideration of the potential environmental effects of this action, FDA has concluded that the action will not have a significant impact on the human environment and that an EIS is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Objections

Any person who will be adversely affected by this regulation may at any time on or before February 3, 1992 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

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

1. Carr, G.M., "Carcinogen Testing Programs," in "Food Safety: Where are We?", Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.

2. Kokoski, C.J., "Regulatory Food Additive Toxicology," in *Chemical Safety Regulation and Compliance*, ed. by F. Homburger and J.K. Marquis, *S. Karger*, New York, NY, pp. 24–33, 1985.

3. Memorandum dated November 17, 1989, from the Food and Color Additives Review Section to Indirect Additives Branch, "FAP 7B4040—Ausimout USA, Inc.—Exposure to Components of the Copolymer."

4. "Carcinogenicity of Chloroform in Drinking Water to Male Osborne Mendel Rats and Female B6C3F1 Mice," Jorgenson, T.A., E.F. Meierhenry, C.J. Rushbrook, R.J. Bull, and M. Robinson, *Fundamental and Applied Toxicology*, 5:760–769, (1985).

5. Memorandum dated January 30, 1990, from Quantitative Risk Assessment Committee, "Estimation of Upper Bound Risks for Chloroform in Ethylene/chlorotrifluoroethylene (E/CTFE) Copolymers," (Ausimont USA, Inc.), FAP 7B4040.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 177.1380 is amended by adding new paragraph (a)(4) and by revising paragraph (b) to read as follows:

§ 177.1380 Fluorocarbon resins.

* * * * *

(a) * * *

(4) Ethylene-chlorotrifluoroethylene copolymer resins produced by copolymerization of nominally 50 mole percent of ethylene and 50 mole percent of chlorotrifluoroethylene. The copolymer shall have a melting point of 239 to 243°C and a melt index of less than or equal to 20 as determined by ASTM Method D 3275–89 "Standard Specification for E–CTFE–Fluoroplastic Molding, Extrusion, and Coating Materials," which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19013, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

(b) Fluorocarbon resins that are identified in paragraph (a) of this section and that comply with extractive

limitations prescribed in paragraph (c) of this section may be used as articles or components of articles intended for use in contact with food as follows:

(1) Fluorocarbon resins that are identified in paragraphs (a)(1), (a)(2), and (a)(3) of this section and that comply only with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used when such use is limited to articles or components of articles that are intended for repeated use in contact with food or that are intended for one-time use in contact with foods only of the types identified in § 176.170(c) of this chapter, Table 1, under Types I, II, VI, VII-B, and VIII.

(2) Fluorocarbon resins that are identified in paragraph (a)(4) of this section and that comply with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used only when such use is limited to articles or components of articles that are intended for repeated use in contact with food.

(3) In accordance with current good manufacturing practice, those food-contact articles intended for repeated use shall be thoroughly cleansed prior to their first use in contact with food.

* * * * *

Dated: December 27, 1991.

Robert L. Spencer,

Acting Deputy Commissioner for Policy

[FR Doc. 92-55 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FR 4090-8]

40 CFR Part 281

Vermont; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Vermont's application for final approval.

SUMMARY: The State of Vermont has applied for final approval of its underground storage tank program under subtitle I of the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Vermont's application and has reached a final determination that Vermont's underground storage tank program satisfies all the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Vermont to operate its program.

EFFECTIVE DATE: Final approval for Vermont shall be effective at 1 p.m. on February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Joan Coyle, Office of Underground Storage Tanks, HPU-1, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203, (617) 573-9667.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in a state in lieu of the Federal underground storage tank program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the Federal program, and (2) provide for adequate enforcement. Section 9004 (a) and (b) of RCRA, 42 U.S.C. 6991c (a) and (b).

On July 3, 1991, as required by 40 CFR 281.50(c), EPA acknowledged receiving from the State of Vermont a complete official application requesting final approval to administer its underground storage tank program. On September 16, 1991, EPA published a tentative decision announcing its intent to grant Vermont final approval of its program. See 56 FR 46756 (1991). Further background on EPA's tentative decision to grant approval is included in that decision.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel for lack of public interest. Since there was no public interest, the public hearing was cancelled. No public comments were received regarding EPA's approval of Vermont's underground storage tank program.

B. Decision

I conclude that the State of Vermont's application for final approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, Vermont is granted final approval to operate its underground storage tank program. The State of Vermont now has the responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the Federal underground storage tank program except with regard to Indian lands, where EPA will continue to have regulatory authority. Vermont also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 9005 of RCRA, 42 U.S.C. 6991d, and to take enforcement actions under section 9006 of RCRA, 42 U.S.C. 6991e.

Authority: Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6991c.

Dated: December 30, 1991.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-81 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 90-312, FCC 91-397]

Denials of Federal Benefits

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules to implement the provisions of section 5301 of the Anti-Drug Abuse Act of 1988 concerning denial of federal benefits to persons convicted of drug related crimes. The rules require applicants for professional or commercial licenses to certify that they are not subject to a section 5301 denial of benefits. This will help ensure that applicants subject to a section 5301 denial are not granted licenses by the Commission. [Initiating document: NPRM 55 FR 37438 (Sept. 11, 1990)].

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sharon Diskin, Office of General Counsel, Federal Communications Commission (202) 632-6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted December 11, 1991 and released December 27, 1991. The full text of the Report and Order including a Final Regulatory Flexibility Analysis, is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this Report and Order may also be purchased from the Commission's contractor, Downtown Copy Center, 1114 21st Street, NW. Washington, DC 20036, (202) 452-1422.

Summary of Report and Order

1. These rules implement section 5301 of the Anti-Drug Abuse Act of 1988 with respect to professional and commercial licenses issued by the Commission. Section 5301 provides Federal and state court judges the discretion to deny Federal benefits to individuals

convicted of offenses consisting of the distribution or possession of controlled substances. 21 U.S.C. 853a. Federal benefits, as used in the statute, include licenses issued by the FCC. 21 U.S.C. 853a(d)(1).

2. The Office of National Drug Control Policy (ONDCP) plan for the implementation of section 5301 calls for agencies to use the General Services Administration (GSA) publication "Parties Excluded from Federal Procurement of Nonprocurement Programs" (commonly referred to as the "Debarment List") in determining which persons have been barred from Federal benefits under section 5301. In addition, the ONDCP plan calls for agencies to use an applicant certification. No rule changes are necessary to implement the use of the GSA Debarment List in connection with applications. The application forms used by the Commission do not, however, include the certification referred to in the ONDCP plan. We are therefore amending part 1 of the Commission's rules by adding a new subpart P, 47 CFR 1.2001 *et seq.*, that will require applicants to certify that neither they nor any parties to the application are subject to a section 5301 bar.

3. With one exception, the rules apply to applicants for all forms of Commission instruments of authority, including, for example, authorizations for the use of radio spectrum, radio operator authorizations, equipment certifications, type acceptances or type approvals, and certificates of authority to construct communications lines. Because section 5301 applies only to "professional" and "commercial" licenses, the rules exempt amateur authorizations which may not be used for professional and commercial purposes. Further, because they do not involve applications or the issuance of individual licenses by the Commission, the rules do not apply to individual users of a blanket license (*e.g.*, cellular radio users). The certification requirement adopted in the final rule differs from that proposed in the NPRM in two respects: (1) In order to provide for an orderly transition to the certification requirement, the rules provide that, for authorizations that involve a specific form, until such time as the application form is amended to contain a certification provision, the applicant will be deemed to have certified as to its eligibility by signing the application; (2) The proposed rule stated that failure to certify would lead to automatic dismissal of the application. In order to give corporations and partnerships an opportunity to seek the removal of parties to the application who are subject to a denial of benefits under section 5301, the adopted rules provide that an application will not be dismissed automatically for failure to certify. Rather, failure to certify will result in an application being ineligible for grant unless the applicant comes into compliance with section 5301 within 90 days of the filing of the application. In order to assure that applicants make a good faith attempt to determine whether any parties to the application are subject to a denial of Federal benefits, the rules provide that, in cases where a certification has been incorporated into the application, the application will be dismissed for failure to respond to the question.

4. The legislative history of section 5301 suggests that an applicant will not be eligible when an "individual" who is subject to the bar remains a party to the application. Thus, the rules apply the certification provision to all parties to applications including: officers, directors, non-limited partners, holders of 5% or more of the voting stock, and non-voting stockholders or limited partners with a similar (5% or more) interest in the applicant or licensee.

5. The NPRM proposed a rule requiring licensees to notify the Commission of any section 5301 bar imposed on the licensee or any principals during the license term. Consistent with the Commission's determination that section 5301 does not provide for revocation of existing benefits, the final rule eliminates this reporting requirement.

6. Pursuant to authority contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r), and the Anti-Drug Abuse Act of 1988, 21 U.S.C. 823a, *it is ordered* that part 1 of the Commission's rules are amended as set forth below, effective February 3, 1992.

List of Subjects in 47 CFR Part 1

Denials of federal benefits (new), Administrative practice and procedure.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 1, title 47 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303: Implement, 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. A new subpart P is added to read as follows:

Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

1.2001 Purpose.
1.2002 Applicants required to submit information.
1.2003 Applications affected.

Subpart P—Implement of the Anti-Drug Abuse Act of 1988.

§ 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 853a.

§ 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including but not limited to, authorizations issued pursuant to sections 214, 301, 302, 303(1), 308, 310(d), 318, 319, 325(b), 351, 361(b), 362(b), 381, and 385 of the Communications Act of 1934, as amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. 853a. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, or to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission.

§ 1.2003 Applications affected.

The certification required by § 1.2002 must be filed with the following applications as well as any other requests for authorization filed with the Commission, regardless of whether a specific form exists.

FCC 301 Application for Construction Permit for Commercial Broadcast Station;
FCC 301-A Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization;
FCC 302 Application for New Broadcast Station License;
FCC 303-S Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station;
FCC 307 Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit;
FCC 308 Application for Permit to Deliver Programs to Foreign Broadcast Stations;
FCC 309 Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station;
FCC 310 Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License;
FCC 311 Application for Renewal of an International or Experimental Broadcast License;
FCC 313 Application for Authorization in the Auxiliary Radio Broadcast Services;
FCC 313-R Application for Renewal of Auxiliary Broadcast License;
FCC 314 Application for Consent to Assignment of Broadcast Station Construction Permit or License;
FCC 315 Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License;
FCC 316 Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License;
FCC 327 Application for Cable Television Relay Service Station Authorzation;
FCC 330 Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Stations;
FCC 330-L Application for Instructional Television Fixed Station License;
FCC 330-R Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License;
FCC 340 Application for Construction Permit for Noncommercial Educational Broadcast Station;
FCC 345 Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station;
FCC 346 Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station;
FCC 347 Application for a Low Power TV, TV Translator or TV Booster Station License;
FCC 348 Application for Renewal of License for Translator or low Power Television Broadcast Station;
FCC 349 Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station;
FCC 350 Application for an FM Translator or FM Booster Station License;
FCC 401 Application for New or Modified Common Carrier Radio Station Authorization Under Part 22 of this chapter.
FCC 402 Application for Station Authorization in the Private Operational Fixed Microwave Radio Service;
FCC 402-R Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service;
FCC 403 Application for Radio Station License or Modification Thereof Under Parts 23 or 25 of this chapter;
FCC 404 Application for Aircraft Radio Station License;
FCC 405 Application for Renewal of Radio Station License;
FCC 405-A Application for Renewal of Radio Station License and/or Notification of Change to License Information;
FCC 405-B Ship/Aircraft License Expiration Notice and/or Renewal Application;
FCC 406 Application for Ground Station Authorization in the Aviation Services;
FCC 407 Application for New or Modified Radio Station Construction Permit;
FCC 409 Airborne Mobile Radio Telephone License Application;
FCC 410 Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);
FCC 442 Application for New or Modified Radio Station Authorization Under Part 5 of this chapter—Experimental Radio Service (Other than Broadcast);
FCC 490 Application for Assignment or Transfer of Control Under Part 22 of this chapter;
FCC 493 Application for Earth Station Authorization or Modification of Station License (Proposed);
FCC 494 Application for a New or Modified Microwave Radio Station License Under Part 21 of this chapter;
FCC 494-A Certification of Completion of Construction Under Part 21 of this chapter;
FCC 503 Application for Land Radio Station License in the Maritime Services;
FCC 506 Application for Ship Radio Station License;
FCC 574 Application for Private Land Mobile and General Mobile Radio Services;
FCC 574-R Application for Renewal of Radio Station License;
FCC 701 Application for Additional Time to Construct a Radio Station;
FCC 702 Application for Consent to Assignment of Radio Station Construction Permit or License;
FCC 703 Application for Consent to Transfer Control of Corporation Holding Station License;
FCC 704 Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License;
FCC 730 Application for Registration of Equipment to be Connected to the Telephone Network;
FCC 731 Application for Equipment Authorization;
FCC 753 Restricted Radiotelephone Operator Permit Application;
FCC 755 Application for Restricted Radiotelephone Operator Permit—Limited Use;
FCC 756 Application for Commercial Radio Operator License.

[FR Doc. 92-62 Filed 1-2-92; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-261; RM-7789]

Radio Broadcasting Services; Callahan, FL and St. Marys, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 227C2 from St. Marys, Georgia, to Callahan, Florida, and modifies the license for Station WAIA(FM) to specify Callahan, Florida, as its community of license, in accordance with § 1.420(i) of the Commission's Rules. The allotment of Channel 227C2 to Callahan will provide that community with its first local FM transmission service, and will

not deprive St. Marys of its only local transmission service. See 56 FR 46762, September 16, 1991. The coordinates for Channel 227C2 at Callahan, Florida are North Latitude 30-33-22 and West Longitude 81-33-13. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 10, 1992.

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. 91-261, adopted December 13, 1991, and released December 26, 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 adding Channel 227C2, Callahan, Florida.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 227C2, St. Marys.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-10 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-567; RM-7028]

Radio Broadcasting Services; Electra, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Albert L. Crain, permittee of Station KWTA(FM), Channel 236A, Electra, Texas, substitutes Channel 235C2 for Channel 236A at Electra, Texas, and modifies its construction permit for Station KWTA(FM) to specify operation on the higher powered channel. See 54 FR 52424, December 21, 1989. Channel 235C2 can be allocated to Electra in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.3 kilometers (5.2 miles) northwest to accommodate Crain's desired transmitter site. The coordinates for Channel 235C2 are 34-06-03 and 98-57-15. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 10, 1992.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-567, adopted December 12, 1991, and released December 26, 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 Texas, is amended by removing Channel 236A and adding Channel 235C2 at Electra.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-3 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73 and 76

[MM Docket No. 91-168; FCC 91-403]

Radio Broadcast and Television Broadcast Services, Cable Television Service; Codification of the Commission's Political Programming Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule; Policy Statement.

SUMMARY: By this Report and Order, the Commission revises its existing rules regarding political broadcasting. This action represents a comprehensive guide to political broadcasting and supersedes previous Commission interpretations of the political broadcasting provisions of the Communications Act. The Commission has sought in this proceeding to reflect more accurately and closely the language, intent and requirements of the political broadcasting portions of the Communications Act; to issue detailed and practical advise spelled out in clear and specific Commission rules so that broadcasters, candidates, advertising buyers, and the public may be fairly and consistently apprised of the duties required by rights accorded under political broadcasting statutes; and to revise the rules to be responsive to the evolving sales practices.

EFFECTIVE DATE: January 4, 1992.

FOR FURTHER INFORMATION CONTACT: Diane L. Hofbauer, Office of General Counsel (202) 632-7020; Milton O. Gross, Robert L. Baker, or Marsha J. MacBride, Mass Media Bureau (202) 632-7586.

SUPPLEMENTARY INFORMATION: This is a full text of the Commission's Report and Order in MM Docket No. 91-168, adopted December 12, 1991, and released December 23, 1991.

Report And Order

Adopted: December 12, 1991; Released: December 23, 1991

By the Commission: Chairman Sikes concurring in part and dissenting in part and issuing a separate statement: Commissioners Quello, Marshall, Barrett, and Duggan issuing separate statements.

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1. By this Report and Order, the Commission revises its existing rules [1] regarding political broadcasting. This action represents a comprehensive guide to political broadcasting and, as indicated herein, supersedes previous Commission interpretations of the political broadcasting provisions of the Communications Act.[2]

I. Introduction and Summary

2. We initiated the Notice of Proposed Rulemaking (NPRM) in this proceeding, 56 FR 30526, July 3, 1991, 6 FCC Rcd 5707 (1991), in response to continuing questions concerning our political programming policies. As we described in the NPRM, a July 1990 audit of thirty television and radio stations revealed that political candidates often pay higher prices for airtime than commercial advertisers, primarily because "candidates purchase [ ] time at non-preemptible 'fixed' rates while commercial advertisers purchase [ ] time at 'preemptible' rates." [3] The audit raised questions whether candidates' advertising choices may be related to a lack of the types of negotiations that often occur between a station and a commercial advertiser.[4] In addition, the numerous inquiries received by Commission staff in the wake of the audit made it clear that there is a need for a single, up-to-date source describing our political programming policies.

3. We have therefore sought in this proceeding to accomplish several objectives. First, we intend to more accurately and closely reflect the language, intent, and requirements of the political broadcasting portions of the Act. In addition, we seek to issue detailed and practical advice, spelled out in clear and specific Commission rules,[5] so that broadcasters, candidates, advertising buyers and the public may be fairly and consistently apprised of the duties required by and rights accorded under the statute. Finally, we seek to revise our rules in order to promote achievement of the Act's objectives while being responsive to the evolving sales practices of broadcast stations.[6] Toward that end, we have determined that licensees must provide more timely, accurate, and complete information on rates and sales practices to candidates. Such information will help candidates take advantage of the full benefits to which they are entitled under the law.

4. The following discussion addresses the concerns raised by the commenting parties and resolves the issues raised in the NPRM.[7] Specifically, by this action the Commission does the following:

(A) *Reasonable Access.* Section 312(a)(7) requires stations to afford reasonable access for federal candidates to their facilities, or to permit federal candidates to purchase "reasonable amounts of time." [8] In this regard the Commission will:

(i) Continue to rely upon the reasonable good faith judgments of licensees to determine what constitutes reasonable access.

(ii) Adhere to its current interpretation that Section 312(a)(7) does not apply to cable television systems.

(iii) Retain our policy of permitting stations to ban federal candidates from news programming.

(iv) Permit sales of a "news-adjacency" class of time to candidates only if such a class of time is sold at rates no higher than sales of such time to most-favored commercial advertisers.

(v) Require stations to provide access for federal candidates to the station over the weekend preceding an election if that station has provided similar services to any commercial advertiser during the year preceding the relevant election period.

(B) *Equal Opportunities.* Section 315(a) requires stations that permit legally qualified candidates to use their station to afford equal opportunities to the candidates' opponents. Bona fide newscasts, as well as news interviews, documentaries, and news events, are exempt from these requirements.[9] In this regard the Commission will:

(i) Continue to interpret the "bona fide newscast" exemption as requiring only that licensees exercise control over the newscast by exercising editorial discretion whether or not to air the program.

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[1] The Commission's rules are codified in §§ 73.1940 and 76.205, pertaining to broadcasting stations and cable television systems, respectively.

[2] 47 U.S.C. 312(a)(7), 315. See infra at para. 3. Previously, the Commission has had occasion to issue numerous interpretations, both comprehensive and *ad hoc*, of these statutory requirements. For example, in 1978 the Commission issued a comprehensive guide to complying with the Commission's political programming rules, which it then revised in 1984. The Law of Political Broadcasting and Cablecasting: A Political Primer, 100 FCC 2d 1476 (1984) ("1984 Political Primer"). The primer was followed by a 1988 Public Notice, which concentrated on the application of section 315(b)'s lowest unit charge provision. See 4 FCC Rcd 3823 (1988).

[3] Mass Media Bureau Report on Political Programming Audit, 68 RR 2d 113 (1990) ("1990 Audit Report").

[4] *Id.*

[5] We have decided to issue detailed rules rather than a Primer. In addition, we will ensure that oral advice of the Commission staff on new and significant issues is reflected in written form, which is publicly available.

[6] As we stated in the NPRM, over the years the industry has moved away from a system based primarily upon the sale of volume discounts to a system that uses a "grid card" to give stations greater flexibility in selling their fixed inventory of advertising time. The latest development appears to be the introduction of a "yield maximization" system, under which spots are in essence auctioned off to the highest bidder, and the price of a given class of time changes constantly to respond to the broadcasters' needs and advertisers' fluctuating demand.

[7] We received 39 comments and 13 reply comments in this proceeding. See appendix A.

[8] Section 312(a)(7) of the Communications Act creates a specific right of access only as to federal candidates. It provides:

(a) The Commission may revoke any station license or construction permit * * * (7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

[9] Section 315(a) of the Communications Act states:

(a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any:

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto), shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance. 47 U.S.C. Section 315(a).

For purposes of section 315, the terms "broadcasting station" or "licensee" includes "community antenna television."

(ii) Narrow the definition of a "use" by a "candidate" to include only uses of a licensee's facilities that are controlled, approved or sponsored by a candidate after becoming legally qualified.

(iii) Continue to defer to licensees' reasonable, good faith judgment in determining whether sufficient sponsorship identifications have been provided in political programming and advertising.

(iv) Require both audio and visual sponsorship identification for television advertisements.

(v) Continue our present policy that permits stations to request candidates to submit their advertisements in advance to allow the station to determine whether the ad constitutes a use by a candidate and whether it complies with the sponsorship identification requirements. If a candidate refuses to allow the station to pre-screen the ad, the station should advise the candidate that it will take whatever steps are necessary to add the appropriate sponsorship identification to the submitted material.

(c) *Lowest Unit Charge.* Section 315(b) prohibits stations from charging candidates more than the lowest unit charge of the station for each class and period of time, and requires stations to offer candidates all discounts and privileges afforded its most-favored advertiser.[10] In this regard, the Commission will:

(i) Require stations to disclose to candidates all classes of time, discount rates, and privileges afforded to commercial advertisers. Furthermore, stations are required to sell such time to candidates upon request.

(ii) Continue to apply the "most-favored advertiser" standard to factors which affect the value of an advertisement, including (but not limited to) priorities against preemption.

(iii) Permit stations to establish their own reasonable classes of immediately preemptible time so long as some demonstrable benefit besides price or identity of the advertiser (such as preemption protection, scheduling flexibility, or guaranteed time-sensitive make goods) distinguishes each class. The licensee must adequately define each class, disclose it, and make it available to candidates.

(iv) Permit stations to establish their own reasonable classes of preemptible with notice time so long as they adequately define such classes, disclose them, and make them available to candidates.

(v) Permit stations to treat non-preemptible and fixed position as distinct classes of time, provided that they articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

(vi) Continue the policy of prohibiting stations from creating premium-priced, candidates-only class of time.

(vii) Adopt a policy requiring stations to calculate rebates and provide them to candidates promptly.

(viii) Adopt a policy requiring that all rates found in all package plans sold to commercial advertisers be included in the station's calculation of the lowest unit rate.

(ix) No longer require stations to include in lowest unit charge calculations noncash merchandise incentives (*e.g.*, vacation trips). Bonus spots, however, must still be calculated into lowest unit charge.

(x) Require that fire sale rates be calculated as the lowest unit charge for all classes of time sold that air during the fire sale period, but restrict that calculation to the time period or program actually covered by the fire sale.

(xi) Continue the policy of prohibiting stations from increasing their rates during an election period unless the rate increase is an ordinary business practice.

(xii) Require stations to provide make goods prior to the election if the station has provided a time-sensitive make good to any commercial advertiser during the year preceding the 45- or 60-day election period. *All* make-good spots must be included in the calculation of the lowest unit charge.

(xiii) Continue the existing policy that, while there is no obligation to sell spots in a particular program to candidates, once a station has decided that it will sell spots in a program, daypart, or time period, it cannot inflate the price of the spot sold to a candidate beyond the minimum necessary to clear by claiming that all "preemptible time" is sold out.

(D) *Political File.* The Commission's current policies and Section 73.1940(d) will continue to provide adequate guidance to licensees concerning maintenance of a public political file.

5. Finally, the Commission has determined that the policies reflected in this Report and Order should serve as legally binding rules. We thus have codified new rules to effectuate the policies enumerated in this proceeding. Henceforth, any staff and Commission interpretative rulings will also be made public in order to provide clear and consistent guidance to the public. To the extent that anything contained herein conflicts with prior rules or Commission policies (such as the 1984 *Primer*), the policies adopted herein are controlling.

II. Reasonable Access

6. As indicated above, section 312(a)(7) of the Act requires stations to provide federal candidates "reasonable access" to their facilities.[11] As noted in the NPRM, in 1978, after notice and inquiry, the Commission concluded that additional formal rules regarding what constituted "reasonable access" would not help licensees because of the varying circumstances under which broadcasters and candidates operate. Instead, the Commission determined that it would continue to rely upon the reasonable, good faith judgments of its licensees to provide reasonable access. It did, however, articulate guidelines that would be applied to determine whether a particular licensee's judgment was reasonable. Subsequently, additional questions have been raised regarding standards for reasonableness, as outlined in the NPRM.

A. Formal Guidelines for Reasonable Access for Federal Candidates

7. *Issue and Comments.* The NPRM proposed to incorporate existing Commission guidelines on what constitutes "reasonable access" into a

[10] Section 315(b) of the Communications Act states:

The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—(1) during the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and (2) at any other time, the charges made for comparable use of such station by other users thereof.

[11] In the NPRM, we asked for comment on our earlier interpretation that section 312(a)(7) does not apply to cable television systems. NPRM at paragraph 19. Few commenters addressed this issue. Those that believe section 312(a)(7) should apply argue that growing cable penetration makes cable access increasingly important to candidates. In our view, however, the statutory language of FECA and its legislative history indicate that Congress never intended to apply reasonable access to cable television. We note, for example, that section 312(a)(7) is in a license revocation provision of the Act, making it unlikely that Congress intended its application to non-licensee cable systems. Moreover, even if Congress initially intended to apply reasonable access to cable, the amendment of FECA in 1974 established that reasonable access does not apply. In that 1974 legislation, Congress repealed Title I of FECA, containing the only statutory language arguably supporting section 312(a)(7)'s applicability to cable. Thus, upon careful review of the statute, the relevant legislative history, and the comments received in this proceeding, we find no reason to alter the conclusion in *Subscription Video Services*, 51 FR 1821 n.27 (1986), that section 312(a)(7) does not apply to cable television.

more formal scheme. The majority of commenters did not address this issue. Of the four that did, three asked for quantifiable access, i.e., a specific number of hours per week, or formulas that consider the market's various stations and populations.[12]

8. *Decision.* On further reflection, the Commission continues to believe that formal rules would not be practical and that we should continue to rely upon the reasonable, good faith judgments of licensees to provide reasonable access to federal candidates. Reasonable access does not lend itself to a specific number of hours based on complex formulas. Rather, what constitutes "reasonable access" depends on the circumstances surrounding a particular candidate's request for time and the station's response to that request. We will thus continue to determine compliance with section 312(a)(7) on a case-by-case basis.

9. In evaluating whether a particular licensee's judgment in affording access is reasonable, we will continue to rely on the following guidelines, which reflect a combination of policies articulated by the Commission in its 1978 Report and Order on reasonable access,[13] and approved by the Supreme Court in *Carter/Mondale:* [14]

(a) Reasonable access must be provided to legally qualified federal candidates through the gift or sale of time for their "uses" of the station. See Report and Order, 68 FCC 2d at 1088.

(b) Reasonable access must be provided at least during the 45 days before a primary and the 60 days before a general or special election. The question of whether access should be afforded before these periods or before a convention or non-primary caucus will be determined by the Commission on a case-by-case basis. *Id.* at 1091.[15]

(c) Both commercial and noncommercial educational stations must make program time available to legally qualified federal candidates during prime time and other time periods unless unusual circumstances exist that render it reasonable to deny access. *Id.* at 1090.

(d) Commercial stations must make spot announcements available to federal candidates in prime time. The same rule applies to non-commercial stations that utilize spot time for underwriting announcements. Where a noncommercial educational station normally broadcasts spot promotional or public service announcements only, it generally need not make those spot times available to political candidates. *Id.* at 1092 and n.22.

(e) If a commercial station chooses to donate rather than sell time to candidates, it must make available to federal candidates free time of the various lengths, classes, and periods that it makes available to commercial advertisers. *Id.* at 1090 n.18.[16]

(f) Noncommercial stations may not reject material submitted by candidates merely on the basis that it was originally prepared for broadcast on a commercial station. *Id.* at 1094.

(g) A station may not use a denial of reasonable access as a means to censor or otherwise exercise control over the content of political material, *e.g.,* by rejecting it for nonconformance with any of the station's suggested guidelines. *Id.*

(h) Licensees may not adopt a policy that flatly bans federal candidates from access to the types, lengths, and classes of time which they sell to commercial advertisers. Noncommercial educational stations must provide program time which conforms to normal parts of the station's broadcast schedule. *Id.* at 1094.

(i) In providing reasonable access, stations may take into consideration their broader programming and business commitments, including the multiplicity of candidates in a particular race, the program disruption that will be caused by political advertising, and the amount of time already sold to a candidate in a particular race. *Id.* at 1090.

B. Access for State and Local Candidates

10. *Issues and Comments.* The Commission requested comment on whether stations are required by law to make facilities available to state and local candidates for their "uses." The few commenters that address this issue all state that section 213(a)(7) is distinct and more demanding than stations' general public interest obligation,[17] and that stations may satisfy any public interest obligations with respect to state and local elections through news and general public affairs programming. Unlike federal candidates' reasonable access, they state, the public interest standard does not accord state and local candidates any specific access rights.

11. *Decision.* The Commission will not require a specific right of access for non-federal candidates. Section 312(a)(7), the only access provision in the political broadcasting laws, is quite explicit in creating a right of "reasonable access" exclusively for federal candidates.[18] Thus, no statutory basis exists to create a right which Congress implicitly rejected.

12. Moreover, the Supreme Court has declined to extend the general public interest obligations of broadcasters to encompass specific access requirements. As the Court explained in *CBS, Inc.* v. *FCC,* under the "public interest" standard, "an individual [non-federal] candidate can claim no personal right of access." [19] Indeed, except for the "reasonable access" required for federal candidates under section 312(a)(7) and the "equal opportunities" that must be provided to all candidates once a "use" by an opponent has been broadcast under section 315, section 3(h) of the Act states that broadcast stations cannot be treated as common carriers with an obligation to accord access to any particular person, group, or entity.[20]

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[12] See comments of Greater Media at 3; Outlet Broadcasting at 1.

[13] Report and Order, 68 FCC 2d 1079 (1978).

[14] Carter/Mondale Presidential Committee, Inc., 44 FCC 2d 631, recon. denied, 74 FCC 2d 657 (1979), *aff'd sub. nom. CBS, Inc.* v. *FCC,* 629 F.2d 1 (D.C. Cir. 1980), *aff'd.,* 453 U.S. 367 (1981).

[15] The Supreme Court has recognized the Commission's need to evaluate when access should be afforded on a case-by-case basis, and has also affirmed the Commission's use of objective criteria in a national campaign. Those criteria included the facts that: (a) A number of candidates had formally announced their intention to seek a nomination; (b) various states had begun their delegate selection process; (c) candidates were fund raising and making speeches across the country; and (d) national print media had already given campaign activities prominent coverage. After weighing these criteria, the Commission determined that access should be given 11 months before a presidential election and 8 months before the Democratic National Convention. *CBS, Inc.* v. *FCC,* 453 U.S. at 392.

[16] In its comments, the Federal Election Commission (FEC) notes that, in 1986, it initially approved an advisory opinion which would have prohibited corporate licensees' offering free advertising to candidates. That opinion, however, was later vacated when the FEC revisited the issue. The FEC vote on reconsideration was deadlocked at 3–3. The FEC points out that it is currently unable to offer guidance on this issue apart from its "advisory opinion" process. Under that procedure, an interested party would need to present its question in the form of a new advisory opinion request, and the FEC would then have the opportunity to further consider the issue. However, at this time there appears to be no FEC ruling which squarely prohibits advertising donations by corporations.

[17] The comments of AFB at 18–19; NBC at 10–11, Shamrock at 19, 23; RTNDA at 5.

[18] As originally reported in the Senate, section 213(a)(7) would have applied to any legally qualified candidate, but the Conference Committee expressly limited the provision to candidates seeking federal office. S. Conf. Rep. No. 92–580, p. 22, (1971); See, *CBS Inc.* v. *FCC,* 453 U.S. 367, 380 (1981).

[19] 453 U.S. 367, 378–79, n.6. (1981). Of course, once a broadcaster decides to sell or give time to a state or local candidate for political advertising, it is required to meet all of its statutory obligations including equal opportunities, lowest unit charge, and sponsorship identification.

[20] *CBS* v. *Democratic National Committee,* 412 U.S. 94 (1973).

C. News Programming

13. *Issue and Comments.* The NPRM requested comment on whether the Commission should keep its current policy that permits broadcasters the editorial discretion to determine whether political advertisements should be aired during news programming. The majority of commenters argue that licensees should retain their discretion to exclude political advertising from news programming.[21] Such parties contend that mandatory access may compromise the journalistic integrity of news programming and confuse the public. They also point out that section 213(a)(7) affords federal candidates reasonable—not extraordinary or mandatory—access, and does not entitle them to specific placement or programs.[22]

14. By contrast, three media buyers argue that television news programming reaches the highest concentration of those likely to vote. Accordingly, limiting candidates' access to news curtails their access to voters.[23] These commenters also contend that voters are able to distinguish partisan messages from news programming.

15. *Decision.* The Commission will continue its policy of allowing broadcasters to ban the sale of political advertising to federal candidates during the news.[24] The preponderance of comments received on this issue support retention of this longstanding policy, based upon our conclusion that section 312(a)(7) was never intended to provide candidate access to specific programming.[25]

16. Indeed, so long as a station makes available to candidates a wide array of dayparts and programs, access to news programming is simply not essential to afford "reasonable access." We continue to believe that allowing the station discretion to refuse to run political advertising within its news programming does not unreasonably hamper the access of federal candidates to broadcast time, but does serve the public interest by preserving the journalistic integrity of the licensee in this vital area of programming.[26]

17. As we concluded in 1978: "[A]lthough a candidate for Federal office is entitled under section 312(a)(7) to varied broadcast times, such candidate is not entitled to a particular placement of his or her political announcement on a station's broadcast schedule. We recognize that it would be very difficult for a licensee to afford 'equal opportunities' to opposing candidates if one candidate has his or her spot placed adjacent to a highly rated program, which was broadcast only once or very rarely. Additionally, there may be circumstances when a licensee might reasonably refuse broadcast time to political candidates during certain parts of the broadcast day. It is best left to the discretion of a licensee when and on what date a candidates spot announcement or program should be aired." Report and Order, 68 FCC 2d at 1091. We reaffirm our longstanding policy in this Report and Order.

D. News Adjacencies

18. *Issue and Comments.* The NPRM also asked for comment on the Commission's policy that prohibits stations from creating "news adjacencies" that are sold only to candidates at premium rates.[27] While the comments were mixed, more commenters state that news adjacencies should be considered as part of the news period and priced consistently with the lowest unit rate for the entire news period.[28] Apparently, this approach would be consistent with customary business practice.[29] Other comments contend that the scheduling of news adjacencies is certain and precise, and therefore justifies a higher, premium rate.[30]

19. *Decision.* Based on the record compiled in this proceeding, we are persuaded that the scheduling attributes of news adjacenies may be sufficient to justify treating them as a separate class of time. We will permit sales of "news-adjacency" class of time to candidates, however, only if such a class is sold at rates no higher than sales of such time to most-favored commercial advertisers. Thus, a station may charge no more for the news-adjacency class of time than the lowest unit rate charged to commercial advertisers during the news itself. We believe that this additional requirement, coupled with our disclosure requirements, will provide adequate safeguards against abuse.

E. Weekend Hours

20. *Issue and Comments.* The Mass Media Bureau has previously noted that it does not require stations to make "extraordinary efforts" to remain open outside of normal business hours for the purpose of selling political advertising time.[31] However, if the station is formally closed but is otherwise open for purposes of "arranging and providing programming," the Bureau has stated that it may be unreasonable and inconsistent with the requirements of section 312(a)(7) and 315(a) to deny access to political candidates on the weekend before the election.[32] The NPRM requested comment on the Bureau's policy that requires a station to afford "weekend" or "after hours" access to political candidates for placement and/or scheduling of advertisements on the weekend before the election if they would so treat their most-favored advertiser.

21. The majority of commenters oppose mandated weekend and after-hour access to stations for candidates in order to provide for the placement and/or scheduling of advertisements.[33] To require stations to accommodate candidates' requests outside normal business hours, several argue, presents staffing and financial hardships.[34] Moreover, several commenters argue that the Commission has erroneously extended section 315(b) lowest unit charge provision's "most-favored commercial advertiser" considerations to non-rate related candidate benefits, such as weekend access.[35]

22. In contrast, Wilson claims that a station's political sales should mirror its commercial practices. Thus, if a station's most-favored commercial advertiser is afforded weekend/after hour access, so should candidates.[36] According to Dow

[21] See, *e.g.*, the comments of ABC at 2–3, CBS at 21–23; INTV at 9–10.

[22] Comments of Dow, Lohnes and Albertson at 33.

[23] The comments of MPC at 2; National Media at 2; and Wilson at 3.

[24] Because state and local candidates have no right of access to broadcast facilities, stations may ban the sale of advertisements during news programming to such candidates regardless of the Commission's policy with respect to federal candidates.

[25] See Report and Order, 68 FERC 2d 1079, 1091 (1978); *Carter-Mondale Presidential Committee*, 74 FCC 2d 631, *recon. denied*, 74 FCC 2d 657 (1979), *aff'd sub nom. CBS, Inc.* v *FCC*, 629 F.2d 1 (1980), *aff'd*, 453 U.S. 367 (1981). 47 U.S.C. 315(a)(1)–(4).

[26] In this regard, we note that Congress generally has recognized the special status of news programming in the context of licensees' political broadcasting obligations.

[27] News adjacencies are the commercial breaks immediately preceding or following a news program.

[28] See generally comments of Busse at 3–4, CBS at 21–23.

[29] One media buyer states that news adjacencies should be treated as "swing breaks," which are sold as part of the higher rated program, consistent with normal business practices. National Media's comments at 2.

[30] The comments of Covington and Burling at n.14 and n.24; Osborn at 13.

[31] Letter Ruling released July 3, 1990 (DA 90–871).

[32] *Id.*

[33] See, *e.g.*, the comments of CBS at 23–25; Cox at 11–12; NAB at 18–19.

[34] *Id.*

[35] The comments of CBS at 23–25; Dow Lohnes and Albertson at 15; NBC at 12–14.

[36] Wilson at 3.

Lohnes and Albertson, stations should only be required to accommodate federal candidates if they did so for a commercial advertiser within the 60 days preceding the statutory period.[37]

23. *Decision.* The Commission will require that stations provide access to federal candidates for purposes of "arranging and providing programming" the weekend before an election if they have so accommodated any commercial advertiser during the previous year. Regardless of how a station treats its "most-favored advertiser," if it has provided weekend access for any commercial advertiser during the year preceding the election, then it is "reasonable" for federal candidates to expect similar treatment.[38]

III. Equal Opportunities

24. Section 315(a) of the Communications Act provides that if a broadcast station permits any legally qualified candidate (federal, state or local) to "use" its station, the licensee is required to provide equal opportunities to all other candidates for the same office to "use" the station. The Commission has held that the candidate "use" that triggers equal opportunities is an appearance by the candidate by voice or picture in which the candidate is identifiable to the audience.[39] Section 315(a) further stipulates that the licensee shall have no power of censorship over material broadcasting pursuant to these requirements.

25. In 1959, Congress, in an effort to encourage increased news coverage of political campaign activity, amended section 315 to exempt from the equal opportunity requirements appearances by legally qualified candidates in the following news programs:

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of a bona fide news event (including but not limited to political conventions and activities incidental thereto).

47 U.S.C. 315(a).

A. Bona Fide Newscast Exemption

26. *Issue and Comments.* The NPRM asked for comment on the extent to which a licensee must have control over the production of a bona fide newscast in order for it to be exempt from equal opportunities under section 315(a), and the criteria for establishing such control. The majority of commenters support the Commission's decision in *Oliver Productions, Inc.*, 4 FCC Rcd 5953 (1989), *appeal dismissed sub non., TRAC* v. *FCC*, 917 F.2d 585 (D.C. Cir. 1990), in which the Commission concluded that the absence of complete licensee control over a newscast's production does not exclude application of the statutory exemption from equal opportunities.[40] These commenters state that the news exemptions depend on the nature of the programming, not the source of production. The quality as a bona fide news-exempt program, they argue, the selection of material should be based on legitimate news judgments and not be designed to advance any particular candidacy. They also point out that licensees exercise reasonable news judgment in acquiring and airing the material, and are ultimately responsible for all their programming. Further, they argue that a narrow interpretation would inhibit the free flow of information and curtail diversity.[41]

27. In opposition, TRAC argues that *Oliver Productions* should be expressly overruled. TRAC contends that to qualify for a news exemption, programming must be subject to full licensee editorial control.[42] According to TRAC, full editorial licensee control means that a licensee should supervise production or retain the right to refuse to air programming if it so decides, without contractual limitations. Such control is necessary, TRAC argues, to protect the electoral process from abuse, because while licensees must answer to the FCC, independent producers are not accountable to anyone. Additionally, TRAC defines a newscast as a multi-faceted news program with timely segments.[43] TRAC argues that inclusion of a newscast segment in a non-exempt program does not warrant exemption.[44]

28. INTV, PBS and RTNDA object to TRAC's standard of unhindered licensee editorial control. They state that such a requirement would undermine the purpose of the news exemptions by discouraging, rather than facilitating, election coverage.[45] Moreover, PBS and RTNDA regard TRAC's analysis as unrealistic, particularly with respect to late-breaking and "live" news coverage of interviews.

29. *Decision.* We continue to believe that a determination of whether a program qualifies as a *bona fide* newscast should be judged solely on the basis of whether the program reports news of some area of current events in a manner similar to more traditional newscasts.[46] Regarding TRAC's concern that this view will lead to abuse because we have no jurisdiction over third parties who may have produced the news segments, we of course note that we have jurisdiction over the licensee itself, the party ultimately responsible for exercising editorial control in determining whether or not to air the program. Thus, we believe that, for purposes of the newscast exemption, the exercise of such control will alleviate this concern. Third-party produced newscasts featuring candidates not for their newsworthiness, but to promote a particular candidacy, will not be viewed as qualifying for the exemption Congress set forth for a *bona fide* newscast. Regardless of any contractual obligations the station may have to the third party, if a station chooses to air such programming for the purpose of promoting a particular candidacy, it must comply with the equal opportunity requirements of our rules and the Act.

B. "Uses" under Section 315(a)

30. *Issue and Comments.* As noted above, the Commission currently defines a "use" by a "legally qualified candidate" under section 315(a) as any "positive" appearance of a candidate by voice or picture. The Commission staff has advised licensees that, in the event a candidate's name or picture is used by opponents in an advertisement in a disparaging manner, such appearance of

[37] Dow, Lohnes and Albertson at 15.

[38] Furthermore, a licensee that affords weekend access to state and local candidates must do so on a non-discriminatory basis.

[39] 1984 Political Primer, 100 FCC 2d at 1489.

[40] See generally, the comments of CBS at 25–27; Dow, Lohnes and Albertson at 36; Koteen and Naftalin at 38–41.

[41] Koteen and Naftalin, PBS, and RTNDA argue that this rationale should be extended to news interview programming. Koteen and Naftalin at 38–41; PBS at 3; reply comments of RTNDA at 2–5. We believe that the arguments raised in these comments may warrant further consideration. We specifically stated in the NPRM, however, that such matters were beyond the scope of the proceeding. NPRM at fn. 39. Thus, we invite interested parties to file a petition for declaratory ruling on this issue, which will give the public adequate opportunity to comment so that we can evaluate this issue based upon a complete record.

[42] TRAC's comments at 3–9; TRAC's reply comments at 4–7.

[43] Comments of TRAC at 10–13.

[44] TRAC argues that this factor distinguishes the program in Oliver Productions from other programs such as "Nightline." In "Nightline," the newscast segment is not a bona fide newscast; rather, its exempt status is due to its integration with an exempt news interview program. Comments of TRAC at 19–22.

[45] The reply comments of INTV at 5; PBS at 4; RTNDA at 5.

[46] #§ Oliver Productions, Inc., 4 FCC Rcd 5953, 5954 (1989).

the candidate is not a "use" and does not therefore trigger the equal opportunities clause.[47] In contrast, if any unauthorized third-party advertiser or programmer uses a picture or other depiction of a candidate to endorse that candidate, even if the candidate considers such an endorsement to be harmful because of the identity of the advertiser, such appearance is still considered a "use" that would trigger the equal opportunity provision. Current policy permits licensees to adopt a policy of selling time only to authorized spokesparties for any candidate. However, once a station permits a "use" by an unauthorized third party, the equal opportunities clause is triggered. We sought comment on these policies in the NPRM.

31. Spurred by the rash of recent negative campaign advertisements, several commenters request that the Commission clarify or modify the definition of "use." Many suggest that "uses" be restricted to programs and announcements that are either paid for or authorized by the candidate (or his campaign committee).[48] Such a simplified definition, they argue, will ease Section 315 administration, preserve candidates' campaign strategies, and avoid stations' subjective assessment of announcements' content and impact.[49] In this connection, Group W and NCAB request that the Commission reiterate that licensees are not obligated to sell airtime to entities not authorized by, or related to, candidates.

32. In contrast, only one commenter argues that any appearance by a candidate should constitute a use, given the potential for candidate abuse. INTV contends that if the Commission restricts "uses" only to appearances authorized by candidates, candidates could collude with, and channel money to, independent entities whose uses would not trigger the equal opportunities requirement, thereby denying the candidate's opponents' requests for time.[50]

33. *Decision.* We have decided to narrow our interpretation of "use under section 315(a) to include only non-exempt candidate appearances that are controlled, approved, or sponsored by the candidate (or the candidate's authorized committee) after the candidate becomes legally qualified.[51] In doing so, we note that section 315 is limited specifically to "uses" by a "legally qualified candidate." At the very least, then, the plain language of the statute suggests the candidates' tacit approved participation in the broadcast. Moreover, the legislative history of Section 18 of the Radio Act, which preceded Section 15, indicates that Congress primarily was addressing candidate-initiated appearances and speeches when enacting the equal opportunities requirement.[52] Similarly, in considering the 1959 news exemptions amendment, various legislators also expressed the view that "use" was directed only to candidate-initiated appearances.[53] Thus, the relevant legislative history of section 315(a) supports a narrower interpretation of the term "use" as well.

34. Under our narrower interpretation, if a legally qualified candidate voluntarily appears as a performer, celebrity, or station employee in a non-exempt program, his opponents will continue to be entitled to equal opportunities. In these circumstances, the candidate controls his appearance on the air and therefore is properly viewed as having "used" the station's facilities. By contrast, if a legally qualified candidate does not voluntarily appear in a non-exempt broadcast, such as in unauthorized, independently sponsored advertisements or rebroadcasts of appearances that were made prior to his attaining the status of a legally qualified candidate, his appearance would not constitute a use.[54]

35. As a practical consequence, this interpretation will have the effect of overruling decisions such as Adrain Weiss, 58 FCC 2d 342, review denied, 58 FCC 2d 1389 (1976), where the Commission upheld a Bureau determination that the broadcast of Ronald Reagan motion pictures during applicable campaign periods would constitute a "use" for purposes of Section 315. While President Reagan voluntarily appeared in the films when they were made, any control over when or whether the films were broadcast ended prior to his becoming a legally qualified candidate. Thus, under our new interpretation, such broadcasts would not be section 315 "uses" by a "legally qualified candidate." [55]

36. However, if a legally qualified candidate voluntarily appears or otherwise consents to an appearance during the applicable campaign periods, such appearances would constitute a section 315 "use." Thus, for example, a voluntary appearance on a live entertainment program during a campaign period would constitute a "use." [56] Likewise, the voluntary appearance of announcers, newscasters, interviewers, commentators and other talent would be deemed a section 315 "use." [57] In each case, however,

[47] The FCC staff has advised licensees accordingly, relying upon a report it gave to Congress in 1981. See Report of the Staff of the Federal Communications Commission on the Operation and Application of the Political Broadcasting Laws During the 1980 Political Campaign, submitted to Senator Barry Goldwater in 1981.

[48] See, *e.g.*, the comments of Cox at 29; Dow, Lohnes & Albertson at 7; reply comments of NCAB at 22-24.

[49] The comments of Group W at 8; the reply comments of NCAB at 23.

[50] Comments of INTV at 11.

[51] Our ruling herein does not in any way affect news programming that is statutorily exempt pursuant to the provisions of subsections 315(a)(1)-(4). Congress has directly addressed the circumstances in which such news programming falls outside the equal opportunities requirement. As to these programs, we shall continue to be guided by the explicit standards set out in the statute, the legislative history, and court and Commission precedents. For example, to qualify for the exemption, the news programming at issue must still be "bona fide" (*i.e.*, must be of genuine news value and not designed by the broadcaster to advance any particular candidate). See, Conference Rep. No. 1069, 86th Cong., 1st Sess. 4 (1959); 105 Cong. Rec. 14442 (Pastore); *id.* at 16224 (Brown); *id.* at 17828 (Pastore); *id.* at 17777 (Scott). Additionally news interview programs must still be regularly scheduled and licensee-controlled, and news documentaries must still focus on matters other than the candidate.

[52] See 67 Cong. Rec. 12502-12504.

[53] See S. Rep. No. 562, 86th Cong., 1st Sess. 6 (1959) (remarks of former Senator Dill, who sponsored the original legislation in the 1927 Radio Act); See also Cong. Rec. 16244 (Brown) and 14442 (Pastore).

[54] Independent entities that oppose or support candidates do not have any access rights; only federal candidates are accorded access rights. Thus, licensees are not required to accept any political material that is not authorized by candidates. In this connection, we note that several commenters expressed the belief that the lowest unit charge provision currently applies to "uses" sponsored by independent entities. Even under our prior broader interpretation of "use," however, we have never held that independent entities were entitled to the lowest unit charge. The legislative history of section 315(b) clearly demonstrates Congressional effort to reduce *candidates'* escalating campaign costs. See S. Rep. No. 92-96, 92d Cong., 1st Sess. 20 (1971). Therefore, we reiterate that the lowest unit charge inures to the benefit of candidates only

[55] The Commission, of course, retains the discretion to revisit these rules if abuses become apparent. As stated, we believe the approach outlined above more closely comports with both the plain language and intent of the Act. If, however, the accomplishment of Congress' objectives under the political broadcasting provisions is not enhanced under this approach, we will respond accordingly.

[56] See Paulsen, 33 FCC 2d 835 (1972); *aff'd sub nom. Paulsen* v *FCC*, 491 F.2d 887 (9th Cir. 1974).

[57] For examples of candidate appearances that will continue to be considered uses, (*see RKO General, Inc.*, 25 FCC 2d 117 (1970) (daily interview host); *Station WBAX*, 17 FCC 2d 316 (1969) (station announcer); *KUGN* 40 FCC 293 (1958) (broadcaster's occasional appearances).

whether a "use" has occurred depends upon whether the appearance is voluntary (*i.e.*, under the candidate's control after he or she has become a legally qualified candidate.[58]

37. We believe that defining "use" in terms of an appearance that is controlled, sponsored, or approved by a candidate should simplify administration of section 315. In determining the applicability of section 315's no censorship provisions, for example, the candidate's control, approval, or sponsorship, or lack thereof, would be dispositive. Such a determination may readily be ascertained and does not necessitate any review of the broadcast material. Additionally, a narrower definition of use ensures candidates greater control of their campaigns by attributing to them only those messages or associations they authorize or approve.

38. Finally, we are not persuaded by the argument that a narrower definition of use will result in "collusion" between candidates and independent groups. This concern is purely speculative. Moreover, FECA expressly requires that political advertising clearly state who pays for a political advertisement and whether or not it was authorized by a candidate. 2 U.S.C. 441(d). Thus, federal candidates or committees that attempted to collude by channeling money to independent groups without an appropriate announcement would violate federal law.[59] Further, given the fact that only candidates are entitled to lowest unit charge benefits, *see* n.55, *supra*, we think it is highly unlikely that candidates will be motivated to channel scarce resources to independent groups.

C. Sponsorship ID Guidelines

39. Section 317 provides generally that the identity of the party providing consideration (*i.e.*, paying) for broadcast material must be disclosed on the air at the time of broadcast. The Commission has determined previously that it is not practical to adopt quantifiable standards to govern the sponsorship identification requirements contained in this provision and codified in § 73.1212 of our rules. Sponsorship Identification Requirements, 41 RR2d 761 764 (1967). Rather, we have generally advised that the sponsorship announcement must be displayed in letters of sufficient size to be legible to the average viewer; set against a background that does not reduce the announcement's legibility; and exhibited on the screen for a sufficient amount of time to be read in full by the average viewer.[60] The Commission has applied these criteria to sponsorship identifications involving both political broadcasts and commercial matter.[61]

40. There are, however, additional requirements for political announcements that are designed to make information about their sponsors more available to the public. Sections 73.1212 (d) and (e) of the rules require that: (1) Licensees retain lists of information regarding the political sponsors' identity for public inspection; and (2) announcements be made both at the beginning and the end of political material five minutes or more in length. See Amendment of Sponsorship Identification Requirements, 52 FCC 2d 701 (1975).

41. The Commission has also made clear that "liability for incorrect sponsorship identification rests with licensees." [62] As a consequence, licensees may "require that proposed [political] broadcasts" contain appropriate sponsorship announcements. The Commission has characterized this as an exception to the no censorship provision set forth in section 315(a), which otherwise precludes stations from influencing the content of political broadcasts.[63] In identifying the appropriate sponsor of the political material, however, licensees are only required to exercise reasonable diligence.[64]

42. *Issue and Comments.* The NPRM proposed adoption of objective guidelines that could be used by stations to assess whether a paid political broadcast complies with the sponsorship identification requirement. In particular, it proposed that letters equal to or greater than 4% of picture height, to air for not less than six seconds, should be required for video identification. It further proposed that a clearly audible statement at the beginning and end of the message, setting forth the name of the sponsor, should be required for audio identification.

43. The majority of commenters support, or do not oppose,[65] adoption of objective sponsorship identification standards.[66] According to Koteen and Naftalin, objective standards will better inform the public of the sponsor of political broadcasts—a public interest benefit that is made all the more necessary, they claim, given the negative campaign climate.[67] In contrast, CBS, Group W, NAB and NCAB oppose the adoption of quantitative criteria.[68] NAB contends that such standards will require licensees to make precise measurements, which are difficult to calculate.[69] CBS agrees with NAB, and further states that the proposed criteria would be unnecessarily restrictive and may substantially curtail candidates' political presentations.[70] Moreover, several commenters argue that the burden of compliance should be imposed on the candidates and enforced by the Federal Election Commission ("FEC")—not licensees or the Commission.[71]

44. *Decision.* After carefully reviewing the record, we are not persuaded that we should adopt specific, objective criteria for meeting sponsorship identification obligations. We are concerned that specific requirements, such as those proposed in the NPRM, would place undue burdens upon licensees and would interfere with candidates' ad design and preparation. Thus, we favor maintaining flexibility for both broadcasters and candidates,

[58] Public Broadcast Licensees also argue that the Commission should clarify that where candidate A appears by invitation in another candidate's program or advertisement, candidate A's appearance is not a use and does not create equal opportunities for his opponents, since candidate A did not "control" the use. Joint Comments of Public Broadcast Licensees at 11–12. We believe, however, that if a candidate chooses to appear on another candidate's advertisement, the appearance is voluntary and thus constitutes a "use" under Section 315(a).

[59] Indeed, in order to qualify as an "independent expenditure" that supports or opposes a candidate under FECA, the expenditure cannot be made in "cooperation or consultation" with any candidate, any authorized committee, or agent of such candidate. 2 U.S.C. 431(17).

[60] *Id.* at 763. With respect to television, the Commission stated that announcements could be aural or visual. *Id.*

[61] *See Lotus Broadcasting Co.*, 10 RR 2d 921, 923 (1967); *Amendment of Sponsorship Identification Rules*, 34 FCC 829, 848–49 (1963). *See also, National Broadcasting Co.*, 20 RR2d 901, 903 (1970), in which the Commission applied the same size and length criteria for political sponsorship announcements to sponsors of cash and prizes awarded on game and audience participation shows.

[62] See Joint Agency Guidelines for Broadcast Licensees, 69 FCC 2d 1129, n.2 (1978).

[63] *Id.* See also, KOOL–TV, 26 FCC 2d 42 (1970) ("A Lot of People Who Would Like To See Sam Grossman Elected To The U.S. Senate" failed to represent that this was a committee, and thus lacked the specificity necessary to comply with Section 317).

[64] See Voter, 46 RR 2d 350, 352 (1979).

[65] See, *e.g.*, the comments Busse at 4; FEC at 3–5; Group W at 9–10; PAW/MAP at 21–24.

[66] MPC states that sponsorship identifications should appear both at the beginning and end of radio announcements. MPC Comments at 4.

[67] Koteen and Naftalin's comments at 41–42.

[68] Group W's comments at 9–10.

[69] NAB's comments at 20–22. NCAB also states that the new standards will be difficult for licensees to implement and enforce.

[70] CBS' comments at 29–30.

[71] See, *e.g.* the comments of CBS at 29–30; Dow Lohnes and Albertson at 38; NAB at 20–22.

and will continue to rely upon the licensees' reasonable, good-faith judgment as to whether a particular sponsorship identification meets the statutory requirements.

45. We note, however, that broadcasters must be mindful of the importance of assuring that the audience is able to discern the sponsor of a paid political broadcast. Thus, while no specific, quantifiable standards will be established, we will continue to require that the sponsorship identification for television must be sufficiently large, and of sufficient length on radio and television, to allow members of the audience to reasonably comprehend the identity of the sponsor. Moreover, although we decline to make them mandatory, we believe that the specific requirements outlined in the NPRM (and described above in paragraph 40) would be sufficient to satisfy the statutory mandate.

D. Audio and Visual Identification

46. *Issues and Comments.* The NPRM also sought comment on its proposal to require both audio and visual identification for television advertisements. Several commenters addressing this issue supported this proposal.[72] NAB, on the other hand, described the visual and aural requirement as overreaching, particularly given the non-emergency nature of political messages.[73]

47. *Decision.* The Commission will adopt the proposed policy of requiring both audio and visual identification for political advertisements carried by television stations. We believe that this requirement will better inform those persons suffering from aural or visual impairments. In addition, the requirement will convey the sponsor's identity to viewers listening, but not actually watching a program, or those receiving programming from the class of radios that has been specifically designed to receive the audio portion of television programs.

E. Pre-Airing Submissions

48. *Issue and Comments.* Current Commission policy does not require candidates to submit their political broadcasts to stations before airing so that the station can determine whether the broadcast complies with the sponsorship ID rules. Most commenters argue that, if we were to adopt objective sponsorship identification standards, those standards must be coupled with a right by the station to preview candidate material to ensure compliance. ABC explains that fairness and effective enforcement necessitate such preview rights, particularly since the proposed standards require screen size and time duration calculation.[74] In this connection, several commenters specify time periods in which licensees should be permitted to require candidates to furnish material in advance of the scheduled airtime.[75] Additionally, Public Broadcast Licensees state that licensees should be able to refuse material that does not conform to the sponsorship identification standards.[76]

49. *Decision.* In view of our decision not to require sponsorship identification announcements to meet specific regulator criteria, we do not believe it is necessary to adopt a policy which requires pre-airing submissions. Such a policy would be difficult to implement and could result in improper station involvement in the timing and content of political broadcasts. We will, however, continue to enforce our current policy, which permits broadcasters to ask for pre-airing submissions to determine compliance with technical standards, including compliance with sponsorship ID requirements. If a candidate nonetheless refuses to allow a broadcaster to pre-screen an ad, the licensee should presume that it must provide its own sponsorship identification or risk violating the Act and our rules.[77] We emphasize, however, that, consistent with the Commission's traditional approach, we are not requiring licensees to provide additional time, free of charge, to add the required sponsorship ID. Rather, the broadcaster may choose whatever means are appropriate to ensure sponsorship ID compliance.

IV. Lowest Unit Charge

50. Section 315(b) of the Communications Act directs broadcast stations and cable television systems to charge political candidates the "lowest unit charge of the station" for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election. Congress added section 315(b) in 1972 as part of a plan "to give candidates for public office greater access to the media and * * * to halt the spiraling cost of campaigning for public office." [78] By adopting the lowest unit charge requirement, Congress intended to place candidates on a par with a broadcast station's most-favored advertiser.[79]

A. Obligation to Make Rates Available

51. *Issue and Comments.* Broadcasters currently have a duty, under § 73.1940(b), to make all discount rates and privileges offered to commercial advertisers available to candidates. As we stated in the Notice, we believe that this duty contains two obligations: an affirmative duty to disclose to candidates information about rates, make goods, and discount privileges offered commercial advertisers; and an obligation to sell to candidates all types of discount privileges made available to commercial advertisers.

52. In the NPRM we sought comment upon the scope of the affirmative disclosure obligation. Almost all commenters agree that some form of mandatory disclosure requirement is reasonable, and most request specific guidance on what must be done to satisfy such an obligation. Pulitizer argues that the Commission should leave the method of disclosure to the discretion of the licensee to assure maximum flexibility and that the FCC should adopt a policy of relying generally on the reasonable good faith judgment of licensees.[80] Numerous commenters request that the Commission adopt a standard disclosure report form or specify exactly what information must be conveyed to meet the obligation.[81]

53. Many commenters suggest that the amount of disclosure required should be tailored to the needs of the buyer. They maintain that more sophisticated buyers—who would often include political time buyers—would not need as much repetitious disclosure.[82] MPC

[72] See, *e.g.*, comments of FEC at 4; Gillett at 8–9.

[73] See also, NCAB Reply at 25.

[74] ABC's comments at 3–6.

[75] Public Broadcast Licensees also state that candidates should be required to furnish in advance written scripts for "live" announcements, to enable licensees to ensure compliance. *Id* at 5.

[76] Joint comments of Public Broadcast Licensees at 6.

[77] We note that the NAB form contract for political advertising specifics that broadcasters are authorized to include appropriate sponsorship ID.

[78] S. Rep. No. 96, 92d Cong., 1st Sess. (1971), reprinted in 1972 U.S. Cong. 7 Ad. News 1773, 1774.

[79] *Id.* at 1780.

[80] Pulitzer comments at 15. Kahn and Jablonski respond that "there is nothing in the history of political broadcasting to suggest that there is any intention [on the part of broadcasters] to act in good faith."

[81] See, e.g., comments of AFB at 42; Covington and Burling at 27; Shamrock at 9.

[82] Comments of Fox at 4–5; Cox at 16; Covington and Burling at 9; Dow Lohnes and Albertson at 15; NBC at 41. AFB contends that the fact that fixed or non-preemptible time is purchased through the use of sophisticated advertising agencies "confirms that candidates are not 'steered' to fixed time, but purchase such time as a matter of their own informed choice." AFB Reply at 7.

disagrees, and states that most political time buyers are young and inexperienced.[83] INTV suggests that disclosure statements should not be required to include every conceivable package or option, but that the Commission could adopt a general rule that prohibits stations' use of selling techniques that obsecure the availability of less expensive types of spots for candidates.[84]

54. Numerous commenters emphasize that there was no disclosure obligation prior to the 1990 Audit Report. They contend that the only requirement "implicit" in the LUC obligation was that broadcasters act in good faith.[85] Thus, many commenters request that the Commission make an explicit finding that, prior to 1990, there was no required affirmative course of conduct with respect to disclosure.[86] Conversely, Kahn and Jablonski argue that ever since Congress enacted the lowest unit charge provision, broadcasters have had an affirmative obligation to disclose to candidates all discounts and options given to the most-favored commercial advertiser. They contend that the fact that the industry has developed an official position now demonstrates that broadcasters as a group have been collaborating to avoid the spirit and intent of the law.[87] They emphasize that without disclosure, "the statute is meaningless." [88]

55. *Decision.* The Commission believes that broadcasters must disclose and make available to candidates all discount privileges available to commercial advertisers, including the lowest unit charges for the different classes of time sold by the station. This requirement serves to ensure that candidates are able to avail themselves of their statutory rights and are not steered to purchase more expensive categories of time. Candidates must have full information about the discount privileges made available with various classes of time in order to ensure parity of treatment with commercial advertisers.[89]

56. Political broadcasting obligations are imposed upon station licensees, not on candidates and their representatives. The representatives' or candidates' knowledge, or lack thereof, does not replace the broadcaster's obligation to offer candidates the benefits of the lowest rates and any associated discount privileges for the various classes and lengths of time and time periods. It is thus incumbent upon the broadcaster to disclose to candidates all information concerning the lowest unit charges made available to commercial advertisers, together with the discount privileges associated by the broadcaster with those rates. The absence of such full disclosure hampers candidates' ability to evaluate what is being made available to them and is inconsistent with Congress' intent to place candidates on par with favored commercial advertisers. Indeed, the benefits of disclosure not only were undescored in the comments but were also made clear in the Commission's 1990 political audit. In a number of instances, the Commission noted that lowest unit charge issues arising from the audit stemmed in large measure from incomplete disclosure to candidates of individual stations' commercial sales practices.[90]

57. As noted *infra*, discount privileges afforded favored commercial advertisers include all sales practices which affect rates.[91] These include priorities against preemption,[92] time-sensitive make goods,[93] and any other privilege which essentially adds value to the spot purchased. Thus, in addition to disclosing to candidates the rates offered commercial advertisers for the various classes of time, broadcasters must also disclose all pertinent information about the privileges associated by the broadcaster with the rates.

58. We understand that implementation of the disclosure requirement is complicated by the divergent sales practices in the industry, the rapid changes in such practices, and the proliferation of individually negotiated packages and rates. We believe that, in light of the vast array of approaches to the sale of time, a Commission-sanctioned "disclosure form" would be impractical. The more reasoned approach would be to afford each broadcaster the reasonable discretion to decide how best to disclose its particular practices. However, we believe that, at a minimum, this disclosure should include:

(a) A description and definition of each class available to commercial advertisers which is complete enough to allow candidates to identify and understand what specific attributes differentiate each class;

(b) A complete description of the lowest unit charge and related privileges (such as priorities against preemption and make goods prior to specific deadlines) for each class of time offered to commercial advertisers;

(c) A description of the station's method of selling preemptible time based upon advertiser demand, commonly known as the "current selling level," with the stipulation that candidates will be able to purchase at these demand-generated rates in the same manner as commercial advertisers;

(d) An approximation of the likelihood of preemption for each kind of preemptible time; and

(e) An explanation of the station's sales practices, if any, that are based on audience delivery.

Finally, once disclosure is made, stations must negotiate in good faith to actually sell time to candidates in accordance with this disclosure.

59. While the method of disclosure is left to the discretion of individual stations, we believe that broadcasters can meet the disclosure obligation by reducing their sales practices, as noted above, to some kind of outline format that briefly describes the various rates and discount privileges available at the station. For example, a station need not list every rotation offered by the station, but must make clear that other rotations are available upon request if that is the case.[94] In addition, since our policies now require stations to include all negotiated package rates in their lowest unit charge calculations, see para. 93, *infra*, every individual negotiated deal does not need to be disclosed. We also understand that time is of the essence in the context of an election campaign. Accordingly, after a licensee has once made full disclosure to a particular candidate or the candidate's representative during a given campaign, full disclosure need not occur each time a buy is made, although any changes in

[83] MPC comments at 2.

[84] INTV comments at 14–15.

[85] *See, e.g.*, ABC comments at 9. ABC acknowledges, however, that a fact pattern demonstrating a pattern of deliberate concealment of rate options or steering would not be consistent with "good faith." *Id.*

[86] *Id.*

[87] Kahn and Jablonski comments at 5–6.

[88] Kahn and Jablonski Reply at 6. See also Pulitzer comments at 14 (agreeing with Commission's position that disclosure is inherent in the LUC obligation).

[89] However, we recognize that neither the Commission nor the Mass Media Bureau had articulated the disclosure requirement before September 1990.

[90] See, *e.g.*, Letters of December 12, 1991, to KGO Television, Inc.; KDFW–TV, Inc.; TVX Broadcast Group, Inc.; and Chronicle Publishing Company, all of which were adopted contemporaneously with this Report and Order.

[91] See discussion para. 61, *infra*.

[92] Preemption priorities are any hedges against the likelihood of preemption.

[93] Make goods are the spot announcements rescheduled as a result of technical difficulty or preemption.

[94] By the same token, stations need not disclose which commercial advertisers are getting which rates; rather, it is sufficient merely to disclose the rates themselves.

rates or other information that may arise subsequent to be initial disclosure (or subsequent candidate transactions) must be disclosed during each succeeding negotiation.

60. Finally, we understand that candidates or their representatives may wish to pursue specific purchase objectives with regard to a station and may not wish an oral or written catalogue of available rates. Clearly, a station cannot compel candidates or their representatives to read or listen to a presentation of rate packages. Rather, it is sufficient that the station attempt to inform candidates of its sales practices in accordance with the requirements set forth above.

B. Most-favored Advertiser

61. *Issue and Comments.* In response to our NPRM, several commenters argue that the most-favored advertiser standard applies only to rates and that Commission policies should not force stations to apply the concept to other station sales practices, such as make goods and preemption priorities. NBC and Cox state that the purpose of the 1972 amendments enacting the LUC provision was to place the candidate on par with a broadcast station's "most-favored commercial advertiser" with respect to advertising rates.[95] CBS argues that the notion of a most-favored commercial advertiser originally contemplated volume discounts in an era when time was sold at stable prices. Now, however, the concept of a most-favored commercial advertiser is a fiction because advertiser advantages are dispersed in a wide variety of ways beyond price discounts.[96] Cox contends that the Commission's interpretations of benefits that must accrue to candidates are now based on a composite picture of the most-favored commercial advertiser, and that no single advertiser would ever receive all the advantages that candidates must receive through the Commission's "cherry-picking" of benefits given to all commercial advertisers.[97] Thus, these commenters argue, the effect of the Commission's current policy is to afford candidates greater benefits than those actually conferred upon the "most-favored commercial advertiser."[98]

62. Conversely, Kahn and Jablonski argue that Section 315 was intended to put candidates on a par with the most-favored commercial advertiser, and thus, candidates should receive all of the same benefits. They observe that, for the most-favored commercial advertiser, class-of-time distinctions are "rare," preemption is extremely unlikely, timely make goods are provided, preemptions are not based exclusively upon price, and rates are guaranteed over the long term.[99] They argue that candidates should receive similar treatment. Moreover, they argue, for a major advertiser, stations do not sell time on a true auction basis—the major advertisers who pay lower volume prices will not get preempted if they object or are in the late stages of a buy, and, thus, higher priced spots for other advertisers are more likely to be preempted. Thus, Kahn and Jablonski assert, candidates should receive the preemption treatment given to the most-favored advertiser, not the station's "usual" preemption policy.[100]

63. *Decision.* We believe that we should continue to apply the most-favored advertiser standard not only to the advertising rates themselves but also to station sales practices and other discount privileges that improve the value of the spot to the advertiser. These would include make goods, preemption priorities, and any other factors that enhance the value of a spot. These characteristics effectively determine the particular class of time at issue. Hence, they must be disclosed and made available to candidates at the LUC. Even if it were true that no single advertiser would ever receive all such benefits (a conclusion some commenters dispute), nonetheless we believe that, because all such factors enhance the value of a particular class of time and improve the value of individual spots (even though the price itself does not necessarily reflect such value), each such benefit must be made available to candidates. Any other approach would be inconsistent with the statute's express directive that candidates be charged no more than the station's most-favored advertiser for the "same class" of time.

C. Classes of Time

64. *Issue and Comments.* Section 315(b) of the Communications Act requires that stations charge candidates, during the 45-day period preceding a primary and the 60 days preceding a general election, no more than the lowest unit charge for the same class and amount of time for the same period. Regarding classes of time, the Commission historically has stated that "fixed" [101] or "non-preemptible," [102] "preemptible with notice," [103] and "run-of-schedule" [104] constitute separate classes of time. [105] In addition, current Commission policy provides that there is only one class of "immediately preemptible" time for lowest unit charge purposes.[106] The NPRM sought comment on whether it is lawful to have more than one class of immediately preemptible, preemptible-with-notice, and non-preemptible time.

65. *Preemptible Time.* Several commenters argue that the Commission's decision, announced in the 1988 Public Notice,[107] to treat all immediately preemptible time as a single class of time confers extra benefits upon candidates not intended by the statute.[108] Moreover, some commenters point out that this decision was made without the benefit of public comment.[109] Greater Media, for example, argues that it is not fair to require stations to give refunds to candidates if any other preemptible rate clears at a lower rate during the same time period. Greater Media notes that the advertiser placing the lower-priced spot took a greater risk of not clearing than the political candidate, and the spot was priced accordingly. By requiring a rebate, the candidate is achieving a higher preference against preemption without having to pay for it.[110]

[95] NBC comments at 25.

[96] CBS comments at 4.

[97] Cox comments at 15.

[98] See, *e.g.*, the comments of Cox at 15; CBS at 4–5; NBC at 25.

[99] Kahn and Jablonski comments at 17.

[100] *Id.* at 11, 15.

[101] Fixed or fixed position connotes the guarantee of placement during a particular time *(e.g.*, the spot will run at the 6:45 p.m. break, Wednesday, January 1, 1992).

[102] Non-preemptible connotes any spot which is not subject to preemption during a particular daypart, program or time period. By comparison to a fixed position, non-preemptible may run anywhere during the designated program, daypart or time period.

[103] Preemptible with notice is preemptible time which cannot be preempted without prior notice given by a specific time, for example, one week before airing. Often, at the time notice is provided, the advertiser is accorded the option of paying more for the spot in order to avoid preemption.

[104] Run-of-schedule refers to preemptible time that can be scheduled at any time during the broadcast day at the discretion of the station.

[105] See 1988 Public Notice, for FCC Rcd 3823, 3824 (1988).

[106] *Id.*

[107] *Id.*

[108] See, *e.g.*, comments of Shamrock at 14; Koteen and Naftalin at 15–19; AFB at 21; reply comments of Gray at 4. Several commenters, such as Covington and Burling, extensively cite the legislative history of FECA and Section 315(b) to show that early provisions requiring that candidates be sold fixed time at run of schedule or preemptible rates were specifically rejected by Congress. Covington and Burling comments at 2–3.

[109] See comments of AFB at 5, NAB at 3, Gray Reply at 3, NCAB Reply at 2.

[110] Greater Media comments at 7.

66. The vast majority of commenters contend that evolving sales practices have significantly complicated the calculation of the LUC. They seek flexibility in creating classes of time, made available to both commercial and political advertisers, so that they can adapt to individual market demands.[111] Most argue that the disclosure requirements will protect candidates against any manipulation of rates resulting from allowing broadcasters to create separate classes of time.[112] Thus, the commenters generally suggest that the Commission should allow flexibility in creating classes of time, require full disclosure, and articulate a general rule that stations cannot use class distinctions to defeat the purpose of the LUC requirement.[113] With respect to this latter point, the parties assert that candidates should continue to be allowed to challenge classes viewed as manipulative or discriminatory.[114]

67. NBC argues that each succeeding price increase in immediately preemptible time should be treated as a separate class for LUC purposes.[115] Other commenters contend that "class of time" is a function of two interrelated attributes: preemptibility and spot location.[116] A change in either attribute affects the desirability to the advertiser of the particular spot (demand) as well as the availability of time slots for it (supply), and thus is reflected in the price. The broader the time periods (spot location parameters) selected by the advertiser, the lower the value of the spot to the station because the licensee has increased flexibility in scheduling it. The commenters outlining these principles argue that the effect of such attributes should not be ignored when identifying appropriate "classes" of time.[117]

68. In contrast, Kahn and Jablonski argue that changing sales practices makes the calculation of LUC easier, not more complex. The contend that advertising rates are "so competitive that heavy advertisers are able to negotiate cheap rates without any distinction based on class." They thus conclude that there is only one class of time—negotiated—and further claim that Section 315(b) requires that the lowest rate of the station for each daypart should be provided to candidates.[118] These commenters also cite the court's statement in *Hernstadt* v. *FCC*[119] that "if broadcasters have total discretion to define 'class of time' . . . they will be free to return to pre-1952 rate discrimination simply by defining a 'political' class of time, with higher rates than other classes, and offering candidates only 'political' time."[120] They thus argue against broad discretion, claiming that it will only lead to abuse.

69. ABC asks the Commission to clarify that run of schedule is a separate class of preemptible time that gives broadcasters maximum scheduling discretion because the station merely has to place the ads so that the advertiser's overall rating point objective is met.[121] Koteen and Naftalin contend that "class of time" should be defined to refer primarily to distinctions affecting the likelihood that a particular spot will run at a particular time.[122] Kahn and Jablonski respond that a spot's chances of preemption are not governed by price alone, and argue that whether a spot is preempted or not depends upon how "favored" the advertiser is.[123]

70. *Decision.* We are persuaded by the arguments of the overwhelming majority of commenters that our current policy of treating all immediately preemptible time as an all-inclusive single class does not appear to effectuate what Congress envisioned when it enacted Section 315(b). We accordingly conclude that our policy should be changed to reflect more accurately the realities of the advertising marketplace. As we stated in the NPRM, it is our understanding that, over the years, the industry has moved away from a system based primarily on the sale of volume discounts to a system that uses a "grid card" to give stations greater flexibility when selling inventory. The latest development appears to be the introduction of a "yield maximization" system, under which spots are in essence auctioned to the highest bidder and the price of a given class of time changes constantly to respond to fluctuating supply and demand.[124]

71. Under certain current sales practices, a commercial advertiser may choose to take a significant prospective risk of nonclearance—and pay less accordingly—that a political advertiser would not accept. Under our current method of interpreting all immediately preemptible time as a single class, however, a candidate could select a "higher" priced level of immediately preemptible time to ensure that his ad runs, ostensibly paying that higher price for associated increased preemption protection, knowing that he will nevertheless be rebated to the lowest priced preemptible level that ultimately clears—without having assumed the additional risk of nonclearance that other advertisers have accepted when they purchased time at the lower price. Thus, the "higher" payment is a fiction, and the candidate is essentially afforded "fixed" status at a preemptible rate, a result specifically rejected by Congress.[125]

72. Nonetheless, as the court noted in *Hernstadt* v. *FCC*, 677 F.2d 893 (D.C. Cir. 1980), broadcasters do not have total discretion under Section 315(b) to define classes of time in any manner.[126] We thus believe the better interpretation of the law is that, while stations may not use class distinctions to defeat the statutory purpose of the LUC requirement, they may establish and define their own reasonable classes of immediately preemptible time. The differences between classes, however, may not be based solely upon price or the identity of the advertiser; rather, some other demonstrable benefit, such as varying levels or assurances of preemption protection, scheduling flexibility, or special make-good benefits, must be used to distinguish between different classes of immediately preemptible time. Furthermore, as discussed above, we hereby hold that all classes of time must be disclosed to candidates and made available in compliance with the lowest unit charge requirements.[127] To further

[111] See, *e.g.*, Comments of Paducah at 4; INTV at 7; Cox at 19; Dow, Lohnes and Albertson at 15; ABC at 7. NCAB notes that section 315(b) was intended to be interpreted so as to "make use of each broadcaster's own commercial practices rather than impose on him an arbitrary discount rate applicable to all stations without regard to their differences," citing the Senate Report on the 1972 amendments establishing the LUC requirements. NCAB Reply at 13.

[112] See, *e.g.*, comments of Paducah at 2.

[113] See, *e.g.*, comments of INTV at 7, 13 and 15.

[114] See, *e.g.*, Paducah at 7; Shamrock at 12–13; Busse Broadcasting at 6; AFB at 27. AFB also argues that the high cost of auditing sales rates after the ads run, which is necessary to enable the station to provide any requisite rebates throughout such an "extensive" class of time, imposes significant extra costs upon all advertisers. *Id.* at 30.

[115] NBC comments at 29.

[116] Comments of Fox at 6.

[117] Fox Reply at 7.

[118] Kahn and Jablonski at 15.

[119] 677 F.2d 893 (D.C. Cir. 1980).

[120] *Id.* at 900, cited in Kahn and Jablonski Reply at 9.

[121] Comments of ABC at 8.

[122] Koteen and Naftalin comments at 32.

[123] Kahn and Jablonski Reply at 10.

[124] NPRM at para. 19.

[125] See 117 Cong. Rec. 29,026–29 (1971).

[126] See *Hernstadt* v. *FCC*, 677 F.2d 893 (D.C. Cir. 1980).

[127] Of course, stations will be required to provide timely rebates to candidates in the event that a commercial advertiser's spot clears at a lower rate within the same class of time, as established and disclosed by the station.

safeguard against possible abuse in the creation of various classes, candidates will be able to file complaints with the Commission to challenge classes viewed as manipulative or discriminatory.

73. These same principles apply to establishing permissible classes of "preemptible with notice" time. Under our new policy, licensees will be allowed to establish reasonable classes of time (such as preemptible with one day's, two days', one week's or two weeks' notice) so long as they clearly define all such classes, disclose them to candidates, and offer all such classes of preemptible with notice time to candidates in compliance with the lowest unit charge requirements.[128]

74. *Non-preemptible.* The NPRM also sought comment on whether non-preemptible and fixed (or "fixed position") should be considered distinct classes for LUC purposes and, if so, how each type should be defined.[129] Few candidates address whether "fixed position" and "non-preemptible" should be treated as separate classes of time. Gillett supports this approach, proposing that "fixed position" should refer to spots designated to air at specific times on specific days, and "non-preemptible" should refer to spots designated to air in a particular time period or on particular days that cannot be preempted for any reason by any other spot except for a fixed position spot.[130] Fox contends that "non-preemptible" means that the spot may not be deleted by the broadcaster once scheduled, but that the station has flexibility in placing the spot within the same time period or daypart specified by the advertiser.[131]

75. *Decision.* Consistent with our decision to give licensees greater discretion in establishing different classes of immediately preemptible and preemptible with notice time, we conclude that stations may treat non-preemptible and fixed position as distinct classes of time, provided that they articulate clearly the differences between such classes, fully disclose them to candidates, and make them available to political candidates in compliance with the lowest unit charge requirements.

76. *Candidate-Only Class of Time.* In our 1988 Public Notice, we recognized that "non-preemptible 'fixed rate' spots are frequently offered to political candidates only." [132] We noted that rates for non-preemptible time are typically higher than preemptible rates because they carry a guarantee of airing at a particular time, and further recognized that because of this guarantee, candidates "often choose to pay the higher non-preemptible rate." [133] In its "Questions and Answers" released following the 1990 political programming audit, the Mass Media Bureau informed licensees that broadcasters "can charge candidates a premium for a non-preemptible class of time, only if such a higher priced class of time is also made available to commercial advertisers." [134] It stated further that a station cannot create a special class of non-preemptible time that it knows only candidates will purchase while at the same time offering a less expensive "preemptible" class to commercial advertisers that in reality offers virtually the same benefits as the higher priced class of time.[135]

77. *Issues and Comments.* The NPRM sought comment on our existing policies concerning the creation of candidate-only classes of time. In response, many parties argued that stations should be able to sell a special class of fixed or non-preemptible time to candidates, regardless of whether any commercial advertisers choose to purchase such time.[136] Most complained that such a practice was clearly condoned by the 1988 Public Notice, and that the 1990 Questions and Answers' prohibition of such a practice was a radical departure from precedent that should be reversed.[137] These commenters also contend that broadcasters should be able to create a special class of time to deal with the candidates' special needs and that any concern about higher rates can be dealt with through adequate disclosure requirements.[138] Such a rate is justified, they say, because "candidates' demand for certainty in the scheduling and broadcast of their political advertising messages is relatively inelastic." [139]

78. Kahn and Jablonski argue, however, that if a broadcaster has not actually sold fixed time to commercial advertisers, there is no objective method for determining a fixed LUC.[140] They contend that "approving a fixed political rate would be tantamount to granting the industry a license to overcharge." [141]

79. CBS suggests that, if the Commission prohibits sales of non-preemptible time to candidates unless the licensee has also made *bona fide* efforts to sell such time to commercial advertisers, an offer of non-preemptible time to commercial advertisers should be presumed to be *bona fide* so long as it is included on the commerical rate card, even if no commercial advertiser buys it.[142] Kahn and Jablonski acknowledge that "if a record of good faith efforts to comply existed, this concept [creation of a special class of fixed time at a discount rate for candidates] might merit consideration." [143]

80. *Decision.* The Commission will continue to prohibit the creation of a special, premium-priced class of time that is sold only to candidates. While we recognize that candidates often seek to purchase fixed or non-preemptible spots because they are more suited to candidates' needs, we are concerned that allowing stations to create a special class of time sold *only* to candidates would lead to abuse. We will, however, permit stations to sell to candidates premium-priced fixed or non-preemptible time if (1) such a higher priced class of time is made available on a *bona fide* basis to *both* candidates and commercial advertisers, and (2) no lower-priced class of time (*i.e.*, a preemptible class) sold to commercial advertisers is functionally equivalent to the non-preemptible class.

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[128] We note that nothing herein changes our current policy that run-of-schedule time is a separate class of time that gives broadcasters maximum scheduling discretion in that the broadcaster is merely required to place the ads purchased so that the advertisers' overall rating point objective is met. We note, however, that as in the case of any other class of time offered by a licensee to commercial advertisers, information regarding run-of-schedule time must be disclosed and the class must be made available to candidates.

[129] *NPRM*, 6 FCC Rcd at n.63.

[130] Gillett comments at 13.

[131] Fox Reply at 5.

[132] 1988 Public Notice, 4 FCC Rcd 3823, 3824 (1988).

[133] *Id.*

[134] Questions and Answers Relating to Political Programming Law, 68 RR 2d 113 (1990).

[135] *Id.*

[136] *See generally*, comments of CBS at 7; Shamrock at 5; NBC at 32; Cox at 21. MPC agrees that the law permits broadcasters to structure both preemptible and non-preemptible classes of time for candidates. MPC comments at 4.

[137] Comments of CBS at 7–8; Shamrock at 5; Cox at 21; Paducah Newspapers at 5.

[138] See, *e.g.*, comments of NBC at 32. NBC further notes that the 1990 Questions and Answers released by the Bureau appeared to create a *per se* prohibition against selling fixed time to candidates if a licensee has not sold fixed time to any commercial advertiser. By contrast, NBC claims, the NPRM appears to indicate that the Commission would replace such a *per se* prohibition with a case-by-case analysis to determine whether a station has sold what is actually "fixed" time to a commercial advertiser under a "preemptible" label, finding a violation if the same opportunity was not made available to candidates. NBC comments at 36. NBC states that such a refinement of the prior policy that permitted the sale of fixed time to candidates only is appropriate and would be consistent with the requirements of Section 315(b). *Id.* at 38.

[139] NCAB Reply at 15.

[140] Kahn and Jablonski comments at 10.

[141] *Id.* at 11.

[142] CBS comments at 10.

[143] Kahn and Jablonski comments at 5.

81. The Commission will view a preemptible class as functionally the same as a non-preemptible class if, due to the station's own priorities against preemption or other discount privileges, a commercial advertiser is, in practice, assured of not being preempted while paying a lower preemptible rate. The Commission will not require that commercial advertisers actually *purchase* a non-preemptible or fixed class; rather, to be considered *bona fide*, the class must be offered to commercial advertisers and must legitimately be available to them.[144]

D. Weekly Rotations

82. *Issue and Comments.* In the NPRM, we noted that stations increasingly sell preemptible time to advertisers in weekly rotations.[145] Under this system, an advertiser purchases one or more preemptible spots to run over the course of the week during pre-determined dayparts. The specific time and day that each spot airs is determined by the station; the only constraint is that each of the advertiser's spots must run during the chosen dayparts. As stated in the NPRM, the lowest unit charge for preemptible time sold by stations using weekly rotations is the lowest price that any advertiser paid in a particular rotation during a particular week.

83. Most commenters agree that LUC rates should be permitted to fluctuate week to week if time is sold in weekly rotations, with some commenters stating that the LUC may vary even more often.[146] For example, Fox observes that, for prime time, rates may vary on a daily or even per-program basis.[147] Thus, the LUC for each class of service could be determined on a daily, program-by-program basis.[148] Similarly, CBS observes that the LUC may vary program to program in the same time spot in a given week, week to week within a given program, and week to week for weekly rotations.[149]

84. ABC asks the Commission to clarify that different time blocks offered in weekly rotation plans are different "periods" for LUC purposes, whether or not they overlap. For example, a 9 a.m. to 4 p.m. rotation is not the same as 3 p.m. to 4 p.m. ABC at 14. Similarly, CBS contends that "Geraldo," Monday-Friday is one class, while Monday, 8 p.m. to 10:30 p.m. (during which Geraldo may be aired) is a separate class.[150] Fox agrees, stating that Tuesday, 12 p.m. to 5 p.m., Tuesday, 4 p.m. to 5 p.m. and Monday-Friday, 4 p.m. to 5 p.m. are all separate rotations and should be treated as separate classes because they offer the station different degrees of scheduling flexibility.[151]

85. *Decision.* The Commission will continue its policy of permitting stations to calculate the lowest unit charge on a weekly basis in connection with the sale of weekly rotations. This policy recognizes the fact that many stations sell preemptible time on a weekly basis and that the lowest price paid by any advertiser may vary from week to week. Stations, however, must verify that the lowest unit charge is the lowest price paid by any advertiser during a given period in the relevant week, including those commercial advertisers or other political candidates whose spots appeared in the relevant week but who may have contracts that are in effect over the course of several weekly rotations.

86. In addition, the Commission will continue to recognize that distinctly different rotations constitute separate periods of time for purposes of calculating lowest unit charge, regardless of whether or not they overlap. Distinctly different rotations are rotations that have meaningful differences in value to an advertiser. For example, a radio drive-time rotation of 6 a.m. to 9 a.m. is a distinctly different rotation from a 6 a.m. to 3 p.m. rotation because of the high possibility that the advertiser's spot will run in the less valuable 10 a.m. to 3 p.m. time period. If, however, the second and less expensive rotation is 6 a.m. to 10 a.m., the rotations would not be considered distinctly different because of the small likelihood that the spot will air outside of the prime time drive period of 6 a.m. to 9 a.m.

87. In a similar vein, we will also continue our policy of recognizing that prime-time programs can differ in value on a program-by-program basis. Where such differences are reflected in a station's sales practices, we will allow the station to treat each prime-time program as a separate rotation or time period for purposes of calculating the lowest unit charge.

E. Increase in Rates During Election Period

88. *Issue and Comments.* Current Commission policy provides that stations may not increase rates for candidate advertising during the election period except for ordinary business practices, such as rate changes when new audience ratings are published, or seasonal changes, such as the start of a new schedule. As discussed in the preceding section, Commission policy also recognizes that, in some circumstances, rates for spots may vary from week to week, or even program to program.

89. The majority of commenters support retention of these Commission policies. MPC, however, asserts that major advertisers such as McDonald's, Procter & Gamble, Pepsi, and Bristol-Myers do not pay different rates for the same daypart or programs in different weeks; they get the same low rate because they are buying in volume.[152] Thus, MPC claims, candidate rates should not vary weekly. Kahn and Jablonski state that if licensees lock in rates for their most-favored commercial advertiser that do not vary weekly, then they should not be permitted to raise rates over the course of the election period for candidates.[153] These commenters add that licensees also should be required to allow candidates to place advance orders where the station's most-favored advertiser is entitled to do the same.[154]

90. *Decision.* The Commission will continue its policy of not permitting rate increases during election periods except in circumstances governed by "ordinary business practices," which we have defined in the past to include changes in audience ratings, seasonal program changes, and, for stations that sell time on weekly rotations, rate changes on a weekly basis. We also will continue to follow our current policy that candidates who contract to purchase time after the effective date of such a rate increase are entitled to the lower rates charged to other advertisers (commercial or political) who contracted for time before the rate increase so long as the spots are of the same class and amount of time. If, for example, a station has a long-term contract with a commercial advertiser that is less than the lowest rate sold on a weekly basis for a particular week, the

[144] Nothing in this decision precludes a station from offering a non-preemptible, candidate-only class of time at a discount to political advertisers. Nothing in the statute or its legislative history prohibits such a sales practice which would, in effect, confer a greater benefit upon candidates than that afforded to the station's most-favored advertiser.

[145] Weekly rotations connote time which can run anytime Monday through Friday during a particular program, daypart or time period at the station's discretion (*e.g.*, spot will run during Jeopardy, 7 to 7:30, at some point Monday to Friday).

[146] *See e.g.*, Shamrock comments at 18; AFB at 37; NAB at 17.

[147] Fox comments at 7–8.

[148] Fox Reply at 13.

[149] CBS comments at 12.

[150] *Id.* at 11.

[151] Fox comments at 7.

[152] MPC comments at 4.

[153] Kahn and Jablonski comments at 13.

[154] *Id.* at 14.

long-term contract rate is the lowest unit charge for those weeks in which spots are aired for the same class and amount of time. In addition, as the commenters note, stations may have different rates for various days and programs during prime time [155], or, indeed, for any program based on audience ratings. As discussed above, if different programs have different rates, the lowest unit charge can change program-by-program.

F. Calculation of Rebates

91. *Issue and Comments.* The NPRM recognized that candidates may be entitled to rebates where they pay more than the lowest unit charge for a given class of time.[156] When addressing the issue of refunds, some commenters state that licensees should be required to review their program logs weekly to determine whether rebates are required, giving such rebates or credits promptly.[157] National Media emphasizes that the timeliness of rebates is critical to candidates, and suggests that the FCC should set guidelines on when rebates must be calculated. In particular, it recommends that notifications should be sent to candidates every Tuesday or Wednesday following air dates.[158]

92. *Decision.* The Commission recognizes that timely rebates are crucial to candidates, who need to use all available funds to continue their campaigns. We accordingly will henceforth require that stations review their program logs periodically during the election period to determine whether rebates are required, and issue any such rebates or credits promptly. Although we will not mandate a weekly review or designate specific days for the licensee to review its logs, we expect that licensees will conduct periodic audits on a timely basis, making every effort to afford necessary rebates or credits before the election when possible. Thus, recognizing candidates' need to maximize their immediate campaign funds, stations will be expected to provide rebates on a more expeditious basis as the election day approaches.

G. Package Plans

93. *Issue and Comments.* Many of the commenters express confusion about treatment of package plans [159] and ask the Commission to clarify its policy that individually negotiated packages must be included in a station's calculation of lowest unit charge. Commenters interpret the 1990 Audit Report as now concluding that all individually negotiated package plans are simply volume discounts that must be factored into the LUC for each segment of the package, whereas "special discount rates" or "special package plans" offered to all commercial advertisers constitute a separate class of time.[160] Many commenters argue that candidates should not be permitted to cherry-pick the most favorable rates from package plans without buying the entire package. For example, Fox contends that, while all package plans should be offered to candidates, each should be treated as a separate class of time, even if tailored for particular advertisers. It also asks the Commission to clarify that candidates must buy comparable combinations of dayparts to obtain package plan rates.[161] AFB argues that treating package plans as mere volume discounts is particularly unfair when applied to the value of spots in sports packages, because some games are more valuable than others.[162] It claims that sports packages should be special package plans constituting a separate class of time, not mere volume discounts; at a minimum, the licensee should have discretion to assign a separate value to each game for LUC purposes so long as the total value for all games does not exceed the price of the package.

94. Cox raises some package plan issues peculiar to cable systems. Cable package plans often involve spots on different cable channels that have different values. Cox asks the Commission to define cable "package plans" as established combinations of spots, announcements, channels and program sponsorships that constitute a separate class of time, and to state that a candidate must purchase a proportionate number of spots on all channels to qualify for the LUC package rate—candidates should not be permitted to dissect a package and establish a LUC for each channel separately.[163]

95. *Decision.* Based on a reevaluation of the statutory lowest unit charge requirements, we will discontinue our policy of permitting stations to treat "packages" as a separate class of time.[164] We will now require stations to include in their LUC calculations all rates offered to commercial advertisers in packages. This policy will apply to all packages, whether individually negotiated or generally available to every advertiser. Thus, stations must include rates found in any packages when computing or disclosing to candidates the lowest unit charge for any request for a class and length of time in the same time period.

96. The statutory language of Section 315(b) expressly entitles candidates to the lowest unit charge for the same class and amount of time for the same period. It is well established that, through this language, Congress intended for candidates to receive the benefits of rates without having to purchase in bulk or over extended periods of time.[165] Since packages are, in effect, volume discounts, we conclude that candidates will no longer have to buy an entire package or a proportionate package in order to derive the benefits of rates found in packages. In addition, today's sales practices regularly involve the sale of commercial time in individually negotiated packages. Because most-favored advertisers are usually those advertisers who individually negotiate packages on a monthly, quarterly, and sometimes yearly basis, it would frustrate the intent of the statute to exclude rates offered in those packages from LUC calculations.

97. The Commission, however, will continue to rely on the reasonable good faith judgment of the station as to the value of a particular spot in a package. For example, if a station has a sports package which includes several games at a single package price, then the per-game rate for lowest unit charge purposes is the total package price divided by the number of games. If, however, each game in a package is priced separately in the contracts with commercial advertisers, then the specified contract price will be the value of a spot in that game. A package rate may or may not be the lowest unit charge for a specific time period, depending on the price of other spots sold in the time period. A candidate is

[155] See 1988 Public Notice, 4 FCC Rcd at 3824.

[156] While this Report and Order provides stations with more discretion with respect to defining different classes of immediately preemptible and preemptible-with-notice time (see paras. 68–71, *supra*.), we note that stations are still required to provide rebates to candidates where they pay more than the lowest unit charge for a given class of time.

[157] See *e.g.*, Shamrock comments at 18, AFB at 37, NAB at 17.

[158] National Media comments at 8.

[159] As used herein, package plans are established combinations of spots offered at a given price, which are generally available to all advertisers.

[160] Koteen and Naftalin comments at 21.

[161] Fox comments at 9.

[162] AFB comments at 31.

[163] Cox comments at 23.

[164] Political Primer, 68 FCC 2d 2209, 2276–77 (1978); Political Primer, 100 FCC 2d 1476, 1515 (1984).

[165] *See* Sen. Rep. No. 96, 92d Cong., 1st Sess. (1971).

entitled to the lowest rate sold during the time period.[166]

98. We believe that this policy will simplify the calculation of lowest unit charge and will also simplify the disclosure process. Individual package terms will not have to be disclosed to candidates as long as the *rates* contained in those packages have been included in the station's calculation of the lowest unit charge for each program or daypart.

H. Merchandising Incentives and Bonus Spots

99. *Issues and Comments.* Numerous commenters contend that, while noncash promotional incentives [167] such as bumper stickers, mailings, displays, tickets, or trips won for achieving certain volume levels should be offered to candidates and commercial advertisers on the same terms and conditions, they should not be factored into LUC calculations because they are either too difficult to value or only add a *de minimis* value.[168] National media agrees that the use of billboards [169] and merchandising incentives such as trips and tickets should be excluded from LUC calculations, but contends that bonus spots of 30 seconds or longer should be factored into the LUC calculation.[170]

100. Kahn and Jablonski contend that there is no authority to exclude contingent bonuses [171] from LUC calculations, and argue that if the Commission allows stations to disregard contingent bonuses that vest after the election, then "stations would simply time such contingencies to occur after the election" so they could avoid lower LUCs.[172] Kahn and Jablonski also argue that all free spots or bonus spots of any kind should be factored into LUC calculations because stations use bonus spots to avoid the required candidate discounts.[173]

101. *Decision.* The Commission agrees with the commenters' assertion that noncash promotional incentives should not be included in calculations of lowest unit charge. Inclusion of such items is confusing, burdensome to broadcasters and appears not to offer candidates significant benefits on a per-spot basis. Moreover, inclusion of these items is not required in order to place candidates on a par with the most-favored advertisers. Rather, stations need merely to offer all noncash merchandise to political advertiser on the same basis as commercial advertisers. Therefore, the Commission will not require such promotional materials as mugs, bumper stickers, and trips to be included in the calculation of lowest unit charge.

102. Bonus spots will, however, be factored into LUC calculations, as the value of such spots is readily ascertainable. We believe, for example, that a reasonable way of calculating the value of bonus spots for purposes of determining the LUC would be to compute an "average cost," reached by dividing the total cost of the spots by the number of spots, including bonus spots, sold.

I. Fire Sale

103. *Issue and Comments.* The NPRM asked for comment on the Commission's "fire sale" policy, which provides that a discount on time afforded to a last-minute buyer establishes the lowest unit charge for its particular class of time throughout the election period. NAB contends that the fire sale policy should be abolished because it is unreasonable to force stations to apply a price given to liquidate perishable inventory to an entire campaign period.[174] CBS argues that a last minute discount should not establish the LUC for an entire election period, but that a last minute discount should not establish the LUC for an entire election period, but that a fire sale should establish the LUC only for the week, program or daypart (whatever the LUC fluctuation period is) in which the fire sale advertisements airs.[175] Pulitzer contends that candidates should be offered fire sale inventory on the same terms as commercial advertisers, but that they should only apply to a specific time period, such as weekend or special sporting event, for LUC purposes.[176]

104. Group W states that the fire sale policy should be retained because it is a "bright line test that is simple to use." [177] Kahn and Jablonski argue that "abolition of this doctrine would mean that stations would consider all spots sold below their artificially inflated political rate as 'fire sale' spots." [178]

105. *Decision.* The Commission will modify its interpretation of its "fire sale" policy. There has been considerable confusion with respect to how the sale of available inventory at the last minute affected the LUC. When the fire sale policy was first adopted in 1972, many, if not most, spots were sold on a non preemptible basis. As sales practices have evolved, however, the last-minute sale of available inventory has included preemptible time, which may be offered at different rates in relationship to supply and demand. Thus, applying the original fire sale policy results in a last-minute sale of preemptible time, changing the LUC for the entire statutory period even though higher rates in the weeks preceding the fire sale may have been fully justified by demand.

106. To correct this inequity, the Commission will now treat the sale of all available inventory at the last minute as affecting all classes of time, but only during the particular time period (daypart or program) in which the "fire sale" spots are broadcast. When a station faces the extraordinary situation of conducting a fire sale to dispose of excess inventory, it is not accurate to treat such sales as affecting only one class of time. The effect of a fire sale is to eliminate class distinctions. All sales on a "fire sale" basis are, in essence, sales of non-preemptible time. In such instances, in order to comply with the intent of Section 315(b), we believe that the fire sale rate should be considered the LUC for all classes of time sold, but only during the time period in which the fire sale actually occurs, *i.e.*, a daypart, program, day, etc.[179]

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[166] We also reiterate that make goods, preemption priorities, and other factors that add value to spots, may be associated with packages and will affect the lowest unit charge calculation. See para. 61, *supra*.

[167] Also known as advertiser incentive arrangements, these are products or other rewards given to advertisers who spend a certain minimum amount on advertising. They are often utilized to encourage advertisers to purchase time from a station.

[168] *See generally*, comments of Koteen and Naftalin at 47–48; INTV at 14–15. Kahn and Jablonski respond that excluding noncash incentives from LUC calculations would ensure their widespread use in the future so as to "subvert" the Communications Act. Kahn and Jablonski Reply at 11.

[169] Billboards are groups of short promotional announcements (10 seconds or less) listing the sponsors of advertising for a particular daypart or program.

[170] National media comments at 7.

[171] Contingent bonuses are bonus spots provided when a promised audience is underdelivered, for example, where only 4000 households of a promised 7500 are reached by the purchased schedule, requiring additional "contingent bonuses" to meet the promised goal.

[172] Kahn and Jablonski Reply at 14.

[173] *Id.* at 15.

[174] NAB comments at 17.

[175] CBS comments at 12.

[176] Pulitzer comments at 10–11.

[177] Group W comments at 14.

[178] Kahn and Jablonski Reply at 11.

[179] For example, if a station finds that it has excess inventory during a particular program or daypart and offers to sell those spots to any commercial advertiser for a significant discount—a "fire sale"—it is clear that any commercial advertiser purchasing those spots will receive essentially non—preemptible time regardless of what would normally run in that program of daypart. Thus, any candidate who purchased time during that same program or daypart must receive the fire sale rate regardless of the class of time the candidate originally purchased.

107. This approach is fully consistent with our policy that rates may change on a weekly basis in response to demand and our similar policy that rates for preemptible time, which may also fluctuate in response to demand, may be treated as separate classes of time. The fire sale rate must, of course, be made available to candidates. The availability of 'fire sale' spots also must be fully disclosed to candidates. Moreover, in response to the concerns of some of the commenters, we see little danger that abuses will occur if we adopt this policy. To the extent candidates have purchased time during the same time period in which the fire sale occurs, they will—to their benefit—be equally entitled to the fire sale rate. Further, if examination of a licensee's records revealed a pattern indicating that fire sale rates were afforded repeatedly only to particular advertisers, we would be alerted to the possibility of abuse.

J. Timely Make Goods

108. *Issue and Comments.* The NPRM asked for comment on the Commission's policy that a station must offer candidates make goods on a timely basis if it would so treat its most-favored advertiser. The Mass Media Bureau has also stated that timely make goods must be offered to candidates if they were ever offered to even one commercial advertiser. Numerous commenters contend, however, that it is unreasonable to require broadcasters to guarantee that preempted candidate spots will be made good prior to the election if the station has ever guaranteed a make good on a time-sensitive basis to a commercial advertiser.[180] These commenters argue that such a requirement effectively confers non-preemptible status upon all spots purchased by candidates without regard to the normal preemptibility of the spot, thus giving them better treatment than even the station's most-favored commercial advertiser.[181] Rather than mandating an absolute guarantee, they claim, the Commission should require broadcasters to employ a "best efforts" policy, based upon available inventory, to air the make good prior to the election.[182]

109. Cox and NAB contend that stations should be able to place limitations on pre-election make goods and should only be required to air any such make goods if they have provided similar time-sensitive make goods to commercial advertisers within a specified period of time preceding the relevant campaign period.[183] Outlet suggests that stations be permitted to provide make goods on a run of schedule basis, with the candidate given the opportunity to accept or reject the proffered make good.[184]

110. National Media argues that stations should be required to make good political spots within the planned air dates or the following week.[185] In response to the commenter's "best efforts" suggestion, Kahn and Jablonski argue that such a make good policy would have the same effect as no make good policy, and is "contrary to the Act." [186]

111. *Decision.* We continue to believe that licensees who offer timely make goods to commercial advertisers must also offer timely make goods to political candidates before election day. This policy comports with Congress' intent to place candidates on par with a station's most-favored commercial advertiser. Time-sensitive make goods are a discount privilege and assure timely rescheduling of preempted spots during comparable, or even superior, time periods. As we have previously noted, make goods form an integral part of the industry practice of selling preemptible time. In essence, they permit the broadcaster to maintain revenue from a preempted spot and at the same time enable the advertiser to retain the "reach" of the missed spot.

112. Accordingly, we will continue to require stations to offer make goods to candidates if make goods are also offered to the stations' commercial advertisers who purchased time in the same class. We agree, however, that the Act does not mandate that this obligation remain completely open-ended. In this regard, we believe that candidates should be entitled to timely make goods only if the broadcaster has provided a make good to any commercial advertiser during the year preceding the 60- or 45-day statutory LUC period. We believe that such a one-year period will be sufficient to establish the licensee's current make good practices with regard to its most-favored advertisers. We also affirm our prior ruling that make goods for political spots must air before the election "where the licensee would so treat its most-favored commercial advertiser where time is of the essence." [187]

K. Calculation of Make Good in LUC

113. *Issue and Comments.* The NPRM also reiterates the Commission's policy that prices paid for make goods must be included in the station's calculation of lowest unit charge.[188] Many commenters assert that make-good options should be provided to candidates on the same terms as to commercial advertisers, but that make-good spots should not be included in calculating the LUC.[189] According to the commenters, make goods can be used (1) to "make up" to a commercial advertiser for any inconvenience in preemption,[190] (2) to make up for any failure to meet audience reach or ratings requirements,[191] or (3) to correct for preemptions outside the station's control, such as network changes, technical problems, show cancellations or sports overruns.[192] The commenters argue that make goods given for such reasons do not confer additional benefits or discounts, and thus should not be included in LUC calculations.[193] Moreover, the commenters assert that an advertiser generally values a make good spot less than the original spot purchased, while another advertiser might place a higher value on the same time, so it is not fair or accurate to factor any charge for the make good into the LUC.[194]

114. *Decision.* As discussed above, we recognize that make goods are an integral aspect of the sale of preemptible time and that they may, in some circumstances, bestow and additional benefit or discount on the advertiser whose preemptible spot is made good. In order to ensure that political buyers also are able to enjoy those advantages, we will continue our policy of requiring stations to include make goods in LUC calculations. This means that, when

[180] Comments of Koteen and Naftalin at 29; Covington and Burling at 6; AFB at 33; NCAB Reply at 18.

[181] Comments of NBC at 44; Covington and Burling at 6; NCAB Reply at 18.

[182] Comments of NBC at 4; Koteen and Naftalin at 29; NCAB Reply at 18.

[183] Cox suggests sixty days before the statutory period (Cox comments at 16); NAB suggests six months before the LUC period (NAB comments at 17).

[184] Outlet comments at 4.

[185] National Media comments at 6.

[186] Kahn and Jablonski Reply at 11.

[187] 1988 Public Notice, 4 FCC Rcd at 3823.

[188] *Id.*

[189] See, *e.g.*, comments of AFB at 34; NBC at 44; Gillett at 18; INTV at 16; Cox at 25.

[190] Group W comments at 15.

[191] ABC comments at 15.

[192] Gillett comments at 17

[193] Cox further asks the Commission to confirm that, with respect to cable, make goods given for audience underdelivery on one cable channel should not impact the LUC on any substitute channel. We agree with this interpretation. For example, if an advertiser buys time on the Discovery Channel, fails to achieve the bargained-for audience reach and is then given a make good on TNT, that make good will not be presumed to have a separate value that must be included in the LUC calculations for TNT sales. Cox comments at 25.

[194] NBC comments at 44.

computing the LUC for a given class of time, a broadcaster must include the rate paid by an advertiser whose spot was "made good" during the relevant period.

115. Where the value of the make-good spot is equal to that of the original spot, our policy obviously will have no practical effect on the LUC, since the rate for either spot will be the same. We recognize, however, that stations sometimes choose to "appease" an advertiser whose spot has been preempted by running a make-good spot in a more valuable time period. In this situation, the advertiser receives an additional benefit or discount that should also accrue to candidates who have purchased the same class of time in the same period. Accordingly, we will require that, where a station places a make good in a more valuable program or daypart, the value of that make good must be factored into the calculation of the LUC for that more valuable program or daypart. Candidates purchasing the same class of time who have paid a higher rate for the program or daypart will be entitled to a rebate of the difference between the rate they paid and the rate of the made good spot.

116. In addition, the Commission will continue to permit exclusion from make-good calculations any make goods or bonus spots furnished to meet contracted-for promises of certain audience numbers, demographics, or ratings, when that is the station's practice for selling time to both commercial and political advertisers. Further, just as for commercial advertisers, if a candidate's promised audience delivery fails to be realized, the candidate is entitled to additional make-good or bonus spots in the same manner as commercial advertisers.

L. Sold-Out Time

117. *Issue and Comments.* The NPRM sought comment on whether preemptible time could ever be sold out since a buyer can offer to pay a higher rate and preempt an incumbent. ABC states that the Bureau's statement in the 1990 Questions and Answers that "unless the entire inventory is sold out on a non-preemptible basis, a licensee must sell to candidates at the commercial selling level for preemptible time" effectively creates mandatory access at odds with Section 315.[195] Other commenters note that price alone is not the driving force behind the availability of time because the disruption to program logs or potential advertiser dissatisfaction from preemption could outweigh the benefits from a slightly or even significantly increased rate.[196] Conversely, National Media asserts that preemptible time can never be sold out; MPC states that it is "highly unlikely" that preemptible time would ever be sold out, with the Olympics and the Super Bowl creating possible exceptions.[197]

118. *Decision.* We take this occasion to clarify our sold-out policy. This policy would not, as some commenters seem to believe, force stations to afford candidates access to a particular program. Such a concern confuses our sold-out policy as it refers to LUC with the concept of "reasonable access" for federal candidates. Our LUC sold-out policy states that stations may not tell candidates that the preemptible time is sold out in order to force them to purchase non-preemptible spots in the same program or time period. There is no requirement, however, that stations sell candidates spots in a particular program in the first place. We merely state that once a station decides to sell time within a given period, it cannot inflate the price of a spot sold to a candidate beyond the minimum necessary to clear by claiming that all "preemptible" time is sold out.

119. We believe that this policy should be maintained in order to assure that candidates are not improperly steered toward buying fixed time in a program on the basis that all the preemptible time in a particular show is sold out. Preemptible time is not only a class of time but also a discount privilege, and, as such, it cannot be both offered to commercial advertisers and denied to candidates. In addition, preemptible time, by its very nature, cannot be "sold out" because an offer of a higher price will almost always preempt a lower priced spot. In the event a station uses varying levels of preemption protection as a means of establishing different classes of immediately preemptible, time, it may disclose to candidates that lower priced spots are unlikely to clear in light of previous sales.[198] However, we emphasize that stations may not use this disclosure process to persuade candidates to buy premium-priced fixed or nonpreemptible spots by claiming that a given level of preemptible time has been fully sold and, therefore, is unavailable.

V. Political File Requirements

120. *Issue and Comments.* In addition to those requirements spelled out in the Commission's rules, the Commission has developed policies aimed at assuring complete, accurate and readable political files.[199] Some commenters maintain that the Commission should leave the political file rules alone—they are adequate and should not be made more burdensome.[200] Others request that the Commission establish a uniform political file format for licensees to follow.[201] Some commenters specify what documents should be included in the file. MPC suggests that all rates as disclosed to candidates should be placed in the political file.[202] CBS suggests that the file include a record of all requests for time, records of time purchased, the time/date/rate/class of each spot, a notation if the spot was not aired as originally purchased (preempted, rescheduled, made good), but that it should not be required to include a notice of the exact time each ad runs because that "would be too burdensome."[203]

121. Kahn and Jablonski state that the file should be self-explanatory and should provide descriptions of the various classes of time; spots ordered; rate applied; whether and when spot ran; if preempted, whether a make good was provided; the amount of refunds, if any; reconciliation of any rebates; rate cards and a written statement of the licensee's political policies.[204] Wilson requests that the Commission confirm that the requirement to place advertising orders in the public file "as soon as possible" means as long as it takes to make a copy and put it in the file without delay.[205]

[195] Comments of ABC at 12.

[196] Dow Lohnes and Albertson comments at 31.

[197] Comments of National Media at 7; MPC at 5.

[198] We note that stations selling preemptible time on a strict auction basis (*i.e.*, price is the only variable and thus only a single class of time is involved) could not steer candidates to purchase a premium-priced class of time (for example, "non-preemptible" time) by informing them that all preemptible time was "sold out," because, by definition, such preemptible time cannot be sold out.

[199] Section 73.1940(d) of the Commission's rules requires broadcasting stations to: . . . [K]eep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. When free time is provided for use by or on behalf of such candidates, a record of the free time provided shall be placed in the political file. All records required by this section shall be placed in the political file as soon as possible and shall be retained for a period of two years.

47 C.F.R. 73.1940(d) (emphasis added). See also, 47 C.F.R. Section 76.205(d) for cable provision.

[200] Gillett comments at 19.

[201] *Koteen and Naftalin comments at 48. AFB* also suggests that the Commission specify what information related to rebates should be maintained in the political file. AFB comments at 44.

[202] MPC comments at 5.

[203] CBS comments at 31.

[204] Kahn and Jablonski comments at 16.

[205] Wilson comments at 2.

122. PBS suggests that the Commission should accept the good faith exercise of licensee judgment in organizing and maintaining the public file, enforcing a "rule of reason."[206] PBS maintains that there should be no penalties for good faith attempts at compliance because there can be reasonable disputable violations of the file rules.

123. *Decision.* We believe that our current rule 73.1940(d) adequately addresses the political file requirements and that continuation of our existing policies will best serve the interests of both candidates and broadcasters. We will continue to require that stations maintain neat and accurate political files so that anyone viewing the contents of the file will be able to readily discern what the station has sold or otherwise provided to each and every candidate.

124. In addition, the rule requires stations to document the "disposition of requests." Therefore, we will continue the policy requiring a station to file information showing the schedule of the time provided or purchased, when spots actually aired, the rates charged and the classes of time purchased. This vital information is necessary to determine whether a station is affording equal opportunities and whether the candidate is getting favorable or unfavorable treatment in the placement of spots, especially in light of the wide rotations offered by most stations. We will also continue to interpret "as soon as possible" as meaning immediately, under normal circumstances.

Initial Regulatory Flexibility Analysis

125. Reason for Action. This Report and Order is intended to serve as a comprehensive guide to political broadcasting laws and supercedes previous Commission interpretations of the political broadcasting and cablecasting provisions of the Communications Act.

126. *Objectives.* The Commission codifies and updates its political programming policies, through revised rules addended to the Report and Order, and as an official policy statement.

127. Legal Basis. The action is authorized under sections 4(i), 4(j), 301, 303(i), 303(r), 312, 315 and 317 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 154(j), 301, 303(i), 303(r), 312, 315 and 317.

128. Reporting, Recordkeeping and Other Compliance Requirements. None.

[206] PBS comments at 14.

129. Federal Rules Which Overlap, Duplicate or Conflict With These Rules. None.

130. Description, Potential Impact, and Number of Small Entities Involved. Rule changes as a result of this proceeding affect broadcast licensees and cable television system operators. After evaluating the comments in this proceeding, the Commission examined the impact of any rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

131. Any Significant Alternatives Minimizing the impact on Small Entities Consistent with the Stated Objectives. None.

Ordering Clauses

132. Accordingly, *it is ordered* that pursuant to the authority contained in sections 312(a)(7), 315, and 317 of the Communications Act of 1934, as amended, 47 U.S.C. sections 312(a)(7), 315, and 317, parts 73 and 76 of the Commission's rules, 47 CFR parts 73 and 76, are amended, as set forth below. Moreover, because the primary season for the 1992 presidential elections begins January 4, 1992, and because candidates and broadcasters need certainty in the administration of our political broadcasting rules, pursuant to 5 U.S.C. Section 553(d)(3), we find good cause to make these rules effective January 4, 1992.

133. *It is further ordered* that MM Docket No. 91-168 is terminated.

134. Further information on this proceeding may be obtained by contacting Milton O. Gross, Robert L. Baker, or Marsha J. MacBride, Mass Media Bureau at (202) 632-7586, or Diane Hofbauer, Office of General Counsel, at (202) 632-7020.

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Appendix A

Formal Comments

Alabama Broadcaster's Association (ABA)
American Broadcasting Company (ABC)
American Family Broadcast Group, Inc. (AFBG)
Association of Independent Television Stations, Inc. (INTV)
Busse Broadcasting Corp. (Busse)
California State University (San Diego State University) (CSU)
CBS Inc. (CBS)
Covington & Burling: Benedek Broadcasting Group; Lin Broadcasting Corporation; Midwest Television, Inc.; Post-Newsweek Stations, Inc.; Providence Journal Company; The Spartan Radiocasting Company (Covington and Burling)
Cox Cable Communications, Inc. (Cox)
Dow, Lohnes & Albertson: A.H. Belo Corporation; Booth American Company; Brill Media Company, Inc.; Cosmos Broadcasting Corp.; Cox Enterprises, Inc.; Diversified Communications; Great Empire Broadcasting Corp.; Multimedia, Inc.; Stauffer Communications, Inc. (Dow, Lohnes and Albertson)
Federal Election Commission (FEC)
Fisher, Wayland, Cooper & Leader, State Broadcasters Association of: Arizona, Connecticut, Iowa, Maryland/District of Columbia/Delaware, Minnesota, Missouri, New Hampshire, New Jersey, Oklahoma, Tennessee, West Virginia, Wisconsin. (SBA)
Gillett Communications, *et al.* (Gillett)
Greater Media, Inc. (Greater Media)
Hogan & Hartson: Fox Television; Albritton Communications Company; Federal Broadcasting Company (Hogan and Hartson)
Joint Comments of Public Broadcasting Licensees (JCPBL)
KIVI Channel 6 Television (KIVI)
Koteen & Naftalin on Behalf of 8 Broadcasters: Great American Television and Radio Company, Inc.; Kelly Broadcasting Company; Kelly Television Company; McGraw-Hill Broadcasting Company, Inc.; The New York Times Company; Renaissance Communications Corporation; Castle Broadcasting; WFRV-TV, Inc. (Koteen and Naftalin)
Law firms: Barnes, Browning, Tanksley & Casurella; Long, Aldridge, & Norman; Savell & Williams; Venema, Towery, Thompson & Chambliss (Kahn & Jablonski)
Media Placement Consultants, Inc. (MPC)
National Association of Broadcasters (NAB)
National Media Inc. (National Media)
NBC, Inc. (NBC)
North Carolina Association of Broadcasters (NCAB)
Osborn Communications Corp. (Osborn)
Outlet Broadcasting, Inc. (Outlet)
Paducah Newspapers, Inc. (Paducah)
Public Broadcasting Service (PBS)
People for the American Way (Citizen's Petition)
People for the American Way/Media Access Project (PAW/MAP)
Pulitzer Broadcasting Company and WDSU Television, Inc. (Pulitzer)
Reed Smith Shaw & McClay on Behalf of: California Oregon Broadcasting, Gannett Co., Inc.; Gaylord Broadcasting Company; Lee Enterprises, (RSSM)
RTNDA/Society of Professional Journalists (RTNDA)
Shamrock Broadcasting, Inc. (Shamrock)
State of Connecticut
Telecommunications Research and Action Center & Washington Area Citizens Coalition Interested in Viewers' Constitutional Rights (TRAC)
Washington State University (WSU)

Westinghouse Broadcasting Company, Inc. (Westinghouse)
Wilson Communication Services, Inc. (Wilson)

Reply Comments

Allbritton Communications Company (Allbritton)
American Family Broadcast Group, Inc. (AFB)
Association of Independent Television Stations, Inc. (INTV)
Channel 40 Licensee, Inc. (KTXL)
Gray Communications Systems (Gray)
Law Firms: Barnes, Browning, Tanksley & Casurella; Long, Aldridge, & Norman; Savell & Williams, Venema, Towery, Thompson & Chambliss (Kahn & Jablonski)
Media Placement Consultants, Inc. (MPC)
Media Plus
National Association of Broadcasters (NAB)
North Carolina Association of Broadcasters (NCAB)
People for the American Way/Media Access Project (PAW/MAP)
Public Broadcasting Licensees (PBL)
Radio—Television News Directors Associations, Reporters Committee for Freedom of the Press and Society of Professional Journalists (RTNDA)
Telecommunications Research and Action Center and Washington Area Citizens Coalition Interested in Viewers' Constitutional Rights (TRAC)

Title 47 CFR parts 73 and 76 are amended as follows:

PART 73—[AMENDED]

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

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

2. Section 73.1940 is revised to read as follows:

§ 73.1940 Legally Qualified Candidates for Public Office.

(a) A legally qualified candidate for public office is any person who:

(1) Has publicly announced his or her intention to run for nomination or office;

(2) Is qualified under the applicable local, State or Federal law to hold the office for which he or she is a candidate; and

(3) Has met the qualifications set forth in either paragraphs (b), (c) or (d) of this section.

(b) A person seeking election to any public office including that of President or Vice President of the United States, or nomination for any public office except that of President or Vice President, by means of a primary, general or special election, shall be considered a legally qualified candidate if, in addition to meeting the criteria set forth in paragraph (a) of this section, that person:

(1) Has qualified for a place on the ballot, or

(2) Has publicly committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office.

(c) A person seeking nomination to any public office, except that of President or Vice President of the United States, by means of a convention, caucus or similar procedure, shall be considered a legally qualified candidate if, in addition to meeting the requirements set forth in paragraph (a) of this section, that person makes a substantial showing that he or she is a bona fide candidate for such nomination: Except, that no person shall be considered a legally qualified candidate for nomination by the means set forth in this paragraph prior to 90 days before the beginning of the convention, caucus or similar procedure in which he or she seeks nomination.

(d) A person seeking nomination for the office of President of Vice President of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered a legally qualified candidate only in those States or territories (or the District of Columbia) in which, in addition to meeting the requirements set forth in paragraph (a) of this section:

(1) He or she, or proposed delegates on his or her behalf, have qualified for the primary or Presidential preference ballot in that State, territory or the District of Columbia, or

(2) He or she has made a substantial showing of a bona fide candidacy for such nomination in that State, territory or the District of Columbia; Except, that any such person meeting the requirements set forth in paragraphs (a)(1) and (2) of this section in at least 10 States (or nine and the District of Columbia) shall be considered a legally qualified candidate for nomination in all States, territories and the District of Columbia for purposes of this act.

(e) The term "substantial showing" of a bona fide candidacy as used in paragraphs (b), (c) and (d) of this section means evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, and establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his campaign manager). Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing.

3. Section 73.1941 is added to read as follows:

§ 73.1941 Equal Opportunities.

(a) *General requirements.* Except as otherwise indicated in § 73.1944, no station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such licensee shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any:

(1) Bona fide newscast;

(2) Bona fide news interview;

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) On-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of broadcasting station. (section 315(a) of the Communications Act.)

(b) *Uses.* As used in this section and § 73.1942, the term "use" means candidate appearance (including by voice or picture) or political advertisement that is not exempt under § 73.1941(a)(1)-(4) and that is controlled, approved or sponsored by the candidate or the candidate's authorized Committee after the candidate becomes legally qualified.

(c) *Timing of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use giving rise to the right of equal opportunities occurred: Provided, however, That where the person was not a candidate at the time of such first prior use, he or she shall submit his or her request within 1 week of the first subsequent use after he or she has become a legally qualified candidate for the office in question.

(d) *Burden of proof.* A candidate requesting equal opportunities of the licensee or complaining of noncompliance to the Commission shall have the burden of proving that he or she and his or her opponent are legally

qualified candidates for the same public office.

(e) *Discrimination between candidates.* In making time available to candidates for public office, no licensee shall make any discrimination between candidates in practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

4. Section 73.1942 is added to read as follows:

§ 73.1942 Lowest Unit Charge.

(a) Charges for use of stations. The charges, if any, made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his or her campaign for nomination for election, or election, to such office shall not exceed:

(1) During the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period.

(i) A candidate shall be charged no more per unit than the station charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any station practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates. Such practices include but are not limited to any discount privileges that affect the value of advertising, such as bonus spots, time-sensitive make goods, preemption priorities, or any other factors that enhance the value of the announcement.

(ii) The Commission recognizes non-premptible, preemptible with notice, immediately preemptible and run-of-schedule as distinct classes of time.

(iii) Stations may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time-sensitive make goods. Stations may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

(iv) Stations may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make available to candidates.

(v) Stations may treat non-preemptible and fixed position as distinct classes of time provided that stations articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

(vi) Stations shall not establish a separate, premium-period class of time sold only to candidates. Stations may sell higher-priced non-preemptible or fixed time to candidates if such a class of time is made available on a *bona fide* basis to both candidates and commercial advertisers, and provided such class is not functionally equivalent to any lower-priced class of time sold to commercial advertisers.

(vii) Unit rates charged for the last-minute sale ("fire sale") of available inventory must be included in the calculation of the lowest unit charge for all time sold to candidates during the period or daypart or program (regardless of when candidates originally purchased/ordered their spots), but such calculation establishes the lowest unit charge only for the period, daypart, or program in which such fire sale spots actually aired. Moreover, if a licensee permits candidates to use its broadcast facilities, such last minute sales must also be made available to candidates.

(viii) Lowest unit charge may be calculated on a weekly basis with respect to time that is sold on a weekly basis, such as rotations through particular programs or dayparts. Stations electing to calculate the lowest unit charge by such a method must include in that calculation all rates for all announcements scheduled in the rotation, including announcements aired under long-term advertising contracts. Stations may implement rate increases during election periods only to the extent that such increases constitute "ordinary business practices," such as seasonal program changes or changes in audience ratings.

(ix) Stations shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, stations shall issue such rebates or credits promptly.

(x) Unit rates charged as part of any package, whether individually negotiated or generally available to all advertisers, must be included in the lowest unit charge calculation for the same class and length of time in the same time period. A candidate cannot be required to purchase advertising in every program or daypart in a package as a condition for obtaining package unit rates.

(xi) Stations are not required to include non-cash promotional merchandising incentives in lowest unit charge calculations; provided, however, that all such incentives must be offered to candidates as part of any purchases permitted by the licensee. Bonus spots, however, must be included in the calculation of the lowest unit charge calculation.

(xii) Make goods, defined as the rescheduling of preempted advertising, shall be provided to candidates prior to election day if a station has provided a time-sensitive make good to any commercial advertiser who purchased time in the same class during the pre-election periods, respectively set forth in paragraph (a)(1) of this section.

(xiii) Stations must disclose and make available to candidates any make good policies provided to commercial advertisers. If a station places a make good for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

(2) At any time other than the respective periods set forth in paragraph (a)(1) of this section, stations may charge legally qualified candidates for public office no more than the charges made for comparable use of the station by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the station would charge for comparable commercial advertising.

(b) If a station permits a candidate to use its facilities, the station shall make all discount privileges offered to commercial advertisers, including the lowest unit charges for each class and length of time in the same time period and all corresponding discount privileges, available to candidates. This duty includes an affirmative duty to disclose to candidates information about rates and all value-enhancing

discount privileges offered commercial advertisers. Stations may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

(1) A description and definition of each class of time available to commercial advertisers sufficiently complete to allow candidates to identify and understand what specific attributes differentiate each class;

(2) A description of the lowest unit charge and related privileges (such as priorities against preemption and make goods prior to specific deadlines) for each class of time offered to commercial advertisers;

(3) A description of the station's method of selling preemptible time based upon advertiser demand, commonly known as the "current selling level," with the stipulation that candidates will be able to purchase at these demand-generated rates in the same manner as commercial advertisers;

(4) An approximation of the likelihood of preemption for each kind of preemptible time; and

(5) An explanation of the station's sales practices, if any, that are based on audience delivery, with the stipulation that candidates will be able to purchase this kind of time, if available to commercial advertisers.

(c) Once disclosure is made, stations shall negotiate in good faith to actually sell time to candidates in accordance with the disclosure.

(d) This rule (§ 73.1942) shall not apply to any station licensed for non-commercial operation.

5. Section 73.1943 is added to read as follows:

§ 73.1943 Political File.

(a) Every licensee shall keep and permit public inspection of a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.

(b) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(c) All records required by this paragraph shall be placed in the political file as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

6. Section 73.1944 is added to read as follows:

§ 73.1944 Reasonable Access.

(a) Section 312(a)(7) of the Communications Act provides that the Commission may revoke any station license or construction permit for willful or repeated failure to allow reasonable access to, or to permit purchase of, reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(b) *Weekend Access.* For purposes of providing reasonable access, a licensee shall make its facilities available for use by federal candidates on the weekend before the election if the licensee has provided similar access to commercial advertisers during the year preceding the relevant election period. Licensees shall not discriminate between candidates with regard to weekend access.

7. Section 73.1212 is amended by adding a last sentence to paragraph (a)(2)(i) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

(a) * * *

(2) * * *

(i) * * * In the case of political television broadcasts under this paragraph and paragraph (d) of this section, the broadcast must contain both a visual and aural announcement.

* * * * *

PART 76—[AMENDED]

1. The authority citation for part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

2. Section 76.205 is revised to read as follows:

§ 76.205 Origination Cablecasts by Legally Qualified Candidates for Public Office; Equal Opportunities.

(a) *General requirements.* No cable television system is required to permit the use of its facilities by any legally qualified candidate for public office, but if any system shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such system shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any:

(1) Bona fide newscast;

(2) Bona fide news interview;

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) On-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a system. (section 315(a) of the Communications Act.)

(b) *Uses.* As used in this section and § 76.206, the term "use" means candidate appearance (including by voice or picture) or political advertisement that is not exempt under § 76.205(a)(1)–(4) and that is controlled, approved or sponsored by the candidate or the candidate's authorized Committee after the candidate becomes legally qualified.

(c) *Timing of Request.* A request for equal opportunities must be submitted to the system within 1 week of the day on which the first prior use giving rise to the right of equal opportunities occurred: Provided, however, That where the person was not a candidate at the time of such first prior use, he or she shall submit his or her request within 1 week of the first subsequent use after he or she has become a legally qualified candidate for the office in question.

(d) *Burden of proof.* A candidate requesting equal opportunities of the system or complaining of noncompliance to the Commission shall have the burden of proving that he or she and his or her opponent are legally qualified candidates for the same public office.

(e) *Discrimination between candidates.* In making time available to candidates for public office, no system shall make any discrimination between candidates in practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

3. Section 76.206 is added to read as follows:

§ 76.206 Lowest Unit Charge.

(a) *Charges for use of cable television systems.* The charges, if any, made for the use of any system by any person who is a legally qualified candidate for

any public office in connection with his or her campaign for nomination for election, or election, to such office shall not exceed:

(1) During the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the system for the same class and amount of time for the same period.

(i) A candidate shall be charged no more per unit than the system charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any system practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates. Such practices include but are not limited to any discount privileges that affect the value of advertising, such as bonus spots, time-sensitive make goods, preemption priorities, or any other factors that enhance the value of the announcement.

(ii) The Commission recognizes non-preemptible, preemptible with notice, immediately preemptible and run-of-schedule as distinct classes of time.

(iii) Systems may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time-sensitive make goods. Systems may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

(iv) Systems may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

(v) Systems may treat non-preemptible and fixed position as distinct classes of time provided that systems articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

(vi) Systems shall not establish a separate, premium-priced class of time sold only to candidates. Systems may sell higher-priced non-preemptible or fixed time to candidates if such a class of time is made available on a *bona fide* basis to both candidates and commercial advertisers, and provided such class is not functionally equivalent to any lower-priced class of time sold to commercial advertisers.

(vii) Unit rates charged for the last-minute sale ("fire sale") of available inventory must be included in the calculation of the lowest unit charge for all time sold to candidates during the period or daypart or program (regardless of when candidates originally purchased/ordered their spots), but such calculation establishes the lowest unit charge only for the period, daypart, or program in which such fire sale spots actually aired. Moreover, if a system permits candidates to use its cablecast facilities, such last minute sales must also be made available to candidates.

(viii) Lowest unit charge may be calculated on a weekly basis with respect to time that is sold on a weekly basis, such as rotations through particular programs or dayparts. Systems electing to calculate the lowest unit charge by such a method must include in that calculation all rates for all announcements scheduled in the rotation, including announcements aired under long-term advertising contracts. Systems may implement rate increases during election periods only to the extent that such increases constitute "ordinary business practices," such as seasonal program changes or changes in audience ratings.

(ix) Systems shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, systems shall issue such rebates or credits promptly.

(x) Unit rates charged as part of any package, whether individually negotiated or generally available to all advertisers, must be included in the lowest unit charge calculation for the same class and length of time in the same time period. A candidate cannot be required to purchase advertising in every program or daypart in a package as a condition for obtaining package unit rates.

(xi) Systems are not required to include non-cash promotional merchandising incentives in lowest unit charge calculations; provided, however, that all such incentives must be offered to candidates as part of any purchases permitted by the system. Bonus spots, however, must be included in the calculation of the lowest unit charge calculation.

(xii) Make goods, defined as the rescheduling of preempted advertising, shall be provided to candidates prior to election day if a system has provided a time-sensitive make good to any commercial advertiser who purchased time in the same class during the year preceding the pre-election periods, respectively set forth in paragraph (a)(1) of this section.

(xiii) Systems must disclose and make available to candidates any make good policies provided to commercial advertisers. If a system places a make good for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

(2) At any time other than the respective periods set forth in paragraph (a)(1) of this section, systems may charge legally qualified candidates for public office no more than the charges made for comparable use of the sytem by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the system would charge for comparable commercial advertising.

(b) If a system permits a candidate to use its cablecast facilities, the system shall make all discount privileges offered to commercial advertisers, including the lowest unit charges for each class and length of time in the same time period and all corresponding discount privileges, available to candidates. This duty includes an affirmative duty to fully disclose to candidates information about rates and all value-enhancing discount privileges offered commerical advertisers. Systems may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

(1) A description and definition of each class of time available to commercial advertisers sufficiently complete enough to allow candidates to identify and understand what specific attributes differentiate each class;

(2) A description of the lowest unit charge and related privileges (such as priorities against preemption and make goods prior to specific deadlines) for each class of time offered to commercial advertisers;

(3) A description of the system's method of selling preemptible time based upon advertiser demand, commonly known as the "current selling level," with the stipulation that candidates will be able to purchase at these demand-generated rates in the same manner as commercial advertisers;

(4) An approximation of the likelihood of preemption for each kind of preemptible time; and

(5) An explanation of the system's sales practices, if any, that are based on audience delivery, with the stipulation that candidates will be able to purchase this kind of time, if available to commercial advertisers.

(c) Once disclosure is made, systems shall negotiate in good faith to actually sell time to candidates in accordance with the disclosure.

4. Section 76.207 is added to read as follows:

§ 76.207 Political File.

(a) Every cable television system shall keep and permit public inspection of a complete and orderly record (political file) of all requests for cablecast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.

(b) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(c) All records required by this paragraph shall be placed in the political file as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

5. Section 76.221 is amended by adding a last sentence to paragraph (a) to read as follows:

§ 76.221 Sponsorship identification; list retention; related requirements.

* * * * *

(a) * * * In the case of political cablecasts under this paragraph and paragraph (c) of this section, the cablecast must contain both a visual and aural announcement.

* * * * *

[FR Doc. 92-41 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB

Endangered and Threatened Wildlife and Plants; Listing of the Snake River Sockeye Salmon as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is adding the Snake River sockeye salmon (*Oncorhynchus nerka*) to the list of Endangered and Threatened Wildlife. This measure, required by the Endangered Species Act of 1973, corresponds with a determination of endangered status by the National Marine Fisheries Service, which has jurisdiction for the Snake River sockeye salmon.

EFFECTIVE DATE: December 20, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Larry Shannon, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service (452 ARLSQ), Washington, DC 20240 (703/358-2171, FTS 921-2171).

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act (16 U.S.C. 1531 et seq.), and in accordance with Reorganization Plan No. 4 of 1970, the National Marine Fisheries Services (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, is responsible for the sockeye salmon. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened. The Fish and Wildlife Service (FWS) is responsible for the actual addition of a species to the List of Endangered and Threatened Wildlife in 50 CFR 17.11(h).

NMFS published its determination of endangered status for the Snake River sockeye salmon on November 20, 1991 (56 FR 58619-58624). Accordingly, the FWS is adding the Snake River sockeye salmon as an endangered species to the List of Endangered and Threatened Wildlife. This addition is effective as of December 20, 1991 as indicated in the NMFS's determination. Because this action of the FWS is nondiscretionary and the species was proposed for listing (April 5, 1991; 56 FR 14055), the FWS finds that good cause exists to omit the notice and public comment procedures of 5 U.S.C. 553(b).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter 1, title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. § 17.11(h) is amended by adding the following entry in alphabetical order under FISHES in the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Fishes							
*	*	*	*	*	*	*	

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Salmon, sockeye (=red, =blueback).	*Oncorhynchus nerka*	North Pacific Basin from U.S.A. (CA) to U.S.S.R.	Snake R., (U.S.A.) stock wherever found.	E	455	NA	NA

* * * * *

Dated: December 24, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-46 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 911194-1294]

Summer Flounder Fishery

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

ACTION: Notice of revision to two-time requirements.

SUMMARY: NMFS issues this notice to revise the tow-time restrictions imposed on the summer flounder fishery off of North Carolina under the emergency interim rule which is in effect December 2, 1991, through March 5, 1992 (56 FR 63685; December 5, 1991). The tow-time restriction was imposed to protect threatened and endangered sea turtles within a defined area. Observation of the fishery indicates that the sea turtles have left the northern portion of this area; therefore, the area to which the tow-time restriction applies is revised. Observation of the fishery will be increased to determine if sea turtles reenter this area.

EFFECTIVE DATES: The revision is effective from December 27, 1991 through March 5, 1992.

ADDRESSES: Copies of documents supporting this action may be obtained from: Richard B. Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799.

FOR FURTHER INFORMATION CONTACT: Richard G. Seamans, Jr., Senior Resource Policy Analyst, 508-281-9244, or Phil Williams, NMFS National Sea Turtle Coordinator, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder fishery is managed under an emergency interim rule for the period December 2, 1991, through March 5, 1992 corrected at 56 FR 66603 on December 24, 1991. The emergency interim rule implements regulations designed to enhance conservation of the summer flounder resource and to protect threatened and endangered sea turtles. Summer flounder are managed under the Fishery Management Plan for the Summer Flounder Fishery, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the England and South Atlantic Fishery Management Councils. Implementing regulations are found at 50 CFR part 625, and are authorized under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The regulations also ensure the conservation of threatened and endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA).

Section 625.26(c) of the emergency regulations imposes a 75-minute tow time limit on trawlers in the EEZ off North Carolina to protect threatened and endangered sea turtles. This regulation applies to vessels operating in a relatively concentrated area off of North Carolina bounded on the north by a line along 37°05'N. latitude, bounded on the south by a line along 33°'35'N. latitude, and bounded on the east by a line 7 nautical miles from the shoreward boundary of the EEZ. Vessels operating in this area also must comply with the sea turtle conservation measures described in the emergency rule.

Section 625.26(b) of the regulations establishes a monitoring and assessment program, in cooperation with the State of North Carolina, to measure the incidental take of sea turtles in the summer flounder fishery, monitor compliance with required conservation measures by trawlers, and predict interactions between the fishery and sea turtles to prevent turtle mortalities. The monitoring and assessment program utilizes and evaluates a variety of information from aerial and vessel surveys, on-board observers, individually tagged turtles environmental monitoring of sea surface temperatures, reports from the sea turtle stranding network, and other relevant and reliable information, to determine or predict turtle distribvution, abundance, movement patterns and timing to provide information to NMFS to prevent turtle mortality by the summer flounder fishery. This monitoring and assessment program indicates that sea turtles are no longer present in significant numbers north of 35°45'N. latitude.

Section 625.26(c)(2) authorizes the Regional Director to revise the tow-time requirement in § 625.26(c)(1), including changes in the geographical area where the requirement applies, after consultation with the Council and the Director of the State of North Carolina Marine Fisheries. Such consultations have been completed and indicate that the current tow-time restriction can be modified to apply to a smaller geographical area and still protect sea turtles adequately, and that a less restrictive measure would benefit the fishery. Thus, the tow-time restriction may no longer apply to vessels fishing in the area north of 35°45'N. latitude for the remainder of the effective period of the emergency regulations. The 75-minute tow-time limit continues in effect for vessels operating within the EEZ in the area bounded on the north by a line along 35°45'N. latitude, bounded on the south by a line along 33°35'N. latitude, and bounded on the east by a line 7 nautical miles from the shoreward boundary of the EEZ.

Section 625.5 of the emergency regulations establishes an observer program to evaluate more fully the interactions between the summer flounder fishery and sea turtles. The regulations authorize NMFS to require observers on all or a certain portion of the vessels engaged in fishing for summer flounder off North Carolina to gather data on incidental capture of sea turtles and to monitor compliance with required conservation measures. To ensure timely response should sea turtles return to this area, observer coverage in the summer flounder fishery

will be increased to 24 percent of all trips.

List of Subjects in 50 CFR Part 625

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: December 27, 1991.

Richard H. Schaefer,

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

[FR Doc. 91-31323 Filed 12-27-91; 3:34 pm]

BILLING CODE 3510-22-M

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50 CFR Part 649

[Docket No. 911047-1296]

RIN: 0648-AD20

American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing Amendment 4 to the Fishery Management Plan for American Lobster (FMP). This rule: (1) Reduces the minimum carapace size for American lobster to 3¼ inches (8.26 cm); (2) delays further increases in the minimum size until 2 years after the implementation of this amendment; and (3) modifies the minimum dimensions of the escape vent to be consistent with the minimum carapace size. Amendment 4 is intended to restore uniformity among the Federal and state size limits.

The intention of the New England Fishery Management Council (Council) is to develop and submit a comprehensive amendment to the FMP during the 2-year delay. If the comprehensive amendment is approved and implemented, it may replace the scheduled minimum size increases, and will provide management of the American lobster resource throughout its range and reduce the risk of overfishing. Nonsubmission of a comprehensive amendment within this period, or disapproval of the amendment, would trigger resumption of the remaining minimum carapace length increases approved under Amendment 3. In accordance with Amendment 3, the minimum dimensions of the escape vent would also increase to be consistent with a 3 5/16 inch (8.41 cm) minimum carapace length.

EFFECTIVE DATE: December 27, 1991.

FOR FURTHER INFORMATION CONTACT: Paul Jones, Resource Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION:

Background

Amendment 4 to the FMP was prepared by the New England Fishery Council, under the provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended, 16 U.S.C. 1801 *et seq.* A notice of availability for Amendment 4 was published in the **Federal Register** on September 17, 1991 (56 FR 47061). The proposed rule was published on October 10, 1991 (56 FR 51191) and public comments were invited until November 18, 1991.

This final rule: (1) Reduces the minimum carapace size for American lobster to 3¼ inches (8.26 cm); (2) delays further increases in the minimum size until 2 years after the implementation of this amendment; and (3) modifies the minimum dimensions of the escape vent to be consistent with the minimum carapace size.

The following definition of overfishing for the American lobster resource has also been approved: "The American lobster resource is considered to be overfished when, based on information concerning the status of the resource throughout its range, it is harvested at a fishing mortality rate (F) and minimum size combination that results in a calculated egg production per recruit of less than 10 percent of a non-fished population." Egg production per recruit for the offshore portion of the resource is estimated at 5-6 percent of maximum. The information necessary to accurately estimate egg production per recruit for the resource throughout its range is currently unavailable. During the 2-year delay proposed in this amendment, studies will be conducted to provide this information. The results of these studies and a proposed rebuilding program for the resource, if appropriate, will be included in the comprehensive amendment being prepared by the Council.

The preamble to the proposed rule to implement Amendment 4 described these measures and their rationale and is not repeated here.

Comments and Responses

Written comments were submitted by the U.S. Coast Guard and NMFS Law Enforcement; they expressed support for Amendment 4.

Changes From The Proposed Rule

The dates in § 649.20 and § 649.21 of the proposed rule were calculated based on the assumption that the final rule would be filed on December 29, 1991, and would be effective immediately because it relieves a restriction. Because the final rule was filed on December 27, 1991, the dates in the final rule have been revised accordingly.

Classification

The Secretary of Commerce determined that Amendment 4 is necessary for the conservation and management of the American lobster fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that this final rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The Council prepared a regulatory impact review (RIR) that analyzes the economic impacts of this rule and describes its effects on small business entities. The RIR concludes that Amendment 4 is not expected to have an annual effect on the economy of more than $100 million, will not lead to cost or price increases, and will not have significant adverse effects on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. Based on the EA, the Assistant Administrator concluded that there will be no significant impact on the environment as a result of this rule.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Delaware, Maryland, New Jersey, and North Carolina. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Connecticut, Massachusetts, New Hampshire, New York, Delaware, New Jersey, and North Carolina agreed with the determination. None of the other states commented within the statutory time period, and, therefore, consistency is automatically inferred.

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

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Assistant Administrator, pursuant to the Administrative Procedure Act (5 U.S.C. 553(d)(1)), finds that it is unnecessary to delay for 30 days the effective date of this rule because it relieves a restriction. This rule will restore uniformity between Federal and state size limits by decreasing the Federal size limit to match those of the major lobster-producing states. Accordingly, this final rule is effective December 27, 1991.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirements.

Dated: December 26, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

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

2. In § 649.20, paragraph (b) is revised to read as follows:

§ 649.20 Harvesting and landing requirements.

* * * * *

(b) *Carapace length.* (1) All American lobsters landed on the dates set forth must have a minimum carapace length as follows:

Effective dates	Minimum carapace length
December 27, 1991, through December 26, 1993.	3¼ inches (8.26 cm).
December 27, 1993, through December 26, 1994.	3 9/32 inches (8.33 cm).
December 27, 1994, and beyond.	3 5/16 inches (8.41 cm).

(2) If, prior to December 26, 1993, the Council transmits a comprehensive amendment to the American Lobster Fishery Management Plan that further addresses management strategies for the American lobster throughout its range with an emphasis on alleviating any overfishing, the Regional Director shall change the date, by regulatory amendment, upon which the 3 9/32 inch (8.33 cm) minimum carapace length becomes effective to the 146th day after the date on which the comprehensive amendment was transmitted.

3. In § 649.21, paragraphs (c)(1) and (c)(2) are revised and paragraph (c)(3) is added to read as follows:

§ 649.21 Gear identification and marking, escape vent, and ghost panel requirements.

* * * * *

(c) * * *

(1) Through January 25, 1992, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1¾ inches (4.45 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap, the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2¼ inches (5.72 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be consistent with paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(2) Effective January 26, 1992, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1⅞ inches (4.76 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2⅜ inches (6.03 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be consistent with paragraphs (c)(2)(i) and (c)(2)(ii) of this section. The Regional Director, consistent with 5 U.S.C. 553, shall publish a notice of any other type of acceptable escape vent in the Federal Register.

(3) Effective December 27, 1994, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap, the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be consistent with paragraphs (c)(3)(i) and (c)(3)(ii) of this section. The Regional Director, consistent with 5 U.S.C. 553, shall publish a notice of any other type of acceptable escape vent in the Federal Register.

* * * * *

[FR Doc. 91-31280 Filed 12-27-91; 4:15 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 901199-1021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Apportionment of reserve; request for comments.

SUMMARY: NMFS announces that amounts of the operational reserve are apportioned to the following domestic annual processing (DAP) fisheries: Sablefish in the Aleutian Islands (AI) subarea, Pacific Ocean perch in the Bering Sea (BS) subarea, "other rockfish" in the BS subarea, squid in the Bering Sea and Aleutian Islands area (BSAI), and "other species" in the BSAI. This action is necessary to promote optimum use of groundfish in the BSAI area. The intent of this action is to carry out objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective 12 noon, Alaska local time (A.l.t.), December 27, 1991, through 12 midnight, A.l.t., December 31, 1991. *Comments* are invited through January 13, 1992.

ADDRESSES: Comments should be mailed to Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668, or delivered to 9109 Mendenhall Mall Road, Federal Building Annex, suite 6, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone within the BSAI management area under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and 50 CFR part 675.

Section 675.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI management area. Total allowable catch

(TAC) specifications for target species and the "other species" category are specified annually within the OY range and apportioned by subarea (§ 675.20(a)(2)). In accordance with § 675.20(a)(3), 15 percent of the TAC for each target species category is placed in a reserve, and the remaining 85 percent of the TAC for each target species is apportioned between domestic annual harvesting (DAH) and the total allowable level of foreign fishing. The reserve is not designated by species or species group and any amount of the reserve may be apportioned to a target species category provided that such apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species category. As established in § 675.20(b)(1)(i), NMFS will apportion reserve amounts to a target species category as needed.

The initial DAH specified for sablefish in the AI subarea, Pacific ocean perch in the BS subarea, "other rockfish" in the BS subarea, and "other species" in the BSAI are 2,720 mt, 3,885 mt, 340 mt, and 12,750 mt, respectively (56 FR 6290; February 15, 1991). The initial TAC for squid in the BSAI, 850 mt, was increased to 1,100 mt by a later action (56 FR 40809; August 16, 1991). Under 675.20(a)(4)(i), all of these amounts were assigned to DAP. The current total DAP for all groundfish in the BSAI area is 1,911, 600 mt, which includes prior apportionments from reserve (56 FR 12853; March 28, 1991, 56 FR 40809; August 16, 1991).

Divsion of the sablefish apportionment for the AI subarea between users of trawl and longline fishing gears is provided for at 50 CFR 675.24. These gears are defined at § 675.2; longline gear includes taking fish with hooks or pots. Gear allocations of sablefish apportionments in the Aleutian Islands are specified at § 675.24(c) as 25 percent to trawl gear and 75 percent to longline gear (see Table 2).

Under the authority provided at § 675.20(b)(1)(i), NMFS finds that these fisheries require additional amounts of groundfish and apportions reserve amounts as follows: To the AI sablefish fishery—480 mt; to the Pacific ocean perch fishery in the BS subarea—685 mt; to the "other rockfish" fishery in the BS subarea—60 mt, to the "other species" fishing in the BSAI—5,250 mt; to the squid fishery in the BSAI—100 mt (Table 1; Table 2). For AI sablefish, the trawl gear share is 800 mt and the longline gear share is 2,400 mt. These reserve apportionments do not change the status of the fisheries or allowable types of gear which are already restricted under prior inseason actions. These apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing as the revised DAPs are equal to or less than the acceptable biological catch for those stocks.

Classification

This action is taken under 50 CFR 675.20 (a)(8) and (b)(1)(i), and is in compliance with Executive Order No. 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and comment or delaying the effective date of this notice is impractical and contrary to the public interest. However, interested persons are invited to submit comments in writing to the above address until January 13, 1992.

Lists of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

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

Dated: December 27, 1991.

David S. Crestin,

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

TABLE 1.—APPORTIONMENT OF RESERVE IN THE BERING SEA-ALEUTIAN ISLANDS MANAGEMENT AREA

[Values are in metric tons]

	Current DAP	This action	Revised
sablefish (AI subarea): ABC=3,200	2,720	+480	3,200
Pacific Ocean perch (BS subarea): ABC=4,570	3,885	+685	4,570
"other rockfish" (BS subarea): ABC=400	340	+60	400
"other species" ABC=28,700	12,750	+5,250	18,000
squid (BSAI): ABC=3,800	1,100	+100	1,200
Total BSAI: ABC=2,932,485			
DAP	1,911,600	+6,575	1,918,175
Reserve	88,400	−6,575	81,825

TABLE 2.—GEAR SHARES OF ALEUTIAN ISLANDS SABLEFISH DAP

	Gear	Percent of DAP	Share of DAP
New DAP=3,200.	trawl	25	800
	longline	75	2,400

[FR Doc. 91-31325 Filed 12-27-91; 3:45 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 2
Friday, January 3, 1992

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 91-068]

Importation of Papayas from Costa Rica

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow papayas to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from three provinces in Costa Rica, provided that certain conditions are met to ensure the papayas' freedom from Mediterranean fruit flies. This action would provide importers and U.S. consumers with an additional source of papayas without presenting any significant pest risk.

DATE: Consideration will be given only to comments received on or before February 3, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91-068. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Darcy Axe, Staff Officer for Preclearance, International Services, APHIS, USDA, room 657, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436-8892.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 *et seq.* prohibit or restrict the importation of certain fruits and vegetables into the United States to prevent the introduction of injurious insects, including fruit flies, that are new to or not widely distributed within the United States. The importation of papayas from Costa Rica has been prohibited because of the existence in Costa Rica of the Mediterranean fruit fly (*Ceratitis capitata*) and *Anastrepha* species of fruit fly.

Research conducted in Costa Rica under the direction of the Agricultural Research Service (ARS), U.S. Department of Agriculture, now shows that the Solo type of papaya grown in western Costa Rica (the provinces of Guanacaste, San Jose, and Puntarenas) is not a host of the Mediterranean fruit fly when it is less than one-half ripe. In addition, the research shows that, even when ripe, the Solo type of papaya grown in these provinces is not attacked by any *Anastrepha* species of fruit fly known to exist in Costa Rica.[1]

The papaya fruit fly (*Toxotrypana curvicauda*), which exists in Costa Rica and whose host fruit is the papaya, may attack the fruit. If carried into the United States, however, this pest would present a threat to agriculture only in Hawaii. Hawaii is currently the only State where the papaya fruit fly is not established that produces sufficient quantities of papaya to sustain an infestation of the papaya fruit fly. The papaya fruit fly is established in Puerto Rico and the U.S. Virgin Islands, and very little papaya is grown in other areas of the United States because the climate is not suitable for papaya production.

Based on this information, we are proposing to allow the Solo type of papaya to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the Costa Rican provinces of Guanacaste, San Jose, and Puntarenas, without treatment, if an APHIS inspector in Costa Rica determines that certain conditions have been met. These conditions are listed and explained below:

(1) The papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas.

Limiting this proposal to Solo type papayas grown and packed in these provinces appears to be necessary because research ha not yet been done to show that other types of papayas, or Solo type papayas from other areas, would be free of the Mediterranean fruit fly under the conditions we are proposing.

(2) Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than 25 percent of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

Papayas that are ½ or more ripe could serve as host material for the Mediterranean fruit fly. Removing potential host material would reduce the likelihood that Mediterranean fruit fly would be attracted to any papayas in the field.

(3) When packed, the papayas were less than ½ ripe (the shell surface was no more than 25 percent yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

The research cited earlier indicates that papayas less than ½ ripe are not a host to the Mediterranean fruit fly. Requiring that the fruit appear to be free of other insect pests would help ensure that "hitchhikers" are not carried into the United States by the papayas.

(4) The papayas were packed in an enclosed container or under cover so as to prevent access by fruit flies and other injurious insect pests, and were not packed with any other fruit, including papayas not qualified for importation to the United States.

This requirement appears necessary to provide assurance that the papayas would not be attacked by injurious insect pests after they were packed.

(5) All activities described in (1) through (4) above were carried out under the general supervision and direction of plant health officials of the Costa Rican Ministry of Agriculture.

Supervision of activities by plant health officials of the Costa Rican Ministry of Agriculture would help ensure that activities required by our regulations were properly carried out.

[1] Information concerning this research may be obtained from the individual listed under "FOR FURTHER INFORMATION CONTACT."

(6) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least twice a week by plant health officials of the Costa Rican Ministry of Agriculture and Livestock (MAG). Fifty percent of the traps were of the McPhail type and fifty percent of the traps were of the Jackson type. The MAG kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors. The records were maintained for at least 1 year.

The trapping and associated recordkeeping described above would tell Costa Rican plant health officials and APHIS what kinds of fruit flies are present in the papaya fields. This information is important because the procedures in this proposed rule are based on research that shows that, at less than ½ ripe, Solo papayas grown in this area of Costa Rica are not hosts of the Mediterranean fruit fly or any *Anestrepha* species of fruit fly known to exist in Costa Rica. These procedures would have to be reevaluated if other species of fruit flies were detected. We propose to require that the trapping and recordkeeping be done by plant health officials of the Costa Rican Ministry of Agriculture and Livestock (MAG) to ensure that information is collected and maintained by an objective party, rather than by the grower. The Costa Rican Ministry of Agriculture and Livestock is responsible for providing information concerning plant pests in Costa Rica.

We are proposing that the Costa Rican Ministry of Agriculture and Livestock (MAG) enter into a trust fund agreement with APHIS before APHIS will provide inspection services in Costa Rica under these proposed regulations.

The trust fund agreement would require MAG to pay at least a month in advance all estimated costs to be incurred by APHIS in providing inspection services. These costs would include administrative expenses incurred in conducting preclearance, as well as all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS inspectors in providing these services. MAG would be required to deposit a certified or cashier's check to APHIS for the amount of these costs for an entire month, as estimated by APHIS, based on projected shipment volumes and cost figures from previous inspections. The agreement would further require that, if the deposit does not meet the actual costs incurred by APHIS, MAG would deposit with APHIS a certified or cashier's check for the amount of the known remaining costs, as determined by APHIS, before completion of the inspections for that month. The agreement would also specify that unanticipated costs must be paid upon demand, and that further service will be withheld until payment is made. If the amount MAG pays during any monthly period exceeds the total costs incurred by APHIS in providing inspection services for the papayas in Costa Rica, the difference would be either refunded to MAG by APHIS at the end of the month or, at the option of MAG, credited to the MAG account for future services.

Requiring payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection services in Costa Rica.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule has been reviewed in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would allow the Solo type of papaya to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, without treatment, under certain conditions.

Costa Rica produces about 8 million pounds of papaya per year. Currently, Costa Rica does not export any fresh papaya to the United States. The Department estimates that approximately 49,000 pounds of fresh papaya could be imported into the United States annually from Costa Rica if this proposed rule is adopted.

Current U.S. production of papaya totals 68.5 million pounds. Papayas are produced commercially on about 300 farms in Hawaii. Nearly 65 percent of these farms are owned by individuals whose major occupation is not farming, and about 90 percent of these farms are small entities with average revenues of less than $300,000 per year. Hawaii ships about 19.8 million pounds of fresh papaya per year to the mainland, mostly to the West Coast. About 75 percent of these papaya are sold directly to retailers and the rest to wholesalers.

About 11.5 million pounds of fresh papaya (both Solo type and other), valued at about $2.4 million, are imported into the continental United States each year. Most of the papaya comes from Mexico (56.8 percent), the Bahamas (31.6 percent), and Belize (7.6 percent). The Bahamas and Belize provide the Solo type papaya.

Imports of the Solo type of papaya (about 4.9 million pounds) represent approximately 20 percent of the total supply of Solo type available for consumption. An addition of 49,000 pounds of the Solo type papaya annually from Costa Rica would increase the total available supply by about 0.2 percent. This estimated increase in the domestic supply is unlikely to have any significant impact on U.S. papaya prices and, in turn, on U.S. papaya producers, consumers, or any small entities.

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with

State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 319

Agricultural commodities, Fruit, Imports, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would be amended to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 21 U.S.C. 136a; 7 CFR 2.17, 2.51, and 371.2(c), unless otherwise noted.

2. In Subpart—Fruits and Vegetables, a new § 319.56–2u would be added to read as follows:

§ 319.56-2u Administrative instructions; conditions governing the entry of papayas from Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The Costa Rican Ministry of Agriculture and Livestock (MAG) has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) to pay for services to be provided by APHIS. This agreement requires the MAG to pay at least a month in advance all estimated costs incurred by APHIS in provided the services prescribed in paragraph (b) of this section. These costs will include administrative expenses incurred in providing the services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS inspectors in providing these services. The agreement requires MAG to deposit a certified or cashier's check with APHIS for the amount of these costs for an entire month, as estimated by APHIS, based on projected shipping volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet the actual costs incurred by APHIS, MAG must deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected costs, MAG must deposit with APHIS a certified or cashier's check sufficient to meet such costs as estimated by APHIS, before any further inspection services will be provided. If the amount MAG deposits during a month exceeds the total costs incurred by APHIS in providing the services, the differences will be returned to MAG by APHIS at the end of the month, or, at the option of MAG, credited to the MAG account for future services.

(b) An APHIS inspector in Costa Rica certifies that the following requirements have been met:

(1) The papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas.

(2) Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than 25 percent of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(3) When packed, the papayas were less than ½ ripe (the shell surface was no more than 25 percent yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(4) The papayas were packed in an enclosed container or under cover so as to prevent access by fruit flies and other injurious insect pests, and were not packed with any other fruit, including papayas not qualified for importation into the United States.

(5) All activities described in paragraphs (a) through (d) of this section were carried out under the general supervision and direction of plant health officials of the MAG.

(6) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least twice a week by plant health officials of the MAG. Fifty percent of the traps were of the McPhail type and fifty percent of the traps were of the Jackson type. The MAG kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors. The records were maintained for at least 1 year.

Done in Washington, DC, this 27th day of December 1991.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–86 Filed 1–2–92; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV-91-451]

California Desert Grapes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 925 for the 1992 fiscal period. Authorization of this budget would permit the California Desert Grape Administrative Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers .

DATES: Comments must be received by January 16, 1992.

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

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–690–4244.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Order No. 925, regulating the handling of grapes grown in a designated area of southeastern California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has

considered the economic impact of this proposed rule on small entities.

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

There are approximately 20 handlers of California Desert grapes under this marketing order, and approximately 90 producers. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of grape producers and handlers may be classified as small entities.

The budget of expenses for the 1992 fiscal period was prepared by the California Desert Grape Administrative Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of California Desert grapes. They are familiar with the committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of California desert grapes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses.

The committee met on November 21, 1991, and unanimously recommended a 1992 budget of $31,240, $2,595 more than the previous year. Increases are in the telephone and communications, office equipment and repairs, rent, vehicle—field supervisor, and insurance—workman's compensation categories.

The committee also unanimously recommended an assessment rate of $0.0025 per lug, the same as last season. This rate, when applied to anticipated shipments of 8,000,000 lugs, would yield $20,000 in assessment income. This, along with $1,100 interest income and $10,140 from the committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1992 fiscal period, estimated at $23,860, would be within the maximum permitted by the order of one fiscal period's expenses.

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

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1992 fiscal period for the program begins on January 1, 1992, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable grapes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program need to be expedited.

List of Subjects in 7 CFR Part 925

Marketing agreements, Grapes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 925 be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR Part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 925.211 is added to read as follows:

§ 925.211 Expenses and assessment rate.

Expenses of $31,240 by the California Desert Grape Administrative Committee are authorized, and an assessment rate of $0.0025 per lug of grapes is established for the fiscal period ending December 31, 1992. Unexpended funds may be carried over as a reserve.

William J. Doyle,

Deputy Associate Director, Fruit and Vegetable Division.

[FR Doc. 92–27 Filed 1–2–92; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1007

[DA-91-023]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal that would suspend portions of the producer milk definition of the Georgia milk order for the months of December 1991 through August 1992. The suspension would increase the amount of milk that may be shipped directly from the farm to nonpool plants and still be priced under the order. The suspension was requested by Carolina Virginia Milk Producers Association (CVMPA), a cooperative association that represents producers who supply the market. CVMPA contends that the suspension is necessary because of changed marketing conditions and to provide equity among its producer members because of base plans in the Georgia milk order and neighboring Federal orders.

DATES: Comments are due on or before January 10, 1992.

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

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

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

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the

criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Georgia marketing area is being considered for the months of December 1991 through August 1992.

In § 1007.13 paragraphs (b)(4) and (b)(5).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include December 1991 in the suspension period.

Statement of Consideration

The proposed suspension would suspend portions of the producer milk definition of the Georgia milk order for the months of December 1991 through August 1992. The proposal would allow more milk to be shipped from farms to nonpool plants and still be priced and pooled under the order.

The order provides that a cooperative association may divert up to 25 percent of the milk received at pool plants and that a proprietary handler may divert up to 25 percent of its non member milk received at its pool plant. A suspension would increase the diversion limits to all but 10 days' production of each producer during the month.

The suspension was requested by Carolina Virginia Milk Producers Association (CVMPA), a cooperative association having a substantial amount of milk pooled on the Georgia market. In support of its proposal, the cooperative said the suspension is needed because a decreased volume of milk is needed by pool plants in the Georgia marketing area. CVMPA said that on December 1, 1991, there was a significant shift of processed milk accounts from plants regulated by the Georgia milk order to other order plants. The cooperative also states that it is not practical to shift producer milk supplies among orders, because of the base plans in the Georgia order and neighboring orders. CVMPA said that because of the diversion limitations contained in the Georgia order, producer is being reloaded at pool plants to keep it priced under the order. Relaxation of the diversion limits would facilitate moving the milk directly to nonpool plants.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the months of December 1991 through August 1992.

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

List of Subjects in 7 CFR Part 1007

Milk marketing orders.

The authority citation for 7 CFR part 1007 continues to read as follows:

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

Signed at Washington, DC, on December 27, 1991.

L.P. Massaro,

Acting Administrator.

[FR Doc. 92–30 Filed 1–2–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1106

[DA-91-024]

Milk in the Southwest Plains Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisons of the Southwest Plains milk order. The suspension actions were requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative assocation that represents producers who supply a significant portion of milk for the market.

The proposed suspension actions would suspend for the months January through August 1992 the shipping standards for supply plants. The monthly requirement that a dairy farmer's milk be received at a pool plant in order to be eligible for diversion to nonpool plants would be suspended for the months of February through August 1992. Mid-Am claims these suspension actions are necessary for the efficient disposition of an increasing supply of milk. The proponent contends that the proposed actions would eliminate the costly and inefficient movement of milk from supply plants that would have to be made to guarantee continued pricing and pooling of milk of producers who have historically supplied the market's fluid needs.

DATES: Comments are due no later than January 10, 1992.

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

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

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

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule. Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provision of the order regulating the handling of milk in the Soutwest Plains marketing area is being considered as follows:

For January through August 1992.

1. In § 1106.6, suspension of the words "during the month".

2. In § 1106.7(b)(1), suspension of the words "of February through August until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) or (e) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) or (e) of this section are not less than 50 percent of receipts or diversions, as previously specified".

For February through August 1992.

1. In § 1106.13, suspension of paragraph (d)(1) in its entirety.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include January 1992 in the suspension period.

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

Statement of Consideration

The proposed actions for January through August 1992 would suspend the shipping standards for supply plants that were previously associated with the market. The order defines a supply plant as a plant from which fluid milk products are transferred or diverted to distributing plants during the month. It also provides that in order to be pooled under the order during the months of September through January, 50 percent of a supply plant's receipts must be shipped to distributing plants each month. A supply plant that was pooled during each of the immediately preceding months of September through January shall continue to be pooled during the following months of February through August if 20 percent of its receipts are shipped to distributing plants. Part of the requested suspension action would remove during the months of February 1992 through August 1992 the shipping standard for supply plants that were pooled under the order during the immediately preceding September through January period. These order provisions were last suspended from February through August 1991.

The proposed suspension action would also suspend, for February 1992 through August 1992, the monthly requirement that a dairy farmer's milk be received at a pool plant in order to be eligible for diversion to nonpool plants. The order currently provides that a dairy farmer's milk may be diverted to nonpool plants and still be priced under the order if at least one day's production of such person is physically received at a pool plant during the month. This order provision also was last suspended from February through August 1991.

The suspension actions were requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents a substantial number of producers who supply the market. Mid-Am asserts that there will be ample supplies of direct-shipped producer milk to satisfy the fluid needs of plants during the February through August 1992 period. Mid-Am claims that producer receipts in the Southwest Plants order are increasing at a rate faster than Class I milk sales. Because of this, Mid-Am contends that it is unnecessary to compel producers located some distance from pool plants to have their milk be received at a pool plant one time during the month when their milk can more economically be diverted to manufacturing plants in the production area. Mid-Am argues that requiring each producer to have his/her milk be received at least one time each month at a pool plant will result in uneconomical and inefficient milk movements.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

The authority citation for 7 CFR part 1106 continues to read as follows:

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

Signed at Washington, DC, on: December 27, 1991.

Daniel Haley,

Administrator.

[FR Doc. 92-29 Filed 1-2-92; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11, 19, 20, 21, 25, 26, 30, 31, 32, 33, 34, 35, 39, 40, 50, 52, 53, 54, 55, 60, 61, 70, 71, 72, 73, 74, 75, 95, 110, 140, 150

RIN 3150-AD62

Clarification of Statutory Authority for Purposes of Criminal Enforcement

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to clarify the applicability of the criminal penalty provisions of the Atomic Energy Act of 1954, as amended (the Act), to certain regulations. The proposed rule is intended to identify more clearly those regulations which may subject the violator to criminal penalties for willfull violation, attempted violation, or conspiracy to violate.

DATES: The comment period expires March 18, 1992. Comments received after the date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch.

Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2741.

SUPPLEMENTARY INFORMATION: The Commission's regulations are issued under authority of section 161, among others, of the Atomic Energy Act of 1954, as amended, (the Act). Within section 161, there are five provisions, sections 161b, 161i, 161o, 161p, and 161x, that provide the Commission with authority to issue regulations. The rulemaking authority delegated to the Commission in sections 161b, 161i, and 161o provides the basis for most of the substantive rules issued by the Commission that are codified in 10 CFR chapter I. The NRC has considered how to provide effective notice as to which of its regulations are issued under sections 161b, 161i, or 161o. At the same time, the NRC has also considered how to minimize imprecision that could jeopardize appropriate enforcement action against those who violate these regulatory requirements.

Section 222 of the Act provides criminal penalties for willful violation (including an attempted violation or a conspiracy to violate) of sections 57, 92, and 101 of the Act, and unlawful interference with any recapture or entry under section 108 of the Act. Section 223 of the Act provides criminal penalties for willful violation (including an attempted violation or a conspiracy violation) of any provision of the Act for which no criminal penalty is specifically provided, and for willful violation of any regulation or order prescribed or issued under sections 65, 161b, 161i, or 161o of the Act.

Currently, the NRC provides notice of the criminal penalty provisions of section 223 by including a paragraph in the authority citation for each affected part of 10 CFR chapter I that identifies provisions of the appropriate regulations, by section or paragraph, that the NRC considers promulgated under section 161b, 161i, or 161o. Specifically, section 161b of the Act authorizes the Commission to "establish by rule, regulation, or order, such standards and instructions to govern the

possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property * * *." Section 161i states that the Commission may "prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this Act, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 53 or produced by any person in connection with any activity authorized pursuant to this Act, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, * * * and (3) to govern any activity authorized pursuant to this Act, * * * in order to protect health and to minimize danger to life or property." Section 161o authorizes the Commission to "require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 31 and of activities under licenses issued pursuant to sections 53, 63, 81, 103, and 104, as may be necessary to effectuate the purposes of this Act, including section 105." Thus the Commission's rulemaking authority in these sections is the basis for the substantive rules of the Commission. Section 161x authorizes the Commission to establish, by regulation, standards to ensure financial security for decontamination and decommissioning of sites containing certain byproduct material, specifically mill tailings. The remaining section (161p) authorizes the Commission to make, promulgate, issue, rescind, and amend rules and regulations which may be necessary to carry out the purposes of the Act. This last section pertains to the more general or merely administrative (nonsubstantive) regulations, as opposed to the substantive, specified matters of the three primary sections. Section 161p is used for the promulgation of those rules that are necessary to administratively complement the rules issued pursuant to 161b, 161i, and 161o. In light of the more specific authority of sections 161 b, i, o, or x, section 161p is considered a catchall provision that has no application where a provision of Section 161 provides specific authority.

This rule will remedy several problems with the current method of providing notice of the criminal penalty provisions of the Act. It may not always be readily apparent from a statement in the authority citations for each part that the purpose of that statement is to provide notice of potential criminal penalties for certain willful violations. To fully appreciate this notice, a reader needs to understand the rulemaking provisions of sections 161b, 161i, and 161o, as well as the criminal penalty provisions of section 223. From time to time, errors have been made which hampered the effectiveness of including the criminal penalty notice provisions in the authorities sections. In some instances, authority citations have been merely to section 161 without any indication of which subsection of 161 was used to promulgate the regulation. Substantive regulations, such as 10 CFR 50.7(a), which addresses discrimination against an employee for raising safety concerns, were overlooked. When § 50.7(a) was originally issued, there was no specific notice in the authority section that this section was issued under 161b, 161i, or 161o. This oversight resulted in a failure to provide notice to the public that this substantive regulation was promulgated under the specific subsections for which the Act provides criminal penalties for willful violations. These types of problems have affected the NRC's ability to refer cases to the Department of Justice and seek an appropriate criminal remedy.

The NRC has considered how to best provide notice as to which regulations are issued under sections 161b, 161i, or 161o, and to minimize errors that could jeopardize appropriate enforcement action. To eliminate any uncertainty and to provide clear and consistent notice of criminal penalties for willful violations of specific regulations, the Commission is adopting a standard format for identifying those regulations that, if willfully violated, are subject to criminal enforcement penalties. While the statement of general authority for each part will remain the same, the authority citations will no longer provide notice by the inclusion of a specific reference to those regulations issued under sections 161b, 161i, or 161o for the purpose of section 223 of the Act. These paragraphs within the authority citations will be removed. Instead, each appropriate part in 10 CFR chapter I will contain a section that will address criminal penalties. The new "Criminal penalties" section (added to each part) will contain a statement that for the purposes of section 223 all the regulations in the part are "issued under one or more of subsections 161b, 161i, or 161o," except as otherwise noted in a separate paragraph. Any section of the regulation which is not substantive in nature will be specifically identified and excluded from criminal enforcement penalties. This will result in the exclusion of those sections that are mainly administrative and do not address substantive matters. In addition, it is the NRC's intention, when each new regulation is promulgated in the future, to include, when applicable, a statement in the Supplementary Information published in the Federal Register that the regulation is issued under section 161b, 161i, or 161o. If a regulation is not issued under one of those sections, the criminal penalty section for the part in which the regulation is contained will be amended to specifically enumerate the new regulation as an exception. The inclusion of a "Criminal penalties" provision in the body of regulations in each substantive part will provide explicit notice of potential criminal penalties and should enable all persons subject to the rules to readily determine whether willful violation of the regulation could result in criminal liability, such as a fine or imprisonment.

In determining which NRC regulations are substantive and, accordingly, are promulgated under sections 161b, 161i, or 161o of the Act, the NRC has included those rules that create duties, obligations, conditions restrictions, limitations, and prohibitions. Regulations that are considered substantive include those that describe which activities require an NRC license, what a licensee must do under license conditions, and what information is required to be collected, reported, recorded, and protected by licensees and the NRC. In this proposed rulemaking, the regulations stating what is to be submitted in an application for an NRC license have not been included among those subject to criminal enforcement. This is because those requirements are stated in a general manner or without language that specifically imposes a requirement. Nonetheless, any willful submission of material false information to the NRC in a license application remains subject to criminal enforcement under the provisions of 18 U.S.C. 1001. In a few instances, a section that appears similar to the application requirement sections discussed above is made subject to criminal prosecution because the section also contains a provision that imposes a specific requirement, such as 50.34(e), which requires an applicant to protect Safeguards Information.

In addition, it was noted in the preparation of this rulemaking that inconsistent language is used in the

various parts to describe civil remedies, and that a few parts do not contain any such provision. Changes have been made to use the same language in each part and to add those provisions in parts that may be the basis for civil enforcement action. This does not add any new sanction, but clarifies that civil and criminal enforcement authority is available. Previous provisions as to criminal sanctions that appeared in "Violations" sections in some Parts have been deleted because they are replaced by the new "Criminal Penalties" sections.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 USC 3501, et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers: 3150-0001, 0002, 0007, 0008, 0009, 0010, 0011, 0014, 0015, 0016, 0017, 0018, 0020, 0032, 0035, 0036, 0039, 0044, 0046, 0047, 0055, 0062, 0123, 0126, 0127, 0130, 0132, 0135, 0146, and 0151.

Regulatory Analysis

The NRC has prepared this proposed regulation in order to identify the provisions of its regulations that are issued under section 223 of the Act for purposes of imposing criminal penalties on those who willfully violate those regulatory requirements. The NRC recognizes a need to clearly, simply, and accurately identify these provisions to provide public notice that violations of certain provisions may subject the violator to criminal penalty. The amendments presented in this proposed rule are intended to accomplish this objective. This proposed rule would not result in the creation of new potential liabilities and, of itself, imposes no new requirements on NRC licensees. This discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 USC 605(b)), the Commission certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule would not result in the creation of any new potential liabilities and would not impose new or additional requirements on NRC licensees.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and, therefore, a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 11

Criminal Penalties, Hazardous materials—transportation, Investigations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 25

Classified information, Criminal penalties, Investigations, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 26

Alcohol abuse, Alcohol testing, Appeals, Chemical testing, Drug abuse, Drug testing, Employee assistance programs, Fitness for duty Management actions, Nuclear power reactors, Protection, of information, Reporting and recordkeeping requirements.

10 CFR Part 30

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

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 33

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

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

10 CFR Part 39

Byproduct material, Criminal penalties, Nuclear material, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection.

Limited work authorization, Nuclear power plants and rectors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 53

Administrative practice and procedure, High-level waste, Nuclear materials, Nuclear power plants and reactors, Reporting recordkeeping requirements, Spent fuel, Waste treatment and disposal.

10 CFR Part 54

Administrative practice and procedure, Age-related degradation, Backfitting, Classified information, Criminal penalty, Environmental protection, Incorporation by reference, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials—transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 73

Criminal penalties, Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 95

Classified information, Criminal penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalties, Hazardous materials—transportation, intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing the following amendments to 10 CFR parts 11, 19, 20, 21, 25, 26, 30, 31, 32, 33, 34, 35, 39, 40, 50, 52, 53, 54, 55, 56, 60, 61, 70, 71, 72, 73, 74, 75, 95, 110, 140, and 150.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 11 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); SEC. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

2. A new center heading "Violations" and § 11.30 are added directly after § 11.21 to read as follows:

Violations

§ 11.30 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended,

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

3. Section 11.31 is added directly after § 11.30 to read as follows:

§ 11.31 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all regulations in part 11 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 11 that are not issued under subsections 161b, 161i,

or 161o for the purposes of section 223 are as follows: § § 11.1, 11.3, 11.5, 11.7, 11.8, 11.9, 11.16, 11.21, 11.30, and 11.31.

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

4. The authority citation for part 19 is revised to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

5. Section 19.30 is revised to read as follows:

§ 19.30 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended,

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

6. Section 19.40 is added to read as follows:

§ 19.40 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 11 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 19 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: § § 19.1, 19.2, 19.3, 19.4, 19.5, 19.8, 19.16, 19.17, 19.18, 19.30, 19.31, and 19.40.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

7. The authority citation for part 20 (including §§ 20.1 through 20.2402) is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 20.408 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

8. Section 20.601 is revised to read as follows:

§ 20.601 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section.

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

9. Section 20.602 is added to read as follows:

§ 20.602 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in §§ 20.1 through 20.602 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in §§ 20.1 through 20.602 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8, 20.107, 20.108, 20.204, 20.206, 20.302, 20.306, 20.501, 20.502, 20.601, and 20.602.

§ 20.2401 [Amended]

10. In § 20.2401, paragraph (c) is removed.

11. Section 20.2402 is added directly after § 20.2401 to read as follows:

§ 20.2402 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in §§ 20.1001 through 20.402 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in §§ 20.1001 through 20.2402 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 20.1001, 20.1002, 20.1003, 20.1004, 20.1005, 20.1006, 20.1007, 20.1008, 20.1009, 20.1704, 20.1903, 20.1905, 20.2002, 20.2007, 20.2301, 20.2302, 20.2401, and 20.2402.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

12. The authority citation for part 21 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2201, 2282); secs. 201, as amended, 206, 88 Stat. 1242, as amended 1246 (42 U.S.C. 5841, 5846).

Section 21.2 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

13. Section 21.62 is added directly after § 21.61 to read as follows:

§ 21.62 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provided for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 21 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 21 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 21.1, 21.2, 21.3, 21.4, 21.5, 21.7, 21.8, 21.61, and 21.62.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

14. The authority citation for part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); secs. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issue under 96 Stat. 1051 (31 U.S.C. 9701).

§ 25.37 [Amended]

15. In § 25.37, paragraph (c) is removed.

16. Section 25.39 is added directly after § 25.37 to read as follows:

§ 25.39 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 25 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 25 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 25.1, 25.3, 25.5, 25.7, 25.8, 25.9, 25.11, 25.19, 25.25, 25.27, 25.29, 25.31, 25.37, and 25.39.

PART 26—FITNESS FOR DUTY PROGRAMS

17. The authority citation for part 26 is revised to read as follows:

Authority: Secs. 53, 81, 103, 104, 107, 161, 68 Stat. 930, 935, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2111, 2112, 2133, 2134, 2137, 2201); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

§ 26.90 [Amended]

18. In § 26.90, paragraph (c) is removed.

19. Section 26.91 is added directly after § 26.90 to read as follows:

§ 26.91 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 26 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 26 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 26.1, 26.2, 26.3, 26.4, 26.6, 26.8, 26.90, and 26.91.

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

20. The authority citation for part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); SECS. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

21. Section 30.63 is revised to read as follows:

§ 30.63 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

22. Section 30.64 is added directly after § 30.63 to read as follows:

§ 30.64 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violations, attempted violation, or conspiracy to violate, and regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 30 are issued under one or more of subsections 161b, 161i, or 161o, expect for the sections listed in paragraph (b) of this section.

(b) The regulations in part 30 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 30.1, 30.2, 30.4, 30.5, 30.6, 30.8 , 30.11, 30.12, 30.13, 30.15, 30.16, 30.31, 30.32, 30.33, 30.37, 30.38, 30.39, 30.61, 30.62, 30.63, 30.64, 30.70, 30.71, and 30.72.

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

23. The authority citation for part 31 is revised to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

24. Section 31.13 is added directly after § 31.12 to read as follows:

§ 31.13 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

25. Section 31.14 is added directly after § 31.13 to read as follows:

§ 31.14 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsection 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 31 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 31 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 31.1, 31.2, 31.3, 31.4, 31.7, 31.9, 31.13, and 31.14.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

26. The authority citation for part 32 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

27. Subpart E (§§ 32.301 and 32.303) is added to part 32 to read as follows:

Subpart E—Violations

Sec.
32.301 Violations.
32.303 Criminal penalties.

Subpart E—Violations

§ 32.301 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

§ 32.303 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsection 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 32 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 32 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 32.1, 32.2, 32.8, 32.11, 32.14, 32.17, 32.18, 32.22, 32.23, 32.24, 32.26, 32.27, 32.28, 32.51, 32.53, 32.57, 32.61, 32.71, 32.72, 32.73, 32.74, 32.301, and 32.303.

PART 33—SPECIFIC DOMESTIC LICENSES OF BROAD SCOPE FOR BYPRODUCT MATERIAL

28. The authority citation for part 33 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

29. A new center heading "Violations" and §§ 33.21 and 33.23 are added directly after § 33.17 to read as follows:

Violations

§ 33.21 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

§ 33.23 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 33 are issued under one or more subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 33 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 33.1, 33.8, 33.11, 33.12, 33.13, 33.14, 33.15, 33.16, 33.21, 33.23 and 33.100.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

30. The authority citation for part 34 is revised to read as follows:

Authority: Secs. 81, 161, 182, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246, (42 U.S.C. 5846).

31. A new center heading "Violations" and §§ 34.61 and 34.63 are added directly after § 34.51 to read as follows:

Violations

§ 34.61 Violations.

(a) The Commission may obtain in injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

§ 34.63 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 34 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 34 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 34.1, 34.2, 34.3, 34.8, 34.11, 34.51, 34.61, and 34.63.

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

32. The authority citation for part 35 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

33. Section 35.990 is revised to read as follows:

§ 35.990 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

34. Section 35.991 is added directly after § 35.990 to read as follows:

§ 35.991 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 35 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 35 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 35.1, 35.2, 35.8, 35.12, 35.18, 35.19, 35.57, 35.100, 35.600, 35.901, 35.970, 35.971, 35.990, 35.991, and 35.999.

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

35. The authority citation for part 39 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

36. Section 39.101, is revised to read as follows:

§ 39.101 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

37. Section 39.103 is added directly after § 39.101 to read as follows:

§ 39.103 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 39 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 39 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 39.1, 39.2, 39.5, 39.8, 39.13, 39.91, 39.101, and 39.103.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

38. The authority citation for part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

39. Section 40.81 is revised to read as follows:

§ 40.81 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil

penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

40. Section 40.82 is added directly after § 40.81 to read as follows:

§ 40.82 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violations, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 40 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 40 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 40.1, 40.2, 40.2a, 40.4, 40.5, 40.6, 40.8, 40.11, 40.12, 40.13, 40.14, 40.20, 40.21, 40.22, 40.31, 40.32, 40.34, 40.43, 40.44, 40.45, 40.71, 40.81, and 40.82.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

41. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 63 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C.5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

42. Section 50.110 is revised to read as follows:

§ 50.110 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

43. Section 50.111 is added directly after § 50.110 to read as follows:

§ 50.111 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 50 are issued under one or more subsections 162b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 50 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 50.1, 50.2, 50.3, 50.4, 50.8, 50.11, 50.12, 50.13, 50.20, 50.21, 50.22, 50.23, 50.30, 50.31, 50.32, 50.33, 50.34a, 50.35, 50.36b, 50.37, 50.38, 50.39, 50.40, 50.41, 50.42, 50.43, 50.45, 50.50, 50.51, 50.52, 50.53, 50.56, 50.57, 50.58, 50.81, 50.82, 50.90, 50.91, 50.92, 50.100, 50.101, 50.102, 50.103, 50.109, 50.110, and 50.111.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

44. The authority citation for Part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

45. Subpart D (§§ 52.111 and 52.113) is added to part 52 to read as follows:

Subpart D—Violations

Sec.
52.111 Violations.
52.113 Criminal penalties.

Subpart D—Violations

§ 52.111 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) for any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

§ 52.113 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 52 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 52 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 52.1, 52.3, 52.5, 52.8, 52.11, 52.13, 52.15, 52.17, 52.18, 52.19, 52.21, 52.23, 52.24, 52.27, 52.29, 52.31, 52.33, 52.37, 52.41, 52.43, 52.47, 52.48, 52.49, 52.51, 52.53, 52.54, 52.55, 52.57, 52.59, 52.61, 52.71, 52.73, 52.75, 52.77, 52.79, 52.81, 52.83, 52.85, 52.87, 52.89, 52.93, 52.97, 52.101, 52.111, and 52.113.

PART 53—CRITERIA AND PROCEDURES FOR DETERMINING ADEQUACY OF AVAILABLE SPENT NUCLEAR FUEL STORAGE CAPACITY

46. The authority citation for part 53 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 103, 104, 161, 68 Stat. 930, 932, 933, 934, 935, 936, 937, 948, as amended (42 U.S.C. 2073, 2077, 2092, 2095, 2099, 2111, 2133, 2134, 2201); secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 132, 135, 96 Stat. 2230, 2232 (42 U.S.C. 10152, 10155).

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

47. The authority citation for part 54 is revised to read as follows:

Authority: Secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, as amended (42 U.S.C. 5841, 5842.)

48. Section 54.41 is added directly after § 54.37 to read as follows:

§ 54.41 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended.

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

49. Section 54.43 is added directly after § 54.41 to read as follows:

§ 54.43 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violations, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 54 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 54 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 54.1 54.3, 54.5, 54.7, 54.9, 54.11, 54.15, 54.17, 54.19, 54.21, 54.22, 54.23, 54.25, 54.27, 54.29, 54.31, 54.41, and 54.43.

PART 55—OPERATOR'S LICENSES

50. The authority citation for part 55 is revised to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1442, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

51. Section 55.71 is revised to read as follows:

§ 55.71 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

52. Section 55.73 is added directly after § 55.71 to read as follows:

§ 55.73 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsection 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 55 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 55 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: 55.1, 55.2, 55.4, 55.5, 55.6, 55.7, 55.8, 55.11, 55.13, 55.31, 55.33, 55.35, 55.41, 55.43, 55.47, 55.51, 55.55, 55.57, 55.61, 55.71, and 55.73.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

53. The authority citation for part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2993, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub L. 97-425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141).

54. Subpart J (§§ 60.181 and 60.183) is added to part 60 to read as follows:

Subpart J—Violations

Sec.
60.181 Violations.
60.183 Criminal penalties.

Subpart J—Violations

§ 60.181 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

§ 60.183 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsection 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 60 are issued under one or more subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 60 that are not issued under subsections 161b, 161i, or 161o, for the purposes of section 223 are as follows: §§ 60.1, 60.2, 60.3, 60.5, 60.6, 60.7, 60.8, 60.15, 60.16, 60.17, 60.18, 60.21, 60.22, 60.23, 60.24, 60.31, 60.32, 60.33, 60.41, 60.42, 60.43, 60.44, 60.45, 60.46, 60.51, 60.52, 60.61, 60.62, 60.63, 60.64, 60.65, 60.101, 60.102, 60.111, 60.112, 60.113, 60.121, 60.122, 60.130, 60.131, 60.132, 60.133, 60.134, 60.135, 60.137, 60.140, 60.141, 60.142, 60.143, 60.150, 60.151, 60.152, 60.162, 60.181, and 60.183.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

55. The authority citation for part 61 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); sec. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

56. Section 61.83 is revised to read as follows:

§ 61.83 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

56. Section 61.84 is added directly after § 61.83 to read as follows:

§ 61.84 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 61 are issued under one or more of subsections 161b, 161i, or 161o, excpet for the sections listed in paragraph (b) of this section.

(b) The regulations in part 61 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 16.1, 61.2, 61.4, 61.5, 61.6, 61.7, 61.8, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.21, 61.22, 61.23, 61.26, 61.30, 61.31, 61.50, 61.51, 61.54, 61.55, 61.58, 61.59, 61.61, 61.63, 61.70, 61.71, 61.72, 61.73, 61.83, and 61.84.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

58. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

59. Section 70.71 is revised to read as follows:

§ 70.71 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any item, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

60. Section 70.72 is added directly after § 70.71 to read as follows:

§ 70.72 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in Part 70 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 70 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 70.1, 70.2, 70.4, 70.5, 70.6, 70.8, 70.11, 70.12, 70.13, 70.13a, 70.14, 70.18, 70.23, 70.31, 70.33, 70.34,

70.35, 70.37, 70.61, 70.62, 70.63, 70.71, and 70.72.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

61. The authority citation for part 71 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 71.97 also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789-790.

62. Section 71.99 is revised to read as follows:

§ 71.99 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any item, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

63. Section 71.100 is added directly after § 71.99 to read as follows:

§ 71.100 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i or 161o of the Act. For purposes of section 223, all the regulations in part 71 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 71 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 71.0, 71.1, 71.2, 71.4, 71.6, 71.7, 71.9, 71.10, 71.31, 71.33, 71.35, 71.37, 71.39, 71.41, 71.43, 71.45, 71.47, 71.51, 71.52, 71.53, 71.65, 71.71, 71.73, 71.75, 71.77, 71.99, 71.100.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

64. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235(42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

65. Section 72.84 is revised to read as follows:

§ 72.84 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections, 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) or this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

66. Section 72.86 is added directly after § 72.84 to read as follows:

§ 72.86 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 72 are issued under one or more of subsections 161b, 161i or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 72 that are not issued under subsections 161b, 161i or 161o for the purposes of section 223 are as follows: §§ 72.1, 72.2, 72.3, 72.4, 72.5, 72.7, 72.8, 72.9, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.32, 72.34, 72.40, 72.42, 72.46, 72.54, 72.56, 72.58, 72.60, 72.62, 72.84, 72.86, 72.90, 72.92, 72.94, 72.96, 72.98, 72.100, 72.102, 72.104, 72.108, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.182, 72.194, 72.200, 72.202, 72.204, 72.206, 72.210, 72.214, 72.220, 72.230, 72.236, 72.238, and 72.240.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

67. The authority citation for part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); Sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

68. Section 73.80 is revised to read as follows:

§ 73.80 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

69. Section 73.81 is added directly after § 73.80 to read as follows:

§ 73.81 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 73 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 73 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 73.1, 73.2, 73.3, 73.4, 73.5, 73.6, 73.8, 73.25, 73.45, 73.80, and 73.81.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

70. The authority citation for part 74 is revised to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

71. Section 74.83 is revised to read as follows:

§ 74.83 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 63, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.

72. Section 74.84 is added directly after § 74.83 to read as follows:

§ 74.84 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, 161o of the Act. For purposes of section 223, all the regulations in part 74 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 74 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 74.1, 74.2, 74.4, 74.5, 74.6, 74.7, 74.8, 74.83 and 74.84.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

73. The authority citation for part 75 is revised to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

74. Section 75.51 is revised to read as follows:

§ 75.51 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

(c) The Commission may issue orders to secure compliance with the provisions of this part or to prohibit any violation of such provisions as may be proper to protect the common defense and security. Enforcement actions, including proceedings instituted with respect to Agreement State licensees, will be conducted in accordance with the procedures set forth in part 2, subpart B of this chapter. Only NRC licensees, however, are subject to license modification, suspension, or revocation as such as a result of such enforcement action.

75. Section 75.53 is added directly after § 75.51 to read as follows:

§ 75.53 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 171o of the Act. For purposes of section 223, all the regulations in part 75 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 75 that are not issued under subsections 161b, 161i, or 161o for the purposes of Section 223 are as follows: §§ 75.1, 75.2, 75.3, 75.4, 75.5, 75.8, 75.9, 75.12, 75.37, 75.41, 75.46, 75.51, and 7.53.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

76. The authority citation for part 95 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

77. Section 95.61 is revised to read as follows.

§ 95.61 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section;

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

78. Section 95.63 is added directly after § 95.61 to read as follow:

§ 95.63 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 95 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) the regulations in part 95 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 95.1, 95.3, 95.5, 95.7, 95.8, 95.9, 95.11, 95.17, 95.19, 95.21, 95.23, 95.55, 95.59, 95.61, and 95.63.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

79. The authority citation for part 110 is revised to read as follows:

Authority: Sec.s 51, 53, 54, 57, 63, 64, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 110.1(b)(2) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.30–110.35 also issued under 5 U.S.C. 553.

80. Section 110.60 is revised to read as follows:

§ 110.60 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section.

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under seciton 186 of the Atomic Energy Act of 1954, as amended.

81. Section 110.67 is added directly after § 110.66 to read as follows:

§ 110.67 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 100 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 110 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 110.1, 110.2, 110.3, 110.4, 110.7, 110.8, 110.9, 110.10, 110.11, 110.28, 110.29, 110.30, 110.31, 110.40, 110.41, 110.42, 110.43, 110.44, 110.45, 110.51, 110.52, 110.60, 110.61, 110.62, 110.63, 110.64, 110.65, 110.66, 110.67, 110.70, 110.71, 110.72, 110.73, 110.80, 110.81, 110.82, 110.83, 110.84, 110.85, 110.86, 110.87, 110.88, 110.89, 110.90, 110.91, 110.100, 110.101, 110.102, 110.103, 110.104, 110.105, 110.106, 110.107, 110.108, 110.109, 110.110, 110.111, 110.112, 110.113, 110.120, 110.122, 110.123, 110.144, 110.125, 110.130, 110.131, 110.132, 110.133, 110.134, and 110.135.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

82. The authority citation for part 130 is revised to read as follows:

Authority: Sec. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

83. Subpart F (§§ 140.87 and 140.89) is added to part 140 to read as follows:

Subpart F—Violations

Sec.
140.87 Violations.
140.89 Criminal penalties.

Subpart F—Violations

§ 140.87 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

§140.89 Criminal Penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 140 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 140 that are not issued under subsections 161b, 161i, or 161o for purposes of Section 223 are as follows: §§ 140.1, 140.2, 140.3, 140.4, 140.5, 140.7, 140.8, 140.9, 140.9a, 140.10, 140.14, 140.16, 140.18, 140.19, 140.20, 140.51, 140.52, 140.71, 140.72, 140.81, 140.82, 140.83, 140.84, 140.85, 140.87, 140.89, 140.91, 140.92, 140.93, 140.94, 140.95, 140.96, 140.107, 140.108, and 140.109.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

84. The authority citation for part 150 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

85. Section 150.30 is revised to read as follows:

§ 150.30 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

86. Section 150.33 is added directly after § 150.32 to read as follows:

§150.33 Criminal Penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation, attempted violation, or conspiracy to violate, any regulation issued under subsections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 150 are issued under one or more of subsections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 150 that are not issued under subsections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 150.1, 150.2, 150.3, 150.4, 150.5, 150.7, 150.8, 150.10, 150.11, 150.15, 150.15a, 150.30, 150.31, 150.32, and 150.33.

Dated at Rockville, MD, this 24th day of December, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–105 Filed 1–2–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–91–19]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 3, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Angela M. Washington, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267–5571.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on December 19, 1991.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Rulemaking

[Docket No.: 26626]

Petitioner: Mr. Lawrence Schaefer.

Regulations affected: 14 CFR 121.383.

Description of petition: Petitioner would amend the Federal Aviation Regulations (FAR) to permit airmen who have had their medical certificates and/or licenses lost or stolen to fly as long as the airman carries a letter from his supervisor stating that he has the current documentation on file.

Petitioner's reason for the request: The petitioner asserts that the proposed amendment would benefit the public by eliminating the inconvenience of delayed or cancelled flights resulting from having to replace those pilots who do not have their medical certificates and or licenses on hand. The petitioner also asserts that the proposed amendment would enhance the safety of flight by relieving the worry of a pilot whose certificates have been lost, misplaced, or stolen, thus allowing the pilot to devote full attention to flying the aircraft.

[Docket No.: 26633]

Petitioner: Mr. Jack W. Tunstill.

Regulations affected: 14 CFR 61.95.

Description of petition: Petitioner would add a new section to the regulations which would allow student pilots to operate within either the Tampa Terminal Control Area or the Orlando Terminal Control Area with a logbook endorsement from a certified flight instructor who has flown with the student in either Terminal Control Area. Ground instruction in both Terminal Control Areas would still be required.

Petitioner's reason for the request: The petitioner feels that the Tampa and Orlando TCA's form a barrier for most cross country flights in Florida because of their close proximity to each other. The petitioner states that this reduces aviation safety because student pilots avoid the TCA's rather than operating within them.

[Docket No.: 25918]

Petitioner: Executive Jet Westfield.

Regulations affected: 14 CFR 91.511(a)(2) and 135.165(b).

Description of petition: The petitioner requests that the FAA extend the termination date of Exemption No. 5112 which was issued on November 9, 1989 and terminates on November 30, 1991. The exemption permits the petitioner to operate specific aircraft in extended overwater operations using one long-range navigation system and one high frequency communication system.

Petitioner's reason for the request: The petitioner states that reliability and accuracy of both navigation and communication systems has improved considerably in recent years, and this exemption reduces operating costs by allowing more direct routes.

Disposition: Granted. October 31, 1991.

[Docket No.: 26441]

Petitioner: Mr. Peter G. Tchamitch.

Regulations affected: 14 CFR 91.113 (d) and (e).

Description of petition: The petitioner proposes to amend § 91.113(d) to require that when aircraft of the same category are converging at approximately the same altitude, except head on or nearly so, the aircraft to the other's right has the right of way, and the pilot giving way may turn left or right to avoid collision provided that the pilot also initiates a steep descent or climb respectively. The petitioner proposes to amend § 91.113(e) to require that when aircraft are approaching head-on, or nearly so, at approximately the same altitude, each pilot shall alter its course to the right and also initiate a steep climb. In the event the pilot finds it necessary to deviate from the requirement to turn right, and decides to turn left, the pilot shall initiate a steep descent.

Petitioner's reason for the request: The petitioner states that there are many close-in situations in which pilots may feel forced to deviate from the requirements of § 91.113. Pilots may only have a few seconds to decide whether or not to deviate. Consequently, pilots may be at a complete loss as to which way to turn, resulting in turning one way or another out of pure instinct. Thus, the petitioner feels that the proposed amendment would aid in collision avoidance.

Disposition: Denied. November 8, 1991.

[FR Doc. 92-48 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-86-AD]

Airworthiness Directives; Beech 33, 35, and 36 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede AD 91-14-13, which currently requires initial and repetitive inspections of the wing front spar carry-through frame structure for cracks on certain Beech 33, 35, and 36 series airplanes, and repair or reinforcement if found cracked. The Federal Aviation Administration (FAA) has determined that the available service history justifies the requirement for the initial inspection, but that the repetitive inspection requirement should be based on the results of the fleet-wide initial inspection. Therefore, the proposed action would retain the initial inspection required by AD 91-14-13, and would require a report to the FAA on the results of the one-time inspection in order to determine whether additional rulemaking is necessary. The actions specified by the proposed AD are intended to prevent structural damage to the wing that could progress to the point of failure.

DATES: Comments must be received on or before February 3, 1992.

ADDRESSES: Beech Service Bulletin No. 2360, dated November 1990, may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-86-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4122; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-86-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 91-14-13, Amendment 39-7054 (56 FR 31324, July 10, 1991), currently requires initial and repetitive inspections of the wing front spar carry-through frame structure for cracks on certain Beech 33, 35, and 36 (Bonanza) series airplanes, and repair or reinforcement if found cracked. The actions are to be accomplished in accordance with the instructions in Beech Service Bulletin (SB) No. 2360, dated November 1990.

The FAA recently received a petition from the Aircraft Owners and Pilots Association (AOPA to reconsider the need for AD 91-14-13. The FAA has received six confirmed reports of cracks to the spar carry-through frame structure on the affected airplanes. In addition, the manufacturer reports to the FAA that 126 reinforcement kits have been sold, which could indicate the likelihood that cracks are being detected. AD action was further reinforced by the similarity of the Bonanza series airplanes to the Beech 55, 56TC, 58, and 95 (Baron) series airplanes. AD 90-08-14, Amendment 39-6563 (55 FR 12475, April 4, 1990), currently requires initial and repetitive inspections to detect and correct identical cracking problems. Because cracks are still likely to occur in both series airplanes, the FAA has determined that the initial inspection required by AD 91-14-13 is justified. However, because there are differences in aircraft weight and external loads between the Baron and Bonanza series airplanes, the FAA has determined that further study needs to be undertaken in order to determine if there is a need for the repetitive inspection requirement. Instead of the repetitive inspection requirement, the FAA has determined that a reporting requirement should be required for the initial inspection to more fully investigate the cracking of the wing front spar carry-through structure on the affected airplanes.

Since the condition described is likely to exist or develop in other Beech 33, 35, and 36 series airplanes of the same type design, the proposed AD would retain the initial inspection requirement of the wing front spar carry-through web structure for cracks and the repair or reinforcement requirement on structures found cracked that are currently required by AD 91-14-13. However, the proposed action would not require the repetitive inspections required by AD 91-14-13, but would add a reporting requirement of the initial inspection that, based on the results, would help the FAA determine whether additional rulemaking should be initiated. The inspection and repair/reinforcement actions would be done in accordance with Beech SB No. 2360, dated November 1990.

It is estimated that 11,000 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 hours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,840,000. The above cost analysis is the same as AD 91-14-13, which would be superseded by this proposed action. There would be no additional cost impact on U.S. operators by this proposed action than that which is currently required by AD 91-14-13.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91-14-13, Amendment 39-7054 (56 FR 31324, July 10, 1991), and adding the following new AD:

Beech: Docket No. 91-CE-86-AD.

Applicability: Applies to the following Models and serial numbered airplanes, certificated in any category.

Models	Serial numbers
35-33, 35-A33, 35-B33, 35-C33, E33, F33, and G33.	CD-1 through CD-1304.
35-C33A, E33A, and F33A	CE-1 through CE-1192.
E33C and F33C	CJ-1 through CJ-179.
H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B.	D-4866 through D-10403.
36 and A36	E-1 through E-2397.
A36TC and B36TC	EA-1 through EA-471.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent structural damage to the wing that could progress to the point of failure, accomplish the following:

(a) Upon the accumulation of 1,500 hours time-in-service (TIS), or within the next 100 hours TIS, whichever occurs later, unless already accomplished (AD 91-14-13, Amendment 7054), inspect the wing front spar carry-through frame (web) structure for cracks in accordance with the instructions in Beech Service Bulletin (SB) No. 2360, dated November 1990.

(b) If cracks are found in the bend radius and not in the web face in the areas of the huckbolt fasteners as a result of the inspection required in paragraph (a) of this AD, accomplish the following in accordance with the instructions in Beech SB No. 2360:

(1) For cracks up to 2.25 inches, prior to further flight, stop drill each crack at the crack ends. Only one stop-drilled crack on each side of the wing forward spar carry-

through frame structure bend radius is allowable as long as neither exceeds 2.25 inches. If more than one crack is found on either side, prior to further flight, install the applicable Beech part number (P/N) 36-4004 Kit.

(2) For cracks between 2.25 and 4.0 inches, prior to further flight, stop drill each crack at the crack ends, and within the next 100 hours TIS, install the applicable Beech P/N 36-4004 Kit. Only one stop-drilled crack on each side of the wing forward spar carry-through frame structure bend radius is allowable as long as the crack does not exceed 4.00 inches and the applicable Beech P/N 36-4004 Kit is installed within the next 100 hours TIS. If more than one crack is found on either side, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(3) For cracks exceeding 4.0 inches, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(c) If cracks are found in the web face in the area of the huckbolt fasteners but not in the bend radius as a result of the inspections required in paragraph (a) of this AD, accomplish the following in accordance with the instructions in Beech SB No. 2360, but do not stop drill the cracks because it is possible to damage the structure behind the web face:

(1) For cracks less than 1.0 inch in length, return the airplane to service as long as their is not more than one crack on each side, and reinspect each crack for progression 200 hours TIS after the initial inspection. If more than one crack is found on either side, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(2) For cracks more than 1.0 inch in length, within the next 25 hours TIS, install the applicable Beech P/N 36-4004 Kit. Only one crack on each side is allowable. If more than one crack is found on either side, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(3) If a crack passes through two fasteners but is less than 0.5 inches beyond either fastener, within the next 25 hours TIS, install the applicable Beech P/N 36-4004 Kit. Only one crack on each side is allowable. If more than one crack is found on either side, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(4) If a crack passes through two fasteners but is more than 0.5 inches beyond either fastener, prior to further flight, install the applicable Beech P/N 36-4004 Kit.

(d) If cracks are found in both the web face in the area of the huckbolt fasteners and the bend radius as a result of the inspections required in paragraph (a) of this AD, accomplish the following in accordance with the instructions in Beech SB No. 2360:

(1) If only one crack is found on either side of the airplane, repair each crack in accordance with the criteria and instructions in paragraphs (b)(1) through (b)(3) or (c)(1) through (c)(4) of this AD, whichever is applicable.

(2) If more than one crack is found on either side of the airplane, prior to further flight, repair any crack on that side of the airplane that is 1.0 inch or more in length by installing the applicable Beech P/N 36-4004 Kit. For cracks under 1.0 inch in length, return the airplane to service and reinspect each crack for progression 200 hours TIS after the initial inspection.

(e) Send the results of each inspection in writing to the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209, within 10 days after the inspection or 15 days after the effective date of this AD, whichever occurs later. State whether cracks, were found, the location and length of any cracks, and the total hours TIS of the component at the time the crack was discovered. The form presented as Figure 1 of this AD may be used. (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056).

Figure 1

Reporting Form

Date of inspection:

Airplane serial number:

Total airplanes hours time-in-service:

Were cracks found as a result of the inspection?

If so, provide the following information:

1. Crack locations (refer to Beech Service Bulletin No. 2360).
2. Length of cracks (refer to applicable paragraph in Beech Service Bulletin No. 2360).
3. Was a Beech kit installed?

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

(g) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

(h) Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri.

(i) This amendment supersedes AD 91-14-13, Amendment 39-7054. Issued in Kansas City, Missouri, on December 19, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-64 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 20, 100, 101,102, 105, and 130

[Docket No. 91N-0511]

Food Labeling; Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing on the notices of proposed rulemaking on food labeling that it published in the **Federal Register** of November 27, 1991. This hearing will provide an opportunity for interested persons to present their views on the issues raised by the proposals on such matters as mandatory nutrition labeling, nutrient content claims, and health claims. The public hearing is being held in accordance with 21 CFR part 15.

DATES: Written notices of participation should be filed by January 23, 1992. The public hearing will be held on Thursday and Friday, January 30, and 31, 1992, 8 a.m. to 6 p.m. The records of the underlying rulemakings will remain open for comments until February 25, 1992.

ADDRESSES: The public hearing will be held in the Jack Masur Auditorium, Warren Grant Magnuson Clinical Center, Bldg. 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. Written notices of participation and any comments are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Transcripts of the hearing and copies of data and information submitted during the hearing will be available for review at the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document. The comments on the underlying proposals will be available for review as part of the docket of the relevant rulemaking. A copy of the proposals that were published November 27, 1991 (56 FR 60366), can be obtained by contacting John Tisler, Center for Food Safety and Applied Nutrition, Food and Drug Administration (HFF-326), 200 C St. SW., Washington,

DC 20204, 202-245-0251 between 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Persons needing information about the various food labeling issues to be addressed at the public hearings should contact:

Virginia Wilkening, Center for Food Safety and Applied Nutrition (HFF-200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1561.

Charles Edwards, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, 202-205-0080.

Questions about the hearing in general should be directed to:

Annette Funn, Office of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006, 301-443-9767 (FAX).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal government has launched a major initiative to improve the food label, led by Louis W. Sullivan, Secretary of Health and Human Services, David A. Kessler, Commissioner of Food and Drugs, and Edward Madigan, Secretary of Agriculture. In the **Federal Register** of November 27, 1992, as part of that initiative and in response to the Nutrition Labeling and Education Act of 1990 (Pub. L. 101-535), FDA published proposals on mandatory nutrition labeling (docket numbers 90N-0134, 90N-0135; 56 FR 60366), serving sizes (docket number 90N-0165; 56 FR 60394), nutrient content claims (docket numbers 91N-0384, 84N-0153, 91N-0317 et al., 91N-0344; 56 FR 60421, 60478, 60512, and 60523, respectively), health claims, including claims on 10 specific substance-disease relationships (docket numbers 85N-0061, 91N-0098, 91N-0099, 91N-0100, 91N-0101, 91N-0102, 91N-0103, 91N-0094, 91N-0095, 91N-0096, 91N-0097, 56 FR 60537, 60566, 60582, 60610, 60624, 60652, 60663, 60689, 60727, 60764, 60825, respectively), State petitions for an exemption from preemption (docket number 91N-0038, 56 FR 60528), State enforcement of certain provisions of the Federal Food, Drug, and Cosmetic Act (docket number 91N-0343; 56 FR 60534), and the regulatory impact of the proposed food labeling regulations (docket number 91N-0219; 56 FR 60856). In the same issue of the **Federal Register**, USDA published a proposal on the nutrition labeling of meat and poultry products (docket number 91-006P; 56 FR 60302). In these proposals, FDA and USDA requested public comment on the matters set forth. In addition, FDA announced its intention to hold a public hearing. Interested persons are encouraged to review these proposals to become familiar with the many issues that they address.

II. Scope of Hearing

Comments are specifically requested on three broad topic areas: (1) Nutrient content claims (i.e., descriptors) (2) health claims, and (3) nutrition labeling issues. Regarding nutrient content claims, comments may address the approach that FDA has taken in selecting terms to be defined, synonyms to be allowed, and methods for arriving at definitions. Particular attention should be directed to the alternative approach for defining comparative nutrient content claims discussed at 56 FR 60458 and in a proposal that FDA intends to publish before the hearing. Comments regarding health claims should discuss the proposed general requirements or issues related to specific diet-disease relationships. In addition, comments are requested on the nutrition label, proposed Reference Daily Intakes and Daily Reference Values, and serving sizes.

Although participants may comment on any issue raised by the food labeling proposals, time for presentations will be extremely limited. Therefore, participants will be well advised to limit their comments to an indepth discussion of one or two topics. Participants can present the full range of their views in the written comments that they submit on each of the proposals.

III. Notice of Hearing Under 21 CFR 15

The Commissioner of Food and Drugs is announcing that the public hearing will be conducted in accordance with 21 CFR part 15.

The presiding officer will be the Commissioner of Food and Drugs or his designee. Ronald Prucha, Food Safety and Inspection Service, USDA, or his designee, will also participate. The presiding officer will be accompanied by a panel of FDA employees with the relevant expertise.

Persons who wish to participate are requested to file a notice of participation with the Dockets Management Branch (address above) on or before January 23, 1992. To ensure timely handling, any outer envelope should be clearly marked with the docket number found in brackets in the heading of this document and the statement "Food Labeling Hearing." The notice of participation should contain the name, address, telephone number, facsimile number, affiliation (if applicable) of the participant, and a brief summary of the presentation. FDA asks groups that have similar interests to consolidate their comments. FDA will allocate the time available for the hearing among the persons who have properly filed a notice of participation. If time permits, FDA may allow other interested persons attending the hearing who did not submit a notice of participation, in advance, to make an oral presentation at the conclusion of the hearing.

FDA will schedule each appearance after reviewing the notices of participation and accompanying information, and notify each participant by mail, telephone, or FAX of when the time allotted to the person's oral presentation is scheduled to begin. Presentations will be limited to 5 to 10 minutes depending on the number of participants. The hearing schedule will be available at the hearing, and after the hearing it will be placed on file in the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this document.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments on the proposed rulemakings that underlie this hearing. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of each proposal on which comments are made. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Under 21 CFR 15.30(e) and (f), the hearing is informal, and the rules of evidence do not apply. No participant will be allowed to interrupt the presentation of another participant. Only the presiding officer and panel members will be able to question any person during or at the conclusion of their presentation.

Public hearings, including hearings under part 15, are subject to FDA's guidelines (21 CFR part 10, subpart C) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Any handicapped persons requiring special accommodations in order to attend the hearings should direct those needs to Annette Funn (address above).

Individuals and organizations who testify at this hearing should submit three copies of their written testimony for the official record on the day they are to appear at the hearing.

To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in 21 CFR 15.30(h).

Dated: December 30, 1991.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 91-31329 Filed 12-30-91 3:53 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-91-1540; FR-2985-A-01]

RIN 2502-AF42

Manufactured Home Procedural and Enforcement Regulations

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: HUD is soliciting public comments on certain changes to the structure of the monitoring program used to enforce the manufactured housing construction and safety standards required by section 604 of the Act. HUD has proposed some alternative regulatory structures which would change the current third party design and inspection program and system of monitoring and enforcement.

These alternative monitoring procedures are intended to provide a more efficient and effective regulatory enforcement program which will assure protection of the consumers, while lessening the burden on the manufactured housing industry.

DATES: Comments due date: March 4, 1991.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: David C. Nimmer, Director, Office of Manufactured Housing and Regulatory Functions, Department of Housing and Urban Development, 451 Seventh Street, SW., room 9156, Washington, DC 20410-8000. Telephones: (voice) (202) 708-1590; (TDD) (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1991, the Secretary published in the semiannual regulation agenda the intention to issue an advance notice of proposed rulemaking concerning the structure of the monitoring program (56 FR 53380, 53398). This advance notice of proposed rulemaking is intended to provide an opportunity for public input to improve the methods used to verify that designs, inspection procedures, and construction of manufactured housing result in homes which meet the Manufactured Home Construction and Safety Standards contained in 24 CFR 3280.

The Secretary has currently approved eight companies and one state agency to approve manufactured home designs of the manufacturers. These agencies are called Design Approval Primary Inspection Agencies or DAPIAs.

In addition, HUD has approved seven companies and thirteen State agencies to provide inspection services of manufacturing facilities. These agencies are known as Production Inspection Primary Inspection Agencies or IPIAs. The State IPIAs may serve as exclusive inspection agents inside of their state. In all other States, manufacturers may contract with any other approved private IPIA for the required inspection services in the manufacturing plant.

Since 1976, HUD, with the assistance of a monitoring contractor, has evaluated the performance of all IPIAs and DAPIAs. In addition, the monitoring contractor inspects dealer lots for violations of the manufactured home standards. The contractor also conducts investigations for the Department, and provides training seminars and workshops for the education of personnel involved in design approval and inspection of manufactured homes.

Based on information provided by the monitoring contractor, and staff analysis, the Department annually determines if the performance levels of the DAPIAs and IPIAs are adequate for continued acceptance as primary inspection agencies. The Department reviews and authorizes the use of monitoring procedures used by the Monitoring Contractor, which are implemented after extensive discussions with the manufactured housing industry and the primary inspection agencies.

A. Options for Changes in the Monitoring Procedures for the Manufactured Housing Industry

To consider alternative monitoring procedures for administering the manufactured home construction standard program, the Department hereby proposes several options for public comment. Parties who believe that the current Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282) should be maintained are encouraged to write the Department and express their reasons for this view. Also, the Department is seeking other possible options which could accomplish the same program objectives in a more efficient and effective manner.

Option No. 1: Maintain Existing Monitoring and Enforcement System; Establish Uniform Inspection and Design Review Fees

This option would maintain the present basic monitoring and enforcement system. However, to eliminate any potential conflict of interests, HUD would set a uniform inspection fee and design review fee through regulation, and all PIAs would be compensated directly and equally by the manufacturers.

Other matters, such as specific criteria for initial plant certifications and recertification of the manufacturing process will be accomplished by changes in the Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282).

Option No. 2: HUD Would Audit Performance of Primary Inspection Agencies. Monitoring Contractor's Role Would Be Redefined To Include Technical Assistance in the Development of Performance Standards and Administrative Support to the Department

Under this option, manufacturers would continue to pay primary inspection agencies directly for inspection services. The manufacturer's label fee would be paid directly to HUD or its administrative agent.

HUD would hire Field Office auditors to monitor the performance of primary inspection agencies and perform random audits of the manufacturers. HUD staff engineers, with the technical services contractor, would monitor the effectiveness and accuracy of the design

reviews to meet the Standards. HUD and the primary inspection agencies would notify manufacturers of nonconformances with the standards.

The responsibilities of the Monitoring Contractor would be changed to provide technical services in the development of procedures rather than the auditing of primary inspection agencies. The Monitoring Contractor would also perform administrative functions such as the collection and tracking of label fees, maintenance of the technical library of approved designs along with other matters which can be done at lesser cost by contractor personnel.

HUD would establish a uniform fee schedule for primary inspection services and design review services. HUD would also use the current per floor fee for the payment of a technical services contractor along with the additional costs of staffing and overhead to administer the program.

This type of system would more closely resemble other Federal agency inspection procedures where the inspectors are generally Federal government employees, and are held directly accountable to the Department and not to the industry they inspect.

Option No. 3: IPIAs and DAPIAs Would Be Eliminated and Design Approval and Inspection Services Would Be Performed by the Monitoring Contractor or by HUD

Fees to be paid for inspection services would be set by regulation. The monitoring contractor woud provide technical assistance in the development of performance standards and administrative support.

This option would consolidate all of the design review and inspection functions into one organization, either the monitoring contractor or the Department. The Department would establish uniform rates for providing the design and inspection services. In conjunction with private and non-profit organizations, the Department would continue to develop performance-based standards to improve the quality and durability of manufactured homes.

B. Other Changes in the Manufactured Housing Enforcement Regulations

HUD has under consideration a number of changes to 24 CFR 3282 which would update and clarify policies concerning the enforcement of the regulations. The definition of the recreational vehicle would be clarified to indicate which types of products would be subject to the Manufactured Home Construction and Safety Standards. Also, the procedures for the approval of alternate construction requests would be changed to include an inspection of such work once the home is sited.

HUD is considering eliminating the DAPIA function to be replaced by a self certification by manufacturers that designs comply with the Manufactured Home Construction and Safety Standards (24 CFR part 3280). Also, we are considering further definition of the circumstances under which a manufacturing plant would have to be recertified by the IPIA and certain other changes in IPIA monitoring of the manufacturing facility.

Finally, complaint handling procedures would be streamlined, and procedures for conducting notification of manufactured home owners under 24 CFR 3282.404 would be clarified for those situations where the State in which the manufactured home is located is different from the State in which the manufactured home is produced. HUD would welcome any comments concerning these sections of the enforcement regulations or any other areas where changes are needed.

C. Comments Requested

Comments are requested on these proposals and other related matters which could be the basis for changes in the monitoring structure. All comments will become part of the public record and can be viewed by calling the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, at (202) 708-2084, between 7:30 a.m. and 5:30 p.m. weekdays.

Dated: December 6, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92-23 Filed 1-2-92; 8:45 am]

BILLING CODE 4210-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-347; FCC 91-384]

Processing Procedures for Commercial FM Broadcast Applications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On December 18, 1991, at 56 FR 65721, the Commission published a Proposed Rule, in this proceeding concerning Commercial FM Broadcast Applications. This document corrects the reply comment date.

DATES: The reply comment date is March 4, 1992.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Irene Blieweiss, Audio Services Division, Mass Media Bureau (202) 632-6485.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-58 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-68; Notice 01]

RIN 2127-AC64

Rollover Prevention

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This advance notice announces that NHTSA is considering whether to propose a Federal motor vehicle safety standard (FMVSS) to reduce the casualties associated with rollovers of passenger cars, pickup trucks, vans, and utility vehicles. NHTSA is considering regulatory actions in the areas of improved vehicle stability (so as to reduce rollovers), improved crashworthiness (to provide increased occupant protection in the event of a rollover), and consumer information on a vehicle's rollover propensity. The above actions may be pursued singly or in combination. This notice requests comments and information to assist the agency in determining whether to issue a proposal and if so, what form that proposal should take.

DATES: Comments on this notice must be received by the agency no later than April 3, 1992.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Hinch, Office of Vehicle Safety Standards, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590 (telephone 202-366-5398).

SUPPLEMENTARY INFORMATION:

I. Overview of Notice

The goal of this advance notice is to obtain data and other information that would assist the agency in determining the feasibility of developing a viable and appropriate standard or standards related to reducing the frequency of vehicle rollovers and/or the number and severity of injuries resulting from vehicle rollovers. This notice summarizes past research efforts by the agency to accurately predict the rollover accident involvement rate of vehicles, and discusses various alternatives for rulemaking action. This notice also contains a number of questions and requests for information that would further improve the agency's understanding of rollover accident and injury causation.

This notice is supplemented by two documents. The first is NHTSA's technical analysis of the effect of various vehicle factors, including tilt table results, on vehicles' rollover involvement. The paper provides a detailed statistical discussion of the relationships between rollover accident involvement and various measures of vehicle rollover stability that could serve as the basis for a vehicle performance requirement. The second document is NHTSA's preliminary regulatory evaluation of the potential costs, benefits and other impacts of the contemplated rule. Both documents are available from NHTSA's docket section at the address and telephone number provided at the beginning of this notice.

The vast majority of rollover crashes are caused by the interaction of three factors: The driver, the vehicle and the environment. NHTSA has completed several years of physical testing, data analyses, and computer modeling regarding this problem, particularly with respect to the vehicle's role in rollovers and rollover casualties. As a result of the agency's efforts, NHTSA has identified several means of potentially reducing these casualties. These include: (1) Methods to reduce the incidence of rollovers; (2) means to mitigate injuries given that a rollover occurs; and (3) the provision of consumer information to educate consumers on the relative rollover propensities of vehicles.

The agency is seeking comment on these three potential courses of action, which may be undertaken separately or in combination. Ideally, the agency would prefer to significantly reduce the number of rollovers; thus, a crash avoidance-type standard would be most desirable. Of the vehicle rollover stability measures evaluated, the "tilt table" ratio (described below in this notice), appears, at this stage of the rulemaking, to be the most promising at explaining a significant portion of a vehicle's rollover propensity. At the same time, there are indications that factors related to vehicle control and stability characteristics are also influential. One such factor which has shown correlation with rollover involvement rates is whether the vehicle is equipped with antilock brakes. In view of the fact that rollovers will always occur in some numbers, the agency is also seeking comment on means to better protect occupants in such crashes. Since a large number of fatalities associated with rollovers result from ejection from the vehicle, means to increase safety belt use—the primary means to prevent ejection—or provide different restraint systems in vehicles most prone to rollovers, could be beneficial. Other means of occupant protection, such as increased roof strength or interior padding, are also being considered. Finally, the agency is considering providing information to consumers, based on a vehicle rollover stability test such as the tilt table test, on the relative rollover propensity of vehicles.

In analyzing the rollover involvement of a particular vehicle model in its search for means to avoid rollovers, the agency focused on the ratio of rollovers to single vehicle accidents involving that model (RO/SVA) as the accident rate measure. This measure uses the number of single vehicle accidents involving a particular vehicle model as the "exposure" measure (i.e., a measure of the opportunity for a rollover accident to occur). After a review of rollover exposure measures, NHISA decided to use this accident rate measure based on a rationale similar to that presented by I.S. Jones ("Vehicle Stability Related to Frequency of Overturning for Different Models of Car," Proceedings of 7th Australian Road Research Board Conference, 1974, Vol. 7, Part 5).

Jones concluded that the RO/SVA exposure metric more accurately depicts a vehicle's rollover propensity than the ratio of rollovers involving that model to the total vehicle miles travelled (VMT) by that model (RO/VMT) or to the total number of registered vehicles of that model (RO/RV) because the latter two metrics are heavily dependent on the extent of the vehicle's involvement in single vehicle accidents. This dependence is undesirable because a vehicle that has a relatively high ratio of SVA's to VMT or to number of registered vehicles may nevertheless have a relatively low ratio of rollovers to SVA's. The vehicle factors that lead to the high number of SVA's may not lead to a high number of rollovers. The rollovers per VMT or registered vehicle rates could be high for the vehicle because the vehicle has significantly different handling characteristics than other vehicles, which contribute to the vehicle's involvement in more SVA's. While those handling characteristics may contribute to SVA's, their contribution to rollovers may not be proportionate. Jones believed that by using the "rollover to single vehicle accident" ratio, the confounding influence of such vehicle factors, unrelated to vehicle rollover stability, would be significantly reduced. NHTSA believes this is reasonable since the vast majority of rollovers occur in SVA's. Therefore, the occurrence of the SVA can be viewed as the opportunity for, and, thus an exposure measure of, a rollover accident. While the RO/SVA rate alone does not provide a complete characterization of the overall rollover accident involvement of vehicles, the agency believes that it is an adequate measure for consideration in a rulemaking action. Nevertheless, should the agency decide to pursue regulation in this area, it solicits comment on the appropriate measure of rollover risk. For example, should the agency relate risk to vehicles (RV) or single vehicle accidents (SVA)? What are the advantages and disadvantages of RO/RV and RO/SVA as a measure of rollover risk?

The agency believes that, while it is important to assess a vehicle's rollover stability vis-a-vis other vehicles generally, it is equally important to compare the performance vis-a-vis other vehicles in the same class. A vehicle's basic design characteristics, i.e., those that are shared by other vehicles in its class, reflect the function for which the vehicle was designed. For example, the relatively narrow track width (compared to passenger cars of the same weight) and high center of gravity height of utility vehicles are characteristics that enhance the off-road operation of the utility vehicle class. Yet, a vehicle's basic design characteristics significantly influence the vehicle's involvement in various accident modes. For example, with all other parameters equal, a tall and narrow vehicle is more likely to roll than a low, wide vehicle. An assessment of the extent that a vehicle's rollover

stability can be improved must include consideration of the degree to which vehicle characteristics essential to the use of the vehicle can be preserved.

The types of vehicles addressed by this notice are the "light duty vehicles," which include passenger cars and "LTV's" (i.e., light and full-size pickup trucks, and multipurpose passenger vehicles (MPV's) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less). MPVs are defined in 49 CFR 571.3 as vehicles designed to carry 10 or fewer persons, and are constructed either on a truck chassis or with special features (usually, four-wheel-drive) that allow for off-road operation. MPVs include full-size passenger and cargo vans, and passenger vehicles with four-wheel-drive or other features for off-road use. These off-road passenger vehicles are often referred to as "sport utility vehicles" (SUVs) in the automotive industry. This terminology is consistent with NHTSA's Consumer Information Regulation, Utility Vehicles (49 CFR 575.105), which refers to "utility vehicles" as MPVs that have a wheelbase of 110 or fewer inches and special features for occasional off-road operation. Section 575.105 requires manufacturers of such utility vehicles to alert drivers that the particular handling and maneuvering characteristics of these vehicles require special driving practice when the vehicles are used on paved roads. Of the SUVs on the market today only three, the Toyota Land-Cruiser with a wheelbase of 112.2 inches, the Lamborghini LM002 with a wheelbase of 122.4 inches and the Chevrolet/GMC Suburban with a wheelbase of 129.5 inches, do not fall in the category of "utility vehicle" as defined by § 575.105.

II. Background

A. The Rollover Accident Problem

Based on data reported in a 1986 report documenting analyses conducted by NHTSA's National Center for Statistics and Analysis, rollover accidents are the most dangerous collision type for light duty vehicles, measured by the ratio of fatal/incapacitating injuries to the number of occupants involved in a tow-away crash. In terms of fatalities per registered vehicle, rollovers are second only to frontal crashes in their level of severity. These high injury and fatality rates are even more alarming given the fact that rollovers are by far the least frequent crash mode, as measured by accident involvements per registered vehicle. The General Estimates System (GES) of the National Accident Sampling System for 1989 estimates 137,600 rollover accidents involving passenger cars. Of these, 124,800 are single vehicle rollovers, and the vast majority of these, 114,800, occur off the roadway. For LTVs, there are 75,600 rollovers, and 65,800 single vehicle rollovers. Of the latter, 57,200 occur off road. (These estimates are based on the GES, which is a probability sample of policy accident reports. Since the estimate are based on a sample, they are subject to sampling and nonsampling errors. The 1989 General estimates Systems Report's Appendix C, Technical Note, explains the GES sample design and the accuracy of the estimates. A 68 percent confidence interval—the estimate + or − one standard error—for the GES numbers in this report using the generalized variance formulas in Appendix C are: 137,600±13,000; 124,800±12,000; 114,800±11,000; 75,600±8,000; 65,800±7,000; and 57,200±7,000.)

Based on 1989 Fatal Accident Reporting System data, 5,682 fatalities occurred in passenger cars rollovers and 3,862 fatalities occurred in LTV rollovers. (The FARS is a census of all motor vehicle crashes resulting in at least one fatality. Since it is a census, it is not subject to sampling error, but nonsampling errors can occur. A discussion of the FARS quality control procedures used to control these errors can be found in the 1989 Fatal Accident Reporting System Report.)

The number of LTV fatalities, including rollover fatalities, from 1985 through 1989 was 6763, 7274, 7875, 8214 and 8350, an increase over the period of about 23 percent. Over that period, the number of rollover fatalities in LTVs was 2995, 3387, 3658, 3815 and 3862, an increase of about 29 percent. During this period, the number of LTVs on the road increased about 30 percent. Thus, although the rate of total fatalities in LTVs (fatalities per registered vehicle) actually decreased by 5.5 percent from 1985 to 1989, the rate of rollover fatalities in LTVs decreased by only 1.5 percent. The rollover fatality rate is discussed in detail in the preliminary regulatory evaluation for this notice (see, *e.g.*, p. 55 of the evaluation), which the agency has placed in the docket. From 1985 to 1989, the rate of fatalities per registered vehicle in rollover accidents involving passenger cars increased over 3 percent, while the fatality rate for all crashes involving passenger cars remined constant. ("Safety Programs for Light Trucks and Sport Utility Vehicles," 1990, U.S. Department of Transportation, as supplemented with data for 1989.)

The rollover problem is generally more serious for the LTV, and in particular, the SUV portion of the light vehicle group. State accident data (North Carolina for 1984 and 1985) indicate that although the involvement rate (involvements per registered vehicle) for LTVs in all types of collisions is only 68 percent that of cars, their involvement rate in accidents involving rollover is 127 percent that of cars. SUV's are also more dangerous for their occupants after a rollover accident has occurred. The incapacitating injury rate per involved occupant is 27.6 percent higher for SUV's than it is for the average light duty vehicle.

B. Previous Agency Rulemaking Actions

In 1973, the agency issued an ANPRM on Rollover Resistance (Docket 73-10; Notice 1.) The ANPRM was primarily directed toward obtaining comments on the development of a test procedure, test conditions and performance requirements to evalate "vehicle rollover tendencies on smooth, dry pavement." After reviewing the comments to that notice and conducting several research studies related to vehicle control and stability, the agency decided to discontinue activity in this area. One study titled "Development of Vehicle Rollover Maneuver", concluded that although a vehicle's rollover resistance is dependent on its "stability factor" (defined as a vehicle's half-track width divided by the vehicle's center of gravity height) "to the first order," that resistance to rollover "can, however, be degraded by other design and operational features under real-life performance conditions." At that time, the agency decided that until the influence of those other factors on real world accidents was better understood, agency action could not be justified.

In December 1987, NHTSA denied a rulemaking petition from then Congressman Timothy E. Wirth (now Senator Wirth) that requested NHTSA to require that the "stability factor" of light duty vehicles exceed a specified minimum value. (52 FR 49033; December 29, 1987.) The stability factor, also referred to as the "static stability factor," represents an approximation, assuming that the vehicle is a rigid body, of the steady state lateral acceleration at which a vehicle would roll over. In other words, if the vehicle were a rigid body, the vehicle's stability factor would be a rather direct representation of the vehicle's ability to resist lateral overturning forces.

Senator Wirth based his request on the findings of a report by L.S. Robertson and A.B. Kelley titled "The

Role of Statility In Rollover-Initiated Fatal Motor Vehicle Crashes Under On-Road Driving Conditions." That report found one group of high stability factor vehicles (all of which were passenger cars) with low rollover per single vehicle accident rates, and another group of low stability factor vehicles (all of which were sport utility vehicles) with high rollover per single vehicle accident rates. The petitioner believed that the report indicated that there is some specific value of stability factor above which vehicles are "safe" and below which they are "unsafe." The petitioner suggested 1.20 as that value.

NHTSA denied the petition because the agency determined that establishing a minimum stability factor value would neither adequately encompass the causes of vehicle rollover nor satisfactorily ameliorate the problem. The agency determined that the stability factor is a good predictor of rollover involvement if it is applied to a subsample of particular, individual vehicles, each of which has already been involved in a single vehicle accident, and used to predict which of them rolled over in the crash. However, NHTSA determined that the stability factor is not nearly as effective in predicting rollover involvement when it is applied to a sample of vehicles, none of which has been involved in an accident, and used to predict which of them will become involved in a rollover accident. The reason for the lower predictive capability in the second instance is that the factor does not take into account the influence of vehicle control and stability factors related to the causation of the single vehicle loss of control situation that precedes the vast majority of rollovers. Such factors not only affect the likelihood of an SVA occurring due to a loss of control, but can alter the pre-crash dynamics of the vehicle (e.g., the vehicle's spinning or sliding sideways as it leaves the roadway) that influence the likelihood of subsequent rollover. The lower predictive capability gave the agency concern whether the application of the factor would adequately separate the vehicles which needed change from those which did not. Therefore, the agency decided to defer consideration of rulemaking on vehicle rollover characteristics until the agency completed its comprehensive research program on vehicle stability and rollover.

In September 1988, NHTSA granted a petition for rulemaking from the Consumers Union requesting the establishment of "a minimum stability standard to protect against unreasonable risk of rollover." NHTSA granted the petition because the agency was already undertaking research into rollover safety of light duty vehicles and the petition was consistent with the agency's steps to address the rollover problem.

C. Previous Analyses of Rollover Crashes

Through the years, the agency and other researchers analyzed accident data to qualify the relationship between rollover involvement and factors relating to the vehicle, driver and environment. Understanding the relaltionship is important for purposes of ameliorating the rollover problem, since safety countermeasures can be developed for the vehicle, driver and environment to reduce the likelihood of rollover.

Various accident condition variable have been shown to exhibit a relationship with rollover rates. These include pre-crash stability (skidding or spinning), vehicle pre-crash condition (skid sideways or spin) and skid type (rear whell lateral or four wheel lateral). In addition, various driver and environment-related accident variable also have been shown to influence the likelihood of rollover. These include driver age, alcohol involvement, driver error, rural versus urban roadway, day versus night, the roadway speed limit, the rollover's occurring on or off the roadway, and accident occurring where the roadway was straight or curved.

Researchers have reported correlations between certain vehicle characteristics, or metrics, and various measures of rollover accident involvement. One that has received considerable attention is the static stability factor, discussed previously, which has been shown to have a significant correlation with the rate of rollovers in single vehicle accidents. Another is wheelbase.

1. Static Stability Factor

In 1986, Harwin and Brewer found, in their analysis of state accident data, that the static stability factor statistically explained much of the difference in the rollover rate (computed as the number of rollovers per SVA (RO/SVA)) between different vehicle make/models. (Harwin, E. Anna and Brewer, Howell K., "Analysis of the Relationship Between Vehicle Rollover Stability and Rollover Risk Using the NHTSA CARDfile Accident Database," 1989.) The data was from NHTSA's CARDfile (Crash Avoidance Research Data file), which is a database constructed from police accident reports from several states.

The database included accident data for a series of forty vehicle make/models (some of which were different "nameplate" versions of the same vehicle mode, e.g., Chevrolet Citation and Oldsmobile Omega) which represented nineteen unique passenger car models, including both foreign and domestic models, and eight utility vehicle models. The vehicles in their sample were selected to cover the range of stability factors from small utility vehicles to large domestic passenger cars. However, similar to the previously metioned Robertson and Kelley study, the vehicle sample did not include any vans or pickup trucks. Harwin and Brewer examined various vehicle data, including wheelbase (L), center of gravity height (H), half track width (T/2) and the static stability factor (T/2H).

The data regression of the CARDfile data between the static stability factor and the percent of rollovers in SVA's showed a strong correlation, with R^2 values ranging between 0.57 and 0.86. Unlike Robertson and Kelley, who found two clusters of vehicles (one of which appeared "safe" while the other appeared "unsafe"), Harwin and Brewer found a generally linear distribution of rollovers per SVA's over a wide range of stability factors, with no obvious delineation of "safe" or "unsafe" vehicles.

Harwin and Brewer improved on earlier research by conduting a stepwise multivariate regression analysis of the Maryalnd and Texas state accident data to control for differences in driver and vehicle use. They showed improved R^2 values for the combination file of Maryland and Texas, as well as the Maryland file only. In their final stop, the R^2 value was 0.92 for the Texas and Maryland date combined, with static stability factor, percent drivers under 25, and percent male drivers included in the regression model.

Mengert, Salvatore, DiSario, and Walter re-analyzed the Harwin and Brewer data using logistic regression techniques. ("Statistical Estimation of Rollover Risk," August 1989, DOT-HS-807-446.) This process considers the likelihood of rollover at the accident level rather than at the make/model level as was done in the Harwin/Brewer report. This allows each accident to be treated as a data point (rather than using the summary information from each vehicle make/model as a data point).

The database included over 39,000 single vehicle accidents of which 4,910 were rollover accidents. Several models were developed to relate vehicle metrics and accident conditions. Analysis was

conducted at both the accident level and make/model level. At the accident level, the ability of the models to predict rollover versus nonrollover was found to be dependent on the static stability factor and where the accident occurred, urban or rural. The models were used to predict rollover rates at the make/model level. The index of agreement (R^2) exceeded 0.9 when static stability factor was included in the regression, but dropped to approximately 0.5 when static stability factor was removed from the analysis. Mengert's plots of the actual versus predicted rollover rate using his 11-factor model showed strong statistical relationships between rollover rate and static stability factor.

2. Wheelbase

NHTSA found significant correlations between rollover accident involvement rates and vehicle wheelbase when the agency analyzed accident data for purposes of evaluating the rulemaking petition from Senator Wirth. ("Technical Evaluation of Rulemaking Petition," Docket No. PRM-MP-004-013.") In addition, Malliaris found that reducing wheelbase at a fixed vehicle weight leads to a very significant increase in fatal rollover accident involvement, while reducing the vehicle weight at a fixed wheelbase leads to a very signficant reduction in fatal rollover accident involvement. ("Discerning the State of Crash Avoidance in the Accident Experience," Proceeding of the 10th International Technical Conference on Experimental Safety Vehicles, July 1985.)

Unlike the static stability factor, whose correlation with rollover accident involvement rate "makes sense" (vehicles with low stability factors generally can be described as tall and narrow), the correlation with wheelbase does not have the same intuitive relationship with a vehicle's rollover propensity. Several possible explanations have been put forth to explain this wheelbase-to-rollover accident involvement correlation. For example, the relationship might be due to a correlation of wheelbase with vehicle pre-crash stability, pre-crash condition and/or skid type mentioned above. In other words, wheelbase might be acting as a surrogate for vehicle stability characteristics, and actually the correlation that results is between wheelbase and vehicle loss of stability preceding the rollover.

3. *Other Vehicle Factors*

The stability condition under which a vehicle leaves the road in a single vehicle crash can significantly influence the likelihood that the single vehicle accident will result in a rollover. Malliaris found that vehicles that left the roadway either sliding sideways or spinning were far more likely to roll over in a single vehicle crash. This influence was found for all sizes of passenger cars, as well as light trucks. (Malliaris, Nicholson, Hedlund and Scheiner, "Problems in Crash Avoidance and Crash Avoidance Research " SAE Paper No. 830560, February 1983.) Although that study did not attempt to determine specific vehicle characteristics that result in such pre-crash vehicle conditions, it is obvious that a vehicle's directional control and stability properties would influence the likelihood of a vehicle's sliding sideways or spinning while leaving the roadway, and thus, would influence a vehicle's overall rollover propensity.

III. Current Program

In view of the apparent effect that vehicle factors have on a vehicle's propensity to roll, NHTSA sought to improve its understanding of the vehicle factors. NHTSA examined correlations between various vehicle metrics and rollover accident rates, and increased the number and diversity of the vehicles examined. NHTSA's technical paper for this ANPRM provides a full discussion of the methodology and results of the agency's research program. The methods and results of the study are briefly described in the following sections.

Rollover crashes are the result of both vehicle characteristics related to a vehicle's rollover stability and vehicle metrics related to a vehicle's directional control and stability. In some cases, some of the vehicle metrics related to one type of stability may be covariant with metrics related to the other, leading to a synergistic effect on a vehicle's overall rollover accident involvement. In other cases, the metrics related to these two types of stability may not have any correlation with one another or may even be inversely related. As such, the agency believes that identifying a single metric related to a vehicle's rollover stability would not lead to the elimination of all or even a majority of rollover crashes. However, a requirement based on a single rollover stability metric could lead to the elimination of a portion of them. As discussed later in this notice and in the technical paper, this belief has been borne out by the accident data. A rollover standard based on a single metric might be a minimum performance standard with broad applicability for vehicles (e.g., a tilt table angle minimum, such as that proposed by the UK for an ECE standard), or it could be a standard that encompasses vehicle crashworthiness requirements (e.g., vehicle with less than a minimum tilt table value must be equipped with extra crash protective devices). At the same time, the agency is also aware of the possibility that requirements based on multiple vehicle metrics may prove to be a better basis for a rollover prevention standard. NHTSA is considering a range of possible rulemaking approaches. The range of possible regulatory requirements resulting from the agency's program is discussed in the section titled, "Rulemaking Alternatives."

A. Summary of Methodology

Briefly stated, NHTSA's goal for the program was to identify the level of correlation between each vehicle metric chosen for study and rollover crashes. To do this, NHTSA selected a vehicle sample (from which the various metrics could be obtained), identified and measured the metrics, generated the accident data base, and performed the analyses (logistic regression and linear regression) that examined the degree of correlation between the vehicle metrics and accident rate measures of vehicle rollover propensity, as evidenced by the normalized accident data. These analyses also included vehicle use factors related to the driver and the accident environment (i.e., driver's age, driver's alcohol use, male or female driver, rural or urban accident location, road surface condition and the single vehicle accident involvement rate), to account for their influence on rollover accident involvement.

Initially, NHTSA performed linear regression analyses using a data file that consisted of the combined accident data from these five states: Georgia (1987–1988), Maryland (1986–1988), Michigan (1986–1988), New Mexico (1986–1988) and Utah (1986–1988). These preliminary analyses were used to complement the later, more detailed analyses that used logistic regression techniques. Due to differences in the data coding formats and reporting thresholds of the various states, these logistic regression analyses were applied to only one state file at a time.

The initial logistic regression analyses were performed using data from each of the five states and later, more detailed logistic regression models were examined using only the Michigan data. These state-to-state difference were not as significant in the preliminary linear regression analyses. The Michigan data were chosen for these more complex analyses because that State had the largest sample size.

1. Selected Vehicles

The population of vehicles that were initially identified for inclusion in the sample was chosen with the goal of encompassing all classes of light vehicles, i.e. all ranges of passenger cars; small and large pickup trucks; mini and full size vans; and open, small, and large utility vehicles. NHTSA identified 60 vehicles, which encompassed the entire range of market class designations, usage classifications, and size classes. For each of the classifications, NHTSA sought to obtain: (1) A set representative of the full spectrum of rollover rates (the selected vehicles encompassed the lowest to the highest rollover to SVA rates); and (2) a set representative of the full spectrum of vehicle characteristics (the selections included the complete range of vehicles from low slung sports cars and full size sedans to tall and narrow utility vehicles with short, medium and long wheelbases).

After the initial selection of the vehicle population, NHTSA evaluated Maryland SVA and single vehicle rollover accident data from the CARDfile accident data base for 1986 through 1988 to determine whether including the selected vehicle in the actual sample would yield useful data. Each vehicle that met at least one of the following criteria were retained for the actual sample from the initial population: Model years 1981 or later (model years previous to 1981 did not have a standardized vehicle identification number (VIN) scheme); adequate data available (minimum number of observations was 20); vehicles with high rollover propensity (the rollover rate of the vehicle relative to the rest of the sample population); high current sales volumes (vehicles which represent a large or growing segment of the new vehicle fleet); high registration populations (vehicles well represented in the on-road vehicle fleet); and vehicles previously tested (vehicles for which dependable sidepull or other measurement data exist, or is planned to be measured in ongoing programs, and which could be used for comparison purposes with data collected).

Forty-five of the original 60 vehicles met the criteria and were selected for inclusion in the evaluation sample. Eleven other vehicles were also included in the sample to expand the range of vehicle types, such as several short wheelbase front and rear wheel drive subcompact passenger cars, a European sport sedan, large utility vehicle, and a shorter wheelbase version of a vehicle included from the original list. To confirm that the vehicles selected for the evaluation sample were representative of vehicles in their respective size/market/usage class, the agency compared accident data for "like" vehicles in each of the respective classes.

2. Identifying and Measuring the Metrics

NHTSA chose a number of vehicle metrics to include in the study. These metrics have been identified by various researchers as playing a significant role in vehicle rollover propensity. The metrics included: Static stability factor; tilt table ratio; side pull ratio; wheelbase; critical sliding velocity; a "rollover prevention metric"; a "braking stability metric"; and percent of total vehicle weight on the rear axle. A description of the metrics is provided below.

a. *Center of gravity measurement.* This measurement is needed to calculate the static stability factor and to determine the test condition for the side pull ratio test. The longitudinal and lateral location of the vehicle's center of gravity (cg) were determined using the individual wheel weights along with their associated geometry. The vertical cg height (for the total vehicle with one occupant) was determined either by tilting the vehicle to a known angle and measuring the resultant weight distribution or by applying a known torque to the vehicle and measuring the resultant tilt angle and motion of the vehicle's sprung mass. In either case, the vehicle was tilted about its lateral axis.

b. *Static stability factor.* The static stability factor is the average half track width divided by vertical cg height. The front and rear track widths were determined, averaged together and divided by two to determine the average half track width.

c. *Tilt table ratio.* Tilt table data are obtained from placing the vehicle on a table which is then tilted about an axis parallel to the vehicle's longitudinal axis. The vehicle is placed on the table with the tires on one side against a low curb. The side of the table on the far side from the curb is then slowly lifted while the role angle of the table is measured. The tilt table angle is the platform roll angle at which both tires first lift off of the table on the high side. The point of wheel lift is determined using a contact switch to detect when the wheels lose contact with the platform. The tilt table ratio is determined as the tangent of the tilt table angle.

d. *Side pull ratio.* Side pull ratio is determined as the ratio of the lateral force acting through the vehicle cg required to lift the opposite side tires off the ground divided by the vehicle weight. The test is performed using wide straps and, in some cases, chains, to apply the pull force to the vehicle body. Extreme care needs to be taken to ensure that the pull force vector passes through the vehicle vertical cg at all times, the force is maintained horizontally to the ground, and adjustments to the pulling mechanism are made as the vehicle rolls on its suspension and deflects laterally and vertically, causing the vertical and horizontal location of the cg to change.

e. *Wheelbase.* This vehicle parameter was used since it is a basic factor in determining a vehicle's dynamic transient directional stability. It should be noted that if one were comparing the directional stability characteristics of two vehicles, the vehicle with the shorter wheelbase (which based on wheelbase alone would be likely to have a lower level of directional stability) could, by virtue of other vehicle characteristics (e.g., suspension and tire characteristics) have a higher level of directional stability. Although there are a multitude of other factors which influence, and could easily compensate for the contribution of wheelbase to vehicle directional stability, if all other vehicle features and characteristics are equal, a vehicle with a longer wheelbase will exhibit greater directional stability.

f. *Critical sliding velocity.* This metric is a measure of the minimum lateral velocity required to initiate rollover when the vehicle is tripped by a low curb. It is determined by equating the vehicle energy prior to the tripped impact with the energy needed to raise the vehicle cg to the point where it is just above the pivot point about which the vehicle is rotating.

g. *Rollover prevention metric.* This metric is determined by computing the difference between the vehicle's lateral translational kinetic energy before being tripped and its rotational kinetic energy after being tripped. This quantity is then normalized by multiplying it by 100 and dividing it by the initial lateral translational kinetic energy.

h. *Braking stability metric.* This metric is defined as the longitudinal distance from the vehicle's front wheel to the total vehicle center of gravity (A) divided by the height of the total vehicle center of gravity (h_{cg}) or A/H_{cg}. It represents the level of longitudinal (braking) deceleration at which the vehicle's rear wheels would lift off the roadway.

i. *Percent of total vehicle weight on rear axle.* Percent of total vehicle weight is determined by dividing the longitudinal distance from the vehicle's total center of gravity to the front

wheels by the wheelbase. At the limits of a vehicle's control capabilities, the vehicle's steady state directional stability is heavily influenced by its weight distribution and by the relative friction characteristics of its front and rear tires. As with the effect of wheelbase on transient directional stability, there are vehicle factors other than weight distribution that can also influence steady state directional stability, and in the case of comparisons of one vehicle to another, can compensate for differences in weight distribution. However, in the case of steady state directional stability, weight distribution and tire characteristics are the predominant determining factors. Vehicles with a higher percentage of their total weight on the rear wheels will tend to have a lower level of steady state directional stability.

NHTSA tested vehicles at two facilities, the Vehicle Research and Test Center (VRTC) and Systems Technology Incorporated (STI). In all, vehicle measurements were obtained for 56 different make/models.

B. Accident Databases

NHTSA maintains a collection of state accident data files for 26 States, each of which provide their tapes annually. Data from five of the State files were used for the study. Those States were: Georgia (1987–1988), Maryland (1986–1988), Michigan (1986–1988), New Mexico (1986–1988) and Utah (1986–1988). These States were selected based on the ability to identify specific vehicles according to their Vehicle Identification Number (VIN): i.e., these five States consistently and accurately report a high proportion of VINs for those vehicles involved in accidents.

The agency obtained data for single vehicle accidents (SVA's) from the State files. An SVA was defined as all overturns, collisions with a parked vehicle or other fixed object, and noncollision accidents. SVA's do not include collisions with pedestrians, other vehicles on the roadway, bicycles, trains or animals.

NHTSA examined the data from each of the SVA's to determine if the accident involved a primary-event rollover. A primary-event rollover was defined as any accident in which the most harmful event was a rollover, and did not include any accident in which a rollover followed a significant collision with an object. For Utah, this category also included reports for accidents in which the first event was described as "run off the road" and the second event was a rollover. For Maryland, this category also included those reports in which the first event was a collision with a ditch, berm or culvert followed by a vehicle rollover.

C. Summary of Results

Readers are referred to the technical analysis for this notice for a detailed discussion of the statistical analyses of the relationship between the vehicle metrics and the accident data. As discussed in that paper, the statistical analyses showed very significant correlations with the rollovers per single vehicle accident rate (RO/SVA) of light duty vehicles for tilt table, static stability factor and sidepull. Tilt table and static stability factor consistently showed the higher levels of correlation.

NHTSA performed analyses of the Michigan data using a logistic regression model that included a number of variables related to influential driver and roadway/environmental factors, as well as each of the vehicle rollover stability metrics taken one at a time. The results of those analyses were used to calculate a predicted RO/SVA rate for various vehicle make/models. The index of agreement (analogous to R^2 at the make/model level) for the actual RO/SVA rate versus predicted RO/SVA rate produced values of 0.65 for the model using the tilt table ratio, 0.66 for the static stability factor model, and 0.58 for the side pull ratio model.

The logistic regression model that resulted in the highest level of statistical correlation included the tilt table ratio and variables representing the vehicle's make/model's single vehicle accident per registered vehicle rate and the vehicle make/model's vehicle class (e.g., sport utility vehicle, pickup truck, van or passenger car) and drive configuration (e.g., front wheel drive, rear wheel drive or four-wheel drive), as well as driver and accident location demographics. The index of agreement of the results of that logistic regression model produced a make/model R^2 value of 0.80. The reasons for the large improvement in the model's correlation with the inclusion of the single vehicle accident per registered vehicle rate and the vehicle class variables are currently under further study. This effect may be related to driver and vehicle influences that are not accounted for by the driver and vehicle variables that have been included in the analyses to date, or may be related to vehicle control and stability characteristics. This hypothesis is supported by the "stability condition" found by Malliaris that was discussed earlier. Also, results from both logistic regression analyses and Chi-square population comparisons found that the presence of antilock brakes on vehicles was significantly correlated with a lower RO/SVA rate.

The agency believes the tilt table ratio has advantages over the static stability factor and side pull ratio that may warrant its selection. Those advantages relate to the ability to precisely measure the metric and to the ability to vary vehicle design to affect the metric.

The procedure for determining the tilt table ratio (i.e., the tangent of the angle of the tilt) is simple to conduct, and yields repeatable and reproducible results. Unlike the static stability factor and side pull ratio, the determination of the tilt table ratio does not rely on center of gravity height measurements, which are difficult to obtain, and which can introduce variability in measurements. (Winkler, C.B., "Center of Gravity Height: A Round-Robin Measurement Program," University of Michigan Transportation Research Institute, January 1991.) In addition, unlike the side pull test, the tilt table test has the advantage of not damaging vehicle body work, which keeps costs to a minimum.

The use of the tilt ratio as the basis for a rollover stability requirement also allows manufacturers to vary a vehicle's performance in relation to such a requirement in ways that are readily achievable. A manufacturer could increase a vehicle's tilt table ratio value (i.e., improve the vehicle's rollover stability) by varying the vehicle's suspension characteristics. With the static stability factor, changes in the respective values would most likely entail substantial changes in vehicles' size, ground clearance and roof structure, which are features that may be important to the purpose for which the vehicle was designed.

Aside from the advantages of the tilt table ratio described above, the agency was concerned that the other two metrics might be fundamentally deficient for NHTSA's purposes for other reasons. The static stability factor assumes that a vehicle is a rigid body with no tire or suspension deflections or motions. Since vehicles are not rigid, the vehicle's tire and suspension deflections and suspension kinematics affect the vehicle's cg relative to the vehicle's tires (where the forces that initiate a vehicle rollover are generated). These motions change both the cg height (above the ground) and the lateral distance between the cg and the tires on the outside of the turn. The static stability factor does not account for the change in the cg's position.

Although the side pull ratio takes into account the motions of the vehicle's sprung mass (the body and chassis less the suspension and tires) relative to tire contact area, the side pull ratio appears

less desirable than the tilt table ratio because the side pull test is very complex and requires an extraordinary amount of equipment. The test is performed using wide straps or chains to apply the pull force to the vehicle body. Extreme care needs to be taken to assure that the pull force vector passes through the vehicle's vertical cg, and is maintained horizontally to the ground. Adjustments to the pulling mechanism must be made as the vehicle rolls on its suspension and deflects laterally and vertically. The complexity in setting up and conducting the test can lead to errors and inconsistencies in the data. To date, all of the vehicle rollover metrics that are measures of a vehicle's rollover stability and that show correlations with a vehicle's rollover propensity, the tilt table ratio appears to be the most promising for regulatory purposes.

IV. Rulemaking Alternatives

NHTSA is considering a range of possible rulemaking approaches to developing a proposal to reduce rollover injuries and fatalities. The possible approaches include a crash avoidance rulemaking proposal that vehicles which did not meet a specific performance measurement (e.g., a minimum tilt table ratio) either could not be manufactured, or would have to have safety devices or features to improve the vehicle's directional stability characteristics (e.g., antilock brakes), and/or crashworthiness (e.g., improved roof strength).

A crash avoidance standard that would require a minimum level of vehicle rollover stability would produce a safety benefit by reducing the numbers of rollovers in single vehicle accidents involving light duty vehicles. This type of standard may also have substantial costs for manufacturers and consumers, and may have the greatest effect on the availability of vehicles from which consumers may choose. A standard of this type has been proposed by the United Kingdom (U.K.) to the "Meeting of Experts on Brakes and Running Gear" (GRRF) of the Economic Commission for Europe (ECE). The proposal suggests using the tilt table test, with a minimum required tilt angle of 40 degrees (equivalent to a tilt table ratio of 0.839) for vehicles in both an "unladen" (drive only load) and "laden" (GVWR load) condition, as a requirement for the rollover stability of all light duty vehicles.

NHTSA is currently conducting tests at several load conditions, including the one passenger and full passenger complement, and two versions of the GVWR load condition (including the "laden condition" specified in the ECE proposal) to examine the effect of load conditions on the relative ranking of different vehicles.

As already noted, a safety standard having a crash avoidance thrust might require specific equipment, such as antilock brakes (should they be shown to reduce the incidence of rollovers), on vehicles having a low tilt table value. The results of a logistic regression analysis of the Michigan accident data file, and those of the linear regression analysis of the combined 5-State accident data file, indicate that the presence of antilock brakes was statistically significant and would predict a lower rollover accident rate for vehicles equipped with antilock brakes. Also, data were available for accidents involving four vehicle make/models that had subgroup populations in which some vehicles were equipped with antilock brakes and some were not. When the subgroups of each of these make/model populations were compared using Chi-square analyses, two of the four comparisons indicated that the lower rollover rate for the antilock equipped vehicles was statistically significant, alpha=0.05. NHTSA specifically requests comments on the effectiveness of antilock brakes in reducing the propensity of a vehicle to become involved in those situations (e.g., sliding sideways) in which the likelihood of a vehicle's rolling over is increased.

The agency is also considering requirements to improve occupant protection in rollovers. These requirements might be applied to all vehicles or only those with a "low" (i.e., below a specified value for one of the metrics previously discussed) level of rollover stability. The added protection may take the form of means to increase belt usage, different types of restraints (e.g., four point harnesses), improved roof strength, or interior padding. These actions may be taken either in conjunction with, or in lieu of, a crash avoidance rulemaking and comments are sought on this issue.

NHTSA is also considering a market-based option of a consumer information regulation under which the manufacturers would be required to measure certain metrics for their vehicles and report them to prospective purchasers. The number of rollovers might be reduced if consumers better understand the risk of rollover associated with different vehicle types and models. A regulation that is geared toward informing consumers of a vehicle's rollover propensity might require manufacturers to measure the rollover stability of their vehicles, using a metric such as the tilt table ratio, and to provide that information to the consumer. Information would also be provided to the consumer on the relative risk of rollover for a vehicle having a rollover stability value in a particular range. NHTSA requests comments on the desirability of such a requirement.

V. Issues

This section discusses a range of issues that NHTSA is considering in deciding whether to issue a proposal relating to vehicle stability and rollover induced injuries. The issues are grouped according to the following subject areas: (1) The appropriateness of a vehicle metric (particularly the tilt table ratio) as the basis for regulatory action; (2) the extent to which factors relating to vehicle use and directional control and stability confound an analysis of vehicle rollover involvement; (3) potential countermeasures that might reduce injuries and fatalities in rollover crashes; and (4) potential costs and benefits. For easy reference, the agency has consecutively numbered its questions. In responding to a particular question, NHTSA requests that commenters refer to the question by number, and provide any relevant factual information to support their conclusions or opinions, including but not limited to statistical data and estimated costs and benefits, and the source of such information.

NHTSA emphasizes that this is an advance notice of proposed rulemaking. If the agency were ultimately to isuse a final rule, it would do so only after first issuing a notice of proposed rulemaking providing further opportunity to comment.

A. Vehicle Metrics

1. What is your general opinion for the various rollover metrics NHTSA evaluated for this ANPRM? What are the strong points and weak points for each of the metrics? Which of these metrics do you think NHTSA should use to develop a proposed rollover stability standard?

2. Are there any accident data analyses that have investigated whether vehicle rollover stability metrics or other vehicle metrics influence the overall accident involvement of vehicles, as measured by rollovers per registered vehicle (RO/RV), single vehicle accidents per registered vehicle (SVA/RV), rollovers per vehicle miles traveled (RO/VMT) or single vehicle accidents per vehicle miles traveled (SVA/VMT)?

3. Will further research and testing be needed to accurately quantify the

rollover metrics for various vehicles? If so, what types of research and testing are needed, and why?

B. Vehicle Use

4. Several previous studies, including "Rollovers in Motor Vehicle Accidents," (Malliaris), indicate that the correlations between rollover involvement rates and a driver's age, gender and the involvement of alcohol vary significantly when these factors are examined independently, versus when the variables are combined. For example, Milliaris found that although females in general have lower rollover accident rates than males, "sober" (i.e., no alcohol involvement in the accident) females over the age of 35 had significantly higher rollover rates than "sober" males in the same age range, particularly when they were driving LTV's. However, there was no significant difference between the rollover accident rates for females versus males over the age of 35 if alcohol was involved in the accident. These findings pose several questions. What is the most appropriate "model" to represent these factors in trying to account for driver influences? What is the best method of considering the effect of alcohol use on single vehicle accidents and rollovers? What vehicle factors may be related to the significantly higher rollover accident rates for the over 35 females, particulary when they are driving LTV's?

5. Logistic regression results have indicated a significant correlation between the probability of rollover in a single vehicle crash and the SVA/RV rate for vehicle make/models. This could obviously be related to vehicle factors, but it is also possible that it is related to the risk-taking behavior or other characteristics of the driver of particular make/models.

What driver characteristic(s) that can influence the SVA/RV rate of vehicle make/models might explain a portion of the correlation found between the RO/SVA rate and SVA/RV rate for vehicle make/models? How could their influence be evaluated?

6. Logistic regression results have indicated a significant correlation between the probability of rollover in a single vehicle accident and vehicle class and drive configuration (e.g., front wheel drive, rear wheel drive, or four wheel drive). As with the SVA/RV rate correlation discussed in the previous item, this could be related to vehicle factors that are influenced by design features that are peculiar to the vehicle make/model's class and/or drive configuration, but also may be related to driver and/or vehicle use factors that result from the kinds of drivers that purchase and use vehicles in certain vehicle classes and the kinds of trips on which the vehicles in certain vehicle classes are driven.

What driver characteristics, related to the class of vehicle that the drivers purchase and use, might explain a portion of the correlation found between the RO/RVA rate and the vehicle class and drive configuration of particular vehicle make/models? How could their influence be evaluated?

7. Are there any new findings regarding the relationships between roadside features encountered in a rollover crash and rollover accident involvement?

8. Are there any relationships between environmental factors, such as urban versus rural accident location in a rollover crash and overall accident involvement, measured by rollovers per registered vehicle (RO/RV), SVA/RV, RO/VMT or SVA/VMT accident rates?

9. Later in 1991, when the final data from the Federal Highway Administration's 1990 Nation Wide Personal Transportation Study (NPTS) are available, NHTSA intends to conduct statistical analyses of rollover accidents and single vehicle accidents per vehicle mile travelled (VMT). It may be possible to obtain from the NPTS data estimates of VMT by vehicle make/model or by vehicle class/subclass.

What information is available with regard to the risk of involvement in SVA's and/or rollover accidents, measured by accidents per vehicle mile travelled, for different kinds of drivers, on different kinds of trips, in different classes/subclasses of vehicles? If no such information is available, how could the influence of driver and vehicle usage factors best be evaluated using VMT data?

10. The above discussion in question number nine refers to the possible availability of VMT data by vehicle make/model. If the NPTS data are not sufficient to provide this level of detail for a sufficient number of vehicle make/.models to allow a more thorough analysis of the influences of driver characteristics and vehicle usage patterns, the agency seeks other means to conduct such analyses. One possible avenue would be the acquisition of information from insurance companies on the characteristics of the drivers of the vehicles insured by their companies, e.g., driver age, male or female driver, estimated miles driven per year and other usage information (e.g., whether vehicle is used to commute to work and miles driven while commuting). If it would be possible to acquire such information on a large enough portion of the vehicle population for a state whose accident data were being examined by the agency, it would be possible to use the logistic regression techniques discussed earlier to gain a better understanding of the influences of driver and vehicle use characteristics on accident causation. Would insurance companies be willing to provide basic summaries of such information by vehicle make/model?

C. Countermeasures

11. What crashworthiness criteria would be the most effective in preventing occupant injury given a rollover accident occurs? NHTSA is considering criteria which would reduce the number of ejections in an effort to reduce the number of injuries. What is your opinion on the relative effectiveness of the following types of ejection reduction actions: improved occupant restraints, improved belt warning devices, roll bars or cages, better latches and hinges for doors and hatches, stronger roof strength, and improved glazing? Are there any data to support any of these measures over the others, and, if so, what does you data indicate?

12. How would installing roll protection equipment affect vehicle roll stability? What is the effect on cg height when a roll cage is added to a light weight open utility vehicle? How can vehicle crashworthiness and rollover stability both be improved?

13. What type of standard is preferred? Please supply comment on the pros and cons of each type as well as any safety data which exist to support your conclusion.

14. Logistic regression and Chi-square population comparison results have indicated a significant correlation between a reduction in the probability of rollover in a single vehicle accident and the presence of antilock brakes on particular vehicle make/models. What information is available on the likely reason for that correlation and what information is available on the correlation between the likelihood of involvement in a single vehicle accident and the presence of antilock brakes?

With regard to the correlations between the possibility of rollover in a single vehicle accident and the single vehicle accident per registered vehicle rate for vehicle make/models (see question five), it has been hypothesized that these correlations may involve the influence of vehicle directional control and stability characteristics on a vehicle's single vehicle accident and rollover accident involvement. What

information is available with regard to the influence of vehicle directional control and stability characteristics on a vehicle's rollover and/or single vehicle accident involvement?

15. Would changes to the chassis and suspension of a vehicle to improve its rollover stability have an impact on the vehicle's directional control and stability characteristics? Would such changes be more likely to improve or degrade those directional control and stability characteristics? Could changes be made that would improve a vehicle's rollover stability but have no impact on the vehicle's directional control and stability characteristics?

D. Costs and Benefits

16. As discussed in question six, logistic regression results indicate a significant correlation between a vehicle make/model's probability of rollover in a single vehicle accident and the vehicle class and drive configuration of that vehicle make/model. Given this correlation, what classes or subclasses of vehicles should be covered by a rollover standard? Why do some classes or subclasses of vehicles, such as vans, have a relatively low RO/SVA rate? Should any class or subclass of vehicle, such as vans, be excluded from a rollover standard? Should a class or subclass of vehicle, such as open utility vehicles which have a high ejection potential, be subjected to a different rollover stability performance threshold than that which would apply to a class of vehicle with a relatively low rollover rate, such as vans? If certain classes of vehicles are to be excluded or subjected to a different rollover threshold, how should the vehicle classes be defined?

17. What specific costs might be associated with each of the potential rulemaking options? For the rollover crash avoidance rulemaking action, could vehicle designs be changed to meet the standard or would particular make/models need to be eliminated from the current manufacturer's fleet, and if so, please provide specific make models and an engineering reason for the decision?

18. What effect would each of the rulemaking alternatives have on vehicle alterers and final stage manufacturers? How would an FMVSS on vehicle stability affect motor vehicle manufacturers, dealers, distributors and repair businesses who modify the suspension and cg of new and used vehicles? The agency is particularly interested in information on general rulemaking alternatives that could have the most and least impacts on those businesses.

VI. Potential Regulatory Impacts.

NHTSA has considered the potential benefits and burdens associated with the possible rulemaking alternatives discussed above. This advance notice is a "significant" rulemaking action under the Department of Transportation's regulatory policies and procedures. The advance notice concerns a matter in which there is substantial public interest, and there is potential that a rule resulting from this ANPRM might have a substantial impact on a major transportation safety problem. The preliminary regulatory evaluation (PRE) for this notice discusses the potential impacts of this regulatory action and identifies some areas where substantial benefits might be realized. However, because the affected vehicle population is not defined at this stage in the rulemaking, the agency is unable at this time to quantify the benefits and estimate the cost impact of the various rulemaking alternatives. Further, the impacts of the action can only be estimated when it is determined which of the various alternatives will be chosen as the basis for a rule. That information is yet unknown.

The PRE provides some preliminary cost estimates for equipping vehicles with antilock brakes, which is one of the rulemaking alternatives under consideration. NHTSA's data (which is several years old) on the cost range for a four wheel antilock system for light duty vehicles is from $375 to $570. The agency does not have data on the cost of a two wheel, rear wheel only, antilock system. NHTSA believes the agency will obtain up-to-date cost estimates for both types of antilock systems in a planned cost and leadtime estimates study on potential crashworthiness and crash avoidance countermeasures (including antilock).

Also, the agency has estimated the cost of the test equipment and procedures that are currently under consideration. NHTSA estimates that potential compliance test equipment costs for measuring vehicle metrics consist of $19,000 to $45,000 for the tilt table ratio, $45,000 to $90,000 for the static stability factor (consisting of a center of gravity measurement facility) and $130,000 to $290,000 for the side pull ratio (consisting of both a center of gravity measurement facility and a side pull test facility). Personnel costs are about $120 per test for each of these metrics.

With respect to the Regulatory Flexibility Act, NHTSA is unable to determine whether the regulatory action that the agency may eventually take would have a significant impact on a substantial number of small entities. The extent and magnitude of the impact cannot be determined before the specific requirements have been proposed. NHTSA expects that the comments received on today's ANPRM will assist the agency in determining whether the various regulatory alternatives may have an impact on small entities, the potential magnitude of that impact, and the number of small entities affected. Any NPRM or rule that results from this notice will be analyzed for its impact on small entities, in accordance with the Regulatory Flexibility Act.

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

VII. Comments

NHTSA solicits public comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the advance proposal will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments on the advance proposal will be available for inspection in the docket.

The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date. It is therefore recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed,

stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations.The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

(15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50)

Issued: December 27, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-25 Filed 1-2-92; 8:45 am]

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49 CFR Part 571

[Docket No. 1-11; Notice 09]

RIN 2127-AA43

Federal Motor Vehicle Safety Standards, Rear Impact Guards; Rear Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: On January 8, 1981, NHTSA published a notice of proposed rulemaking (NPRM) on rear underride crashes, i.e., crashes in which a relatively small vehicle such as a passenger car collides with the rear of a heavy vehicle (i.e., a vehicle with a gross vehicle weight rating (GVWR) greater than 10,000 pounds), such as a large trailer. Rear underride occurs when the front of the smaller vehicle slides under ("underrides") the rear end of the larger vehicle. In the worst cases, trailer design allows the smaller vehicle to underride so far that the trailer's rear end strikes the passenger car's windshield and enters the passenger compartment. The agency received over 100 comments on the proposal, some of which raised issues about possible alternatives to the proposal and about the burdens of the proposal on small businesses. This notice seeks to retain the safety benefits of the earlier proposal while meeting the concerns about potential small business impacts.

DATES: Comments on this notice must be received by the agency no later than March 4, 1992.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sam Daniel, Office of Vehicle Safety Standards, NRM-12, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590. Telephone: (202) 366-4921.

SUPPLEMENTARY INFORMATION:

The Safety Problem

This notice addresses the problem of rear underride crashes, i.e., crashes in which a relatively small vehicle such as a passenger car collides with the rear of a much larger and heavier vehicle, such as a trailer with a GVWR greater than 10,000 pounds. Rear underride occurs when the front of the smaller vehicle slides under ("underrides") the rear end of the larger vehicle. Underride occurs to some extent in most collisions in which a passenger car crashes into the rear end of a large trailer. In the worst cases, trailer design allows the smaller vehicle to underride so far that the trailer's rear end strikes the passenger car's windshield and enters the passenger compartment. These worst case crashes, which are referred to as "passenger compartment intrusion (PCI)" or "excessive underride" crashes, occur in essentially all of fatal underride crashes.

In 1989, there were 500 passenger car and light truck fatalities due to rear impacts with heavy trucks. This represents 23 percent (500/2143) of the vehicle occupants killed in rear end collisions that year.

The Existing Standard

The initial regulation addressing the issue of rear underride protection was issued in 1953 by the Bureau of Motor Carriers of the Interstate Commerce Commission (presently the Office of Motor Carrier Safety of the Federal Highway Administration, DOT). This regulation, which is still in effect, requires vehicles used in interstate commerce and manufactured on or after January 1, 1953 to have a rear end device intended to help prevent underride. The rule provides that the ground clearance of the underride guard shall not exceed 30 inches when the vehicle is empty. The device must be located not more than 24 inches forward of the extreme rear of the vehicle, and must be sufficiently wide so that the guard's ends are not more than 18 inches inboard from either side. The regulation requires that the device "be substantially constructed and firmly attached." (49 CFR 393.86.)

Past Proposals

Over the years, DOT reassessed the requirements of § 393.86 and considered the need for NHTSA to issue a Federal Motor Vehicle Safety Standard (FMVSS) on underride protection. Whether present guards are fixed low enough to the ground to engage the striking vehicle or are strong enough to resist impact forces have been issues of particular concern. The most recent of several NHTSA notices was issued in 1981 (46 FR 2136; January 8, 1981). (The notices of proposed rulemaking issued by NHTSA and by FHWA prior to the 1981 NPRM are cited and discussed in that notice.) The 1981 notice proposed to adopt an FMVSS for new trucks and trailers with a GVWR greater than 10,000 pounds. The rulemaking was initiated after research and computer modeling studies led the agency to tentatively conclude that it was feasible to manufacture a lightweight guard that could effectively prevent excessive underride and absorb energy in a crash. Absorbing energy is important because too rigid a guard could increase the severity of crash forces on passenger car occupants and thus increase the risk of injury due to hazards other than underride.

The proposed standard would have required large trucks and trailers to be equipped with an underride guard that met specified strength and configuration requirements when force was applied to the guard by a loading device. The proposed standard differed from the FHWA regulation in three ways. First, NHTSA's proposal specified more objective strength requirements for the guard (FHWA specifies that the guard must be "substantially constructed and firmly attached"). Second, the proposed configuration requirements would have required the guard to be located lower to the ground and further rearward on the vehicle than the guard required by FHWA. Third, NHTSA's proposed guard would have been wider (i.e., closer to the sides of the vehicle) than the FHWA guard. Details of the 1981 proposal are described more fully below.

The 1981 NPRM proposed that the guard (as installed on the vehicle) must be capable of withstanding any one of two combinations of load applications without displacing more than a specified distance. The first load combination

would have been a force of 50,000 Newtons (the proposed requirements were based primarily in metric units), or 11,240 lbs., applied to the guard at a position of 30 cm (11.8 inches) inboard from either the right or left side of the vehicle, and then a force of 50,000 Newtons (11,240 pounds) applied to the middle of same guard, i.e., where the guard intersects the longitudinal vertical plane passing through the vehicle longitudinal axis. The second combination was a force of 100,000 Newtons (22,480 pounds) applied to the guard at any point not less than 35 cm (13.8 inches) and not more than 50 cm (19.7 inches) to the left of the longitudinal vertical plane passing through the vehicle longitudinal axis, and then the same force to the same guard in the area located at the same distance to the right of that plane. The NPRM proposed than when the loads are applied by the load block, the guard must not deflect forward more than 40 cm (15.7 inches) as measured longitudinally from the rear of the vehicle.

In addition, configuration requirements were proposed. The guard would have been required to have a ground clearance of not more than 55 cm (21.65 inches). This distance was intended to ensure that the guard would be high enough for normal trucking operations, yet low enough to engage at least some part of the engine in a small car in a crash, and thus prevent excessive underride. The guard's width would have been required to be wide enough so that the outermost edges were within 10 cm (3.94 inches) of the sides of the vehicle. The guard would have been required to be located not more than 30 cm (11.8 inches) from the rear extremity of the vehicle. The cross sectional height of the horizontal member of the guard was proposed to be at least 10 cm (3.94 inches), to ensure that a substantial part of the guard engages a significant amount of the striking vehicle's structure.

The NPRM proposed to exclude certain heavy vehicles (i.e., vehicles with gross vehicle weight ratings of 10,000 pounds or more) from the standard. Truck tractors and pole trailers, as those vehicles are defined in 49 CFR 571.3, would have been excluded because the agency believed the rear end structure of these vehicles is an adequate underride deterrent. The NPRM also would have excluded "low chassis vehicles" (vehicles having a chassis that extended behind the rear tires and whose chassis met the proposed configurational requirements for underride guards), and "wheels back vehicles" vehicles having a permanently fixed rear axle and whose tires on that axle are not more than a specified distance from the rear of the vehicle and thus tend to prevent underride). The NPRM also would have excluded "special purpose vehicles" (vehicles having work performing equipment at the lower rear of the vehicle whose function would be significantly impaired by an underride guard).

Comments on the NPRM

The agency received over 100 comments on the NPRM. Many of the commenters were manufacturers and operators of heavy vehicles who believed that their vehicles were special purpose vehicles and thus excluded from the proposed rule. Some commenters objected to the proposed requirements and suggested alternative means to reduce the deaths and injuries associated with underride crashes, such as by reducing the incidence of such crashes by improving the conspicuity of heavy vehicles. As a result of those comments, NHTSA undertook research on whether the potential reduction in fatalities that might be achieved by underride guards could be achieved by improved conspicuity as well. The agency believed the conspicuity issue was important because data from the Fatal Accident Reporting System (FARS) had indicated that almost twice as many (65 percent) of fatalities resulting from rear end crashes of passenger cars and light trucks into heavy trucks occurred under "non-daylight" (i.e., "dark," "dawn," and "dusk") conditions as occurred in "daylight" conditions (35 percent).

The preliminary results of the conspicuity study indicated that improved conspicuity with reflectorization and/or lighting has the potential for reducing both the occurrence and the intensity of the rear end crashes under both daylight and night conditions. The degree of potential effectiveness of improved conspicuity in eliminating non-daylight collisions (NHTSA estimates improved conspicuity will be 15 percent effective) and the continuing high rate of rear end collisions of passenger cars into heavy trucks under non-daylight conditions (nearly 65 percent for 1984 to 1989) are such that NHTSA has proposed rulemaking on enhanced conspicuity for large trucks and trailers. 56 FR 63474; December 4, 1991.

In terms of reducing truck underride fatalities and serious injuries, improved conspicuity is expected to be about 9.8 percent effective (0.15×0.65 (non-daylight collisions)). However, the agency believes an underride guard could mitigate the bulk of the fatalities and serious injuries not addressed by improved conspicuity.

Also, accident data on alcohol involvement in rear end collisions with heavy trailers indicate that the driver of the striking vehicle had been drinking in 47.9 percent of the fatal rear end underride collisions. An underride guard may help to reduce the severity of a rear end crash where the benefits of enhanced conspicuity of a vehicle may be negated to an extent by the alcohol-impaired, or drowsiness-impaired, reaction time and sensory perception of the driver. Thus, while enhancing conspicuity could complement the agency's proposal to improve underride guards, it would not obviate the apparent need for such a proposal. The agency believes that both a vehicle's enhanced conspicuity and its guard could reduce the likelihood of a crash occurring, and the severity of the crash in the event that one occurs.

Comments on the NPRM also expressed concerns that the proposed requirements would impose substantial burdens of trailer manufacturers. The trailer manufacturing industry consists of many firms that vary widely in size and engineering capabilities. Some of the firms may lack the financial or technical resources to meet the requirements of the vehicle-based underride guard strength test that was proposed in the NPRM. As a result of the comments, the agency sought to determine whether it could revise its proposal to reduce the burdens on small manufacturers.

Summary of the Proposed Requirements

Today's notice contains proposals that are similar to those in the 1981 NPRM in terms of the contemplated strength and configuration of the guard, but that nevertheless differ significantly from those in the NPRM in terms of the potential impacts on small manufacturers. Instead of a vehicle-based safety standard such as that proposed in 1981, this notice proposes two standards: One standard for the guard itself as an item of motor vehicle equipment, and another for the vehicle. The equipment standard would specify the strength requirements which the guard would have to meet when tested on a rigid test fixture, not on the vehicle itself. Testing guards under these conditions would relieve trailer manufacturers, many of whom are small businesses, of the responsibility of conducting a static or dynamic test of a vehicle equipped with the guard. No vehicle need be certified as to its actual performance with the guard installed.

Instead, the vehicle manufacturer need only certify under the vehicle standard that the trailer has an underride guard (separately certified to the equipment standard) at a specified location.

Proposed equipment standard requirements. This notice proposes to establish minimum performance standards for guards manufactured for particular types of motor vehicles, primarily, van and flatbed trailers. There are additional trailer types to which the proposed rule would be applicable. These vehicles would be required to have a guard by the vehicle FMVSS also proposed in this notice. The underride safety hazard results from the chassis height of many trailers (40–50 inches) and the distance between the rear tires and the rear extremity of the vehicle. The combination of these factors allows passenger cars and light trucks to underride these vehicles in rear end collisions, often resulting in significant injuries. The term "rear impact guard" would be used for the standard instead of the term "underride guard" that had been proposed in the NPRM, to reflect the fact that the guard would protect the occupants of a colliding vehicle by absorbing crash forces, in addition to preventing excessive underride.

This notice proposes many of the same strength and configuration requirements for the guard that were proposed in the 1981 NPRM. (Today's proposed requirements are in English units, instead of primarily metric units used in the 1981 notice.) The 1981 proposal would have required each particular guard to be subjected to one of two tests (see S6.6 of proposed text). "Test 1" would have required a force application to the center and another to the outside edge on either the right or left side of the horizontal member of the guard. "Test 2" would have required a force application to the horizontal member at points of specified distances left and right of the longitudinal center of the guard. Today's notice proposes that force would be applied to one of three specified areas on the guard. Each guard must withstand the applied force at all three areas, any one of which may be tested by the agency in a compliance test. The agency believes modifying the procedure simplifies that test while assuring that appropriate strength requirements are met. The loading device (test block) would have approximately the same dimensions as that proposed in the 1981 proposal.

This notice proposes that the maximum allowable distance that the test block is allowed to travel forward would be five inches from its initial location, i.e., resting against the guard. The 1981 NPRM proposed a figure of 15.7 inches (40 cm.), but this distance was measured relative to the rear end of the vehicle. Since the 1981 proposed rule would have allowed the rearmost surface of the guard to be placed up to 11.8 inches (30 cm.) forward of the rear of the vehicle, the rule would have allowed a guard to deflect from 3.9 inches (10 cm.) to 15.7 inches (40 cm.), depending on guard placement. Under the procedures proposed today, the deflection would be measured while the guard is on a test fixture and taken relative to movement of the test block. The agency has tentatively chosen the five inch requirement because test data have indicated that guards requiring above a five inch displacement to reach specified force levels on a rigid test fixture performed well in full scale tests (Contract No. DTNH22–81–C–07177 by Dynamic Sciences, Inc., "Testing to Support Truck Underride Rulemaking," November 1982). The agency's proposed vehicle standard specifies that the guard is to be placed not more than 12 inches forward of the rear of the vehicle. If a trailer manufacturer placed the guard at the maximum allowable distance from the vehicle's rear, NHTSA believes the specification of five inches of guard displacement in guard strength requirements would result in guards that generate underride resistance forces over a short distance which would significantly reduce the number of PCI collisions.

The FMVSS for the guard would require persons manufacturing a guard to certify that each guard meets the proposed requirements by permanently labeling the guard with the symbol "DOT" and with the name of the guard manufacturer. NHTSA believes labeling the guard would facilitate enforcement efforts by providing a ready means of identifying the manufacturer. Except for a guard which is produced and installed by a vehicle manufacturer on a vehicle it produced, each guard would be required to be accompanied by installation instructions. The agency would follow those instructions in setting up a compliance test of the guard. To test a guard manufactured and installed by a vehicle manufacturer on one of its vehicles, NHTSA would contact that manufacturer as needed for compliance testing purposes to obtain a description of the installation procedures used by the manufacturer.

The agency is proposing that each guard must be designed to attach to the "chassis" (defined in the standard as the load-supporting structure) of the vehicle for which the guard is manufactured. This would complement a requirement in the vehicle standard that the guard be attached to the chassis. The rationale for proposing the chassis attachment is because chassis-mounted guards are more capable of preventing PCI than guards mounted to some less rigid part of the vehicle structure. The tests conducted by Dynamic Sciences showed that passenger car underride was kept within acceptable limits and PCI was prevented by the combined strength of the guard and the vehicle chassis members to which the guard was attached for crash severities covered by the proposed standard.

NHTSA proposes that each guard would have to be accompanied by all attachment hardware necessary to ensure that the loads specified in the standard would be met when the guard is attached to a "rigid test fixture." NHTSA would install the guard on the fixture with the attachment hardware provided by the guard manufacturer in the agency's compliance test procedure.

By "rigid test fixture," the agency means a supporting structure that is sufficiently large and appropriately configured so the guard can be attached to it, and that absorbs no significant amount of the energy from the force applied to the guard during a test. The performance requirements would have to be met no matter how small an amount of energy is absorbed by the fixture.

The agency wishes to note that it does not intend to require a change in current guard designs and methods of attachment so that all future guards conform to one particular shape and size of text fixture. If a guard and its method of attachment are unusual in design, the agency will adapt the fixture as appropriate to provide a proper fit with the guard.

The agency's expectation in proposing that the guards be tested on a test fixture instead of on the vehicle on which they are ultimately installed, is that if the guard achieves the specified performance level on the test fixture, and if the guard is installed on the vehicle in the same manner it is installed on the fixture, there will be a significant reduction in underride and PCI cases in the real world. The ability to estimate the performance of the guard on the vehicle based on static tests of the guard mounted on a fixture was demonstrated by the data obtained by Dynamic Sciences. ("Task 4 Report—Truck Underride Guard Static Loading Tests Using a Van" (Other 1982) and "Task 5 Report of Tests 5.1 and 5.2 for Testing to Support Truck Underride Rulemaking" (November 1982), Rodack

et al., Dynamic Science, Inc., Contract No. DTN H22-81-C-07177.)

Proposed vehicle standard requirements. At the outset of this discussion, NHTSA wishes to emphasize that these standards proposed by the agency apply only to new vehicles, not any vehicles already in use. FHWA's regulations address the latter group of vehicles. If NHTSA proceeds to adopt today's proposal as a final rule, FHWA will consider initiating rulemaking to amend 49 CFR 393.86 to require vehicles which were subject to NHTSA's rear impact guard requirements at the time of manufacture to retain and maintain such devices.

The agency has tentatively determined that the vehicle standard should apply to trailers and semi-trailers only, and not to heavy single unit trucks as proposed in the 1981 NPRM. NHTSA has tentatively decided to exclude trucks because approximately 75 percent of the fatalities and serious injuries resulting from heavy vehicle rear end crashes involve collisions with semi-trailers and trailers. Also, the annual cost of equipping new trucks with guards exceeds the annual cost for equipping new trailers. NHTSA tentatively believes that, since trucks cause only 25 percent of the fatalities yet are more costly to equip with a guard than trailers, it may not be reasonable to require trucks to have a rear impact guard. However, NHTSA requests comments on whether the vehicle standard ought to apply to trucks.

Further, NHTSA is proposing to apply the vehicle standard primarily to two types of trailers and semi-trailers, van and flatbed trailers and semi-trailers. These types of trailers uniformly pose a significant rear end collision safety threat because of their height and the distance between the rear wheels and the rear extremity of the vehicle. The rear end structures also do not vary significantly in design from vehicle to vehicle, so a particular guard design would not need to be substantially modified to satisfy the configuration requirements proposed by today's notice.

The agency proposes to exclude special purpose vehicles, wheels back vehicles, truck tractors, low chassis vehicles, and pole trailers from the proposed vehicle standard. Examples of trailers that are special purpose vehicles are dump trailers, oil well servicing rigs, and motorized cranes.

The vehicle standard would require each trailer or semi-trailer to be equipped with a guard that is certified as meeting the equipment standard for guards and installed in the manner specified by the guard manufacturer under the equipment standard. (As noted above, the manner in which the guard is attached to the vehicle should be the same as the manner in which the agency would attach the guard to the test fixture for compliance testing under the equipment standard since the attachments in both circumstances would be governed by the guard manufacturer's instructions.) The vehicle's guard would have to be configured such that the outermost edges of the guard would be located within 4 inches of the side extremities of the vehicle, when measured transversely at a height of 22 inches or less, and the rearmost surface of the guard would have to be located 12 or fewer inches forward of the rear extremity of the vehicle. The guard's edges would not be permitted to extend beyond the sides and rear ends of the vehicle.

NHTSA has tentatively determined that the vertical distance between the lower surface of the horizontal member of the guard and the ground would have to be 22 inches of less, similar to the 55 cm (21.65 inches) proposed in the 1981 NPRM. Some commenters to the NPRM indicated that the 55 cm. ground clearance would be too low to permit trucks or trailers to maneuver up loading ramps without damaging the guard, and would otherwise impair the function of the vehicles. However, because of events that have occurred in recent years, NHTSA believes the concerns expressed in the comments to the 1981 NPRM have been alleviated. The most important events are the apparent steps taken by the trucking industry toward embracing a 22 inch ground clearance design. The Maintenance Council of the American Trucking Industry has a recommended practice (RP 707) to standardize ICC bumper dimensions that includes a provision for 22 inches of maximum ground clearance.

NHTSA also believes the trucking industry would not be opposed to the proposed 22 inch requirement because several (Michigan, Florida, Georgia and North Carolina, New Hampshire, New York, and Vermont) already specify or are considering specifying a 22 inch ground clearance requirement for certain especially long trailers, i.e., 53 feet or longer. Also, the test procedure for underride guards that is specified in Recommended Practice J260 (June 1990) of the Society for Automotive Engineers (SAE) describes a "test zone" on the vehicle, the lower boundary of which is 18 inches above the ground. The 18 inch lower boundary for the test zone shows that the SAE has recognized that 18 inches of ground clearance would not be an undue restriction on the operation of vehicles equipped with underride guards. Moreover, the agency also believes a 22 inch requirement would be acceptable to the industry because methods for loading trailers and semi-trailers onto trains and ships have changed over the past 10 years. A large portion of the loading and unloading of trailers and semi-trailers on and off ships or trains is now done by using a crane rather than driving the trailers or semi-trailers into position as was done prior to 1981, which eliminates many of the ramp angle concerns expressed in comments to the 1981 NPRM.

NHTSA tentatively concludes that, for safety purposes, the vehicle standard should require that the distance between the ground and the lower edge of the guard must be at most 22 inches. The average height of passenger car front ends has been lowered considerably over the past 10 years. A maximum 22 inch ground clearance requirement would ensure that the rear impact guard will engage substantial vehicle structure (e.g., frame, engine and fenders) during a crash. Also, NHTSA requests comments on the adequacy of the proposed 22 inch requirement. Should the requirement specify that the guard must be lower to the ground?

Feasibility of countermeasure. NHTSA believes production and installation of the guard on present trailers and semi-trailers would be feasible within the leadtime proposed below. Today's proposal is based on a NHTSA research program of underride guards that began in the early 1980's. The agency developed a trailer body simulator that effectively modeled the rear of a trailer body during static and dynamic testing, and evaluated the performance of different guard designs when the guards were attached to the simulated rear of the trailer. (Dynamic Sciences, Inc. Contract No. DTNH22-81-C-07177, November 1982.) Guards that met the strength requirements proposed in today's notice performed well when impacted by a 1980 2-door Volkswagen Rabbit in a 29.4 mph crash, and by a 1978 Chevrolet Impala in a 23.9 mph crash. In both tests, vehicle underride was limited to the extent that there wasn't any PCI. Further, crash dummies restrained in the vehicles showed occupant responses well below the allowable injury criteria limits in FMVSS 208, *Occupant Crash Protection* (49 CFR 571.208).

Estimate of needed improvement. The agency estimates that few, if any, present guards would meet the proposed strength and configuration requirements. Information indicates that there may be some guards that could be strong enough

at their center to meet some of the strength requirements, but these guards may not be wide enough to be tested at the specified outboard test points. Also, the vast majority of current guards do not have a lateral structural member located within 22 inches of the ground. The agency requests information that would help NHTSA estimate the extent to which existing guards would have to be improved to meet the proposed equipment standard, and the extent to which trailers would have to be modified to meet the proposed vehicle standard.

Leadtime. The proposed effective date for the rules is two years after publication of the final rule. The agency believes that this leadtime is sufficient for small trailer and semi-trailer manufacturers to develop or purchase guards for the variety of vehicle models they produce. Also, NHTSA believes that the leadtime would be sufficient to design and produce the guards, because designing and producing the guards would require only marginally more effort than that required to produce and install conventional guards now available.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291. However, this notice is a "significant" rulemaking action under the Department of Transportation regulatory policies and procedures. The notice concerns a matter in which there is substantial public interest. The preliminary regulatory evaluation (PRE) for this notice describes the economic and other effects of this rulemaking action in detail. A copy of this document has been placed in the docket for public inspection.

To briefly summarize the PRE, NHTSA estimates that the proposed guards would have an incremental cost increase of $112.00 per trailer or semi-trailer. This cost represents an incremental increase of $67.00 per guard, $13.33 for replacing the guard's horizontal member when damaged during the life of the trailer or semi-trailer, and an added lifetime fuel cost of $29.53 from the added weight of the guard (approximately 55 pounds) and the attachment hardware. An additional $1.70 cost increment is required for compliance certification. The incremental cost increase of the guard would be less than two percent of the trailer retail cost. NHTSA estimates that the total consumer cost of the proposed rule would be $9,382,800 million annually.

The agency estimates that 9 to 19 fatalities would be eliminated annually by the proposed rule based on the number of vehicle occupants killed in underride collisions with PCI, about 60, and an estimated overall rear end protection guard effectiveness of 18 to 27 percent at preventing PCI. NHTSA further estimates that 76 to 114 non-minor injuries (AIS–2 through 5) would be prevented annually by the proposed rule, including vehicle occupants involved in rear end collisions with and without PCI. The "non-PCI" benefits estimated for this rulemaking may be reduced substantially as airbags become more common and safety belt use increases. If a regulation for enhanced conspicuity were in effect for the rear perimeter of trailers and semi-trailers, the estimate of fatality reduction benefits attributed to rear impact protection guards would be reduced slightly to 8 to 18 fatalities prevented annually. NHTSA also estimates that 69 to 103 non-minor injuries (AIS–2 to 5) would be prevented annually if a regulation for enhanced conspicuity were in effect simultaneously with the proposed rear impact protection guard rule. NHTSA believes that there would be significant additional fatality and injury severity reduction benefits resulting from the rear impact protection guards required by this proposal, but the agency is unable to quantify them.

Regulatory Flexibility Act

NHTSA has analyzed the potential impacts of this rule on small entities under the Regulatory Flexibility Act and has described those possible impacts in the PRE. To summarize the PRE on that subject, the agency seeks to reduce the severity of underride crashes by proposing to improve the design of the impacted vehicle, the trailer, or semi-trailer. Accordingly, trailer and semi-trailer manufacturers would be affected by the proposed rule. There are approximately 322 trailer and semi-trailer manufacturers, most of which are small businesses (less than 500 employees). These manufacturers would have to produce their trailers and semi-trailers with the guard and ensure that the guard is placed within specified distances from the ground and the vehicle's sides and rear. If the trailer and semi-trailer manufacturers were to obtain the guard from a supplier, they would only have to install the guard in accordance with the installation instructions provided with the guard. If the manufacturers produce their own guards, they would have to ensure that the guard met the proposed equipment requirements when tested on a rigid test fixture. Today's proposed rules impose no additional reporting or recordkeeping requirements on small entities.

Today's proposal is itself a less burdensome alternative to the proposed underride guard standard issued in 1981, which specified that NHTSA would test the vehicle to the strength requirements. Today's notice only tests the guard (attached to a test fixture) to those requirements, which avoids the vehicle manufacturer having to test the strength of the guard. Also, unlike the 1981 NPRM, today's notice excludes trucks, because of the apparent lack of a safety need for a guard on those vehicles. Thus, proposing strength requirements for the guard in an equipment standard and excluding truck manufacturers (including small entities) from the rule minimizes the impacts of today's proposal on small entities in a manner that is consistent with the Safety Act. Nevertheless, the agency requests comments on the potential costs and other impacts of the proposed rule on the small entities that would be affected.

Executive Order 12612 (Federalism)

Based on the information available to NHTSA, the agency believes the federalism implications of the proposal would be borderline at most. The information available to the agency indicates that nearly all of the States require underride guards on heavy trailers and semi-trailers, and that most of these require the guard to be mounted within a certain distance from the ground and rear and sides of the vehicle. If the proposed vehicle standard is adopted, it would preempt inconsistent State requirements for the guard. However, the agency believes that Federalism implications would only be borderline becuase the proposed standard would not require that underride guards be fundamentally different from those required by existing State law. Guards complying with the proposed requirements would also meet the preexisting State standard.

In addition, several States (Michigan, Florida, Georgia, North Carolina, New Hampshire, New York, New Jersey, Maine and Vermont) require excessively long trailers (53 or more feet) to have a guard that has the same configuration vis-a-vis the ground and sides of the vehicle as the guard proposed in this notice. Those requirements would not be affected by the rule.

Although the agency has determined that this action does not have sufficient federalism implications to warrant the

preparation of a Federalism Assessment, it should be noted that, regardless of that determination, NHTSA also believes that measures to reduce the fatalities caused by underride crashes can only be implemented effectively at the national level. Only trailer and semi-trailer manufacturers can produce a trailer or semi-trailer with improved rear impact crash protection. Because the proposed improvements would cause trailer and semi-trailer manufacturers and operators to incur costs, rear end collision countermeasures such as an upgraded underride guard could directly affect a manufacturer's competitive position if voluntarily implemented by some, but not all, trailer or semi-trailer manufacturers. A federal safety standard would implement the proposed changes uniformly across the industry and thus reduce competitive effects. A uniform standard would also lower the cost of the safety countermeasure for consumers by taking advantage of economies of scale.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Comments On the Proposal

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal 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. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal, regardless of their filing date, will be placed in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes that 49 CFR part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. A new safety standard, Standard No. ____, Rear Impact Guards, would be added to part 571, to read as set forth below.

§ 571. ____, Standard No. ____; Rear Impact Guards.

S1. *Scope.* This standard specifies requirements for rear impact guards for trailers and semi-trailers with a gross vehicle weight rating (GVWR) of 10,000 pounds or more.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and serious injuries that occur in rear underride collisions that involve trailers and semi-trailers with a GVWR of 10,000 pounds or more.

S3. *Application.* This standard applies to rear impact guards for trailers and semi-trailers with a GVWR of 10,000 pounds or more subject to Federal Motor Vehilce Safety Standard No. ____, Rear Impact Protection.

S4. *Definitions. Chassis* means the load-supporting structure of a motor vehicle.

Rear impact guard means a device installed on or near the rear of a vehicle so that when the vehicle is struck from the rear by a smaller vehicle, the device limits the distance that striking vehicle's front end slides under the impacted vehicle's rear end.

Rigid test fixture means a supporting structure that is sufficiently large and appropriately configured so the guard can be attached to it, and that dissipates no significant amount of the energy from the force applied to the guard.

S5. *Requirements.* Each rear impact guard shall:

(a) Meet the requirements of S5.1 through S5.4; and

(b) Except in the case of a guard manufactured by a company for installation on a vehicle it manufactures, meet the requirements of S5.5.

S5.1. *Configuration.* Each guard shall have a cross sectional vertical height of at least four inches at any point across the full width of the horizontal member of the device.

S5.2. *Strength.* When tested under the procedures of S6 with the appropriate force level specified in S5.2.3, each guard shall comply with the requirements of S5.2.1 at each of the test sites determined in accordance with S5.2.2 of this paragraph. However, a particular guard (i.e., test specimen) need not be tested at more than one site.

S5.2.1. In accordance with the test procedures described in S6, when each test site is subjected to the force levels specified in S5.2.3 (a) through (c) for that site, any forward longitudinal movement of the center point on the contact surface of the loading device shall not exceed five inches.

S5.2.2. *Test sites.* With the guard oriented as it would be installed on a vehicle, determine test sites P_1, P_2, and P_3 on the guard in accordance with the procedure set forth in paragraphs (a) through (c) of this section, and as shown in Figure 1.

(a) Test site P_1 is the point on the rearmost surface of the horizontal member of the guard that lies in the horizontal plane passing through the vertical center of that member and that is ⅜ of the transverse horizontal distance between the longitudinal

centerline of the guard and a longitudinal vertical plane tangent to the guard's outermost edge on either the right or left side of the guard.

(b) Test site P_2 is the point on the rearmost surface of the horizontal member of the guard that lies in the longitudinal vertical plane passing through the longitudinal centerline of the guard and in the horizontal plane that passes through the vertical center of the horizontal member of the guard.

(c) Test site P_3 is any point on the rearmost surface of the horizontal member of the guard that is between 14 inches and 20 inches outboard of the longitudinal centerline of the guard on either the right or left side of the horizontal member of the guard, and that lies in the horizontal plane that passes through the vertical center point of the horizontal member of the guard.

S5.2.3. The force levels described below in paragraphs (a) through (c) are applied to the test sites identified in accordance with S5.2.2, according to the procedures specified in S6.

(a) Apply a force of 11,240 pounds to the guard at either test site P_1 on the right or left side.

(b) Apply a force of 11,240 pounds to the guard at test site P_2.

(c) Apply a force of 22,480 pounds to the guard at either test site P_3 on the right or left side.

S5.3. *Labeling.* Each guard shall be permanently labeled with the information specified in paragraphs (a) through (c). The labeling shall be placed on the rearmost surface of the guard at the vertical centerline of the horizontal member of the guard. The information specified in paragraphs (a) through (c) of this section shall be in English and in letters and numbers that are at least one half inch high.

(a) The guard manufacturer's name and address.

(b) The statement: "Manufactured in ——," inserting the month and year of manufacture of the guard.

(c) The symbol DOT constituting a certification by the guard manufacturer that the guard conforms to all requirements of this standard.

S5.4. *Attachment hardware.* Each guard shall be accompanied by all attachment hardware necessary for installation of the guard to the chassis of the motor vehicle on which the guard will be installed.

S5.5. *Installation instructions.*

S5.5.1. Each rear impact guard shall be accompanied by printed installation instructions in English for installing the guard on a motor vehicle.

S5.5.2. The instructions shall specify—

(a) The types of vehicles with which the guard can be used.

(b) The necessity for attaching the guard to the vehicle's chassis.

(c) How the attachment hardware is to be used to install the guard properly.

S6. *Test procedures for evaluating rear impact guards.* The following procedures apply to determining compliance with paragraph S5.2.1:

(a) Attach the rear impact guard to a rigid test fixture according to instructions for guard attachment provided by the guard manufacturer in accordance with S5.5 for that guard or, in the case of a guard produced by a company for installation on a vehicle produced by that same company, according to the procedures followed by the company in installing that guard.

(b) Use a loading device consisting of a rectangular solid made of rigid steel. The solid is eight inches in hieght and eight inches in width. The 8 inch by 8 inch face of the block is used as the contact surface. Each edge of the contact surface has a radius of curvature of 5 ± 1 mm.

(c) Before applying any force, locate the loading device so that:

(1) The center point of the contact surface of the loading device is touching the guard at the test site selected for testing in accordance with S5.2.2.

(2) The longitudinal axis of the loading device passes through the test site and is perpendicular to the transverse vertical plane tangent to the rearmost surface of the guard.

(d) Using the loading device, subject the underride guard to the force specified in S5.2.3 for the selected test site, applying the force to the rearmost surface of the underride guard in a forward direction.

(e) Each of the forces specified in S5.2.3 is reached in not less than one minute and not more than two minutes by increasing the application of force at a constant rate.

(f) During each force application, the loading device is guided so that it does not rotate. At all times during the application of force, the longitudinal axis of the device remains at the intersection of the vertical and horizontal planes that passed through the axis immediately before the application of force.

(g) When the force specified in S5.2.3 for the selected test site is reached, measure the distance that the center point of the loading device contact surface has traveled longitudinally forward from its initial point of contact with the guard.

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31a

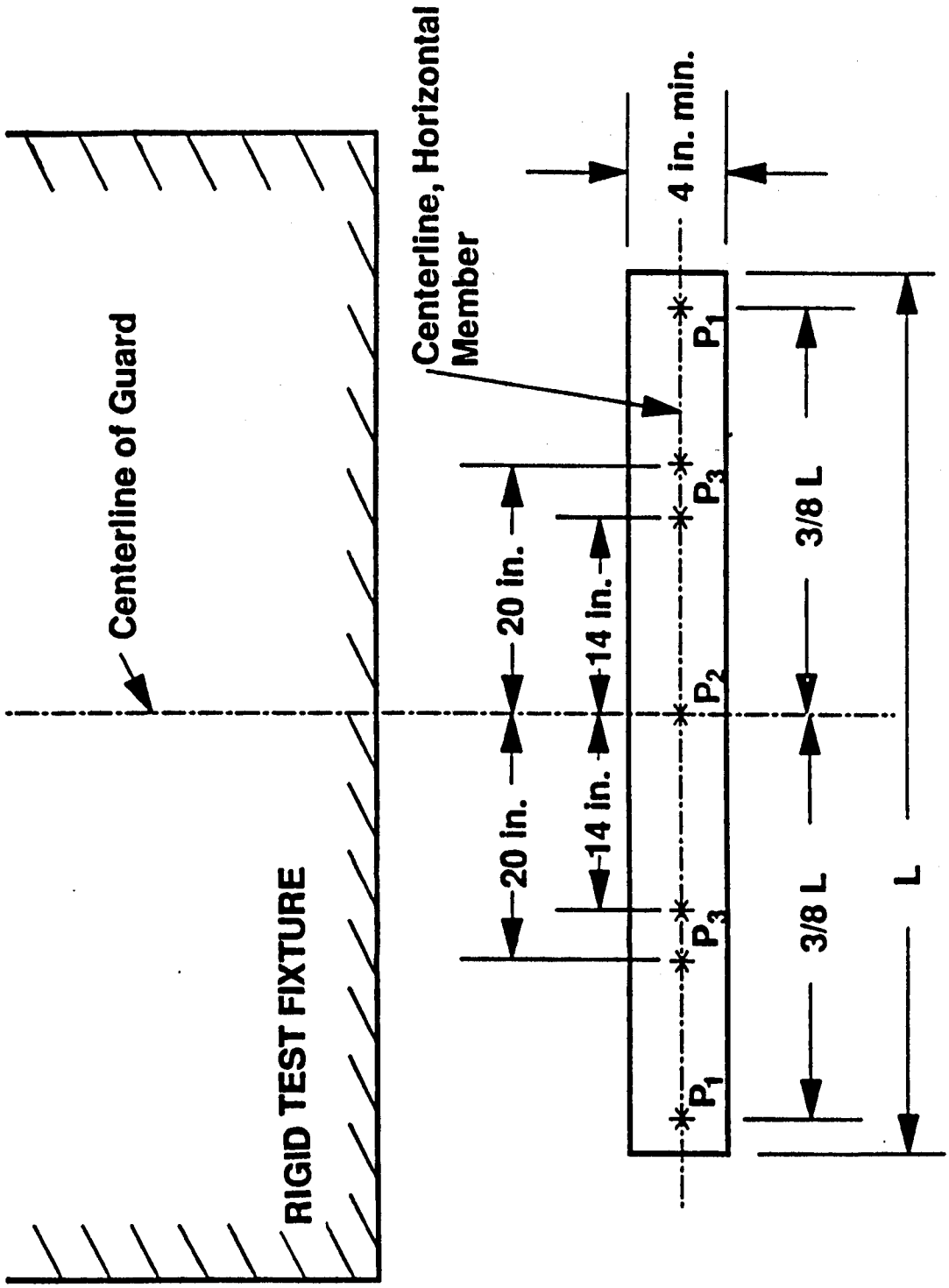

Figure 1. Performance Requirements.

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3. A new safety standard, Standard No. ____, Rear Impact Protection, would be added to part 571, to read as set forth below.

§ 571.____, Standard No. ____; Rear Impact Protection.

S1. *Scope.* This standard establishes requirements for the installation of rear impact guards on trailers and semi-trailers with a gross vehicle weight rating (GVWR) of 10,000 pounds or more.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and injuries occurring when vehicles impact the rear of trailers and semi-trailers with a GVWR of 10,000 pounds or more.

S3. *Application.* This standard applies to trailers and semi-trailers with a gross vehicle weight ratings (GVWR) of 10,000 pounds or more. The standard does not apply to single unit trucks, truck tractors, pole trailers, low chassis trailers, special purpose vehicles, or wheels back vehicles.

S4. *Definitions. Chassis* means the load-supporting structure of a motor vehicle.

Low chassis vehicle means a trailer or semi-trailer having a chassis which extends behind the rearmost point on the rear tires and whose rear lower surface meets the configuration requirements of S5.2.

Rear extremity means the rearmost point on a vehicle that falls above a horizontal plane located 22 inches above the ground when the vehicle is unloaded but has its full capacity of fuel and the tires are inflated in accordance with the manufacturer's recommendations. Also, the vehicle's cargo doors, tailgate, or other permanent structures are positioned as they normally are when the vehicle is being driven. Nonstructural protrusions such as taillights, hinges and latches are excluded from the determination of the rearmost point.

Side extremity means the outermost point on a side of the vehicle that is above a horizontal plane located 22 inches above the ground and between a transverse vertical plane tangent to the vehicle rear extremity and a transverse vertical plane located 12 inches forward of that plane when the vehicle is unloaded but has its full capacity of fuel and the tires are inflated in accordance with the manufacturer's recommendations. Nonstructural protrusions such as taillights, hinges, and latches are excluded from the determination of the outermost point.

Special purpose vehicle means a trailer or semi-trailer having work-performing equipment that is located at the lower rear of the vehicle and whose function would be significantly impaired if a rear impact protection guard meeting the requirements of this standard were attached to the vehicle.

Wheels back vehicle means a trailer or semi-trailer having a permanently fixed rear axle so that the rearmost part of the tires on that axle is not more than 12 inches from the transverse vertical plane tangent to the rear extremity of the vehicle.

S5. *Requirements.* Each vehicle shall be equipped with a rear impact guard that complies with the requirements of S5.1 through S5.3.

S5.1 *Certification.* The guard shall be certified as meeting Federal Motor Vehicle Safety Standard No. ____, Rear Impact Guards.

S5.2 *Configuration requirements.* When the vehicle to which the guard is attached is resting on level ground, the guard shall comply with the requirements of S5.2.1 through S5.2.3 below. (See Figure 1.)

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33a

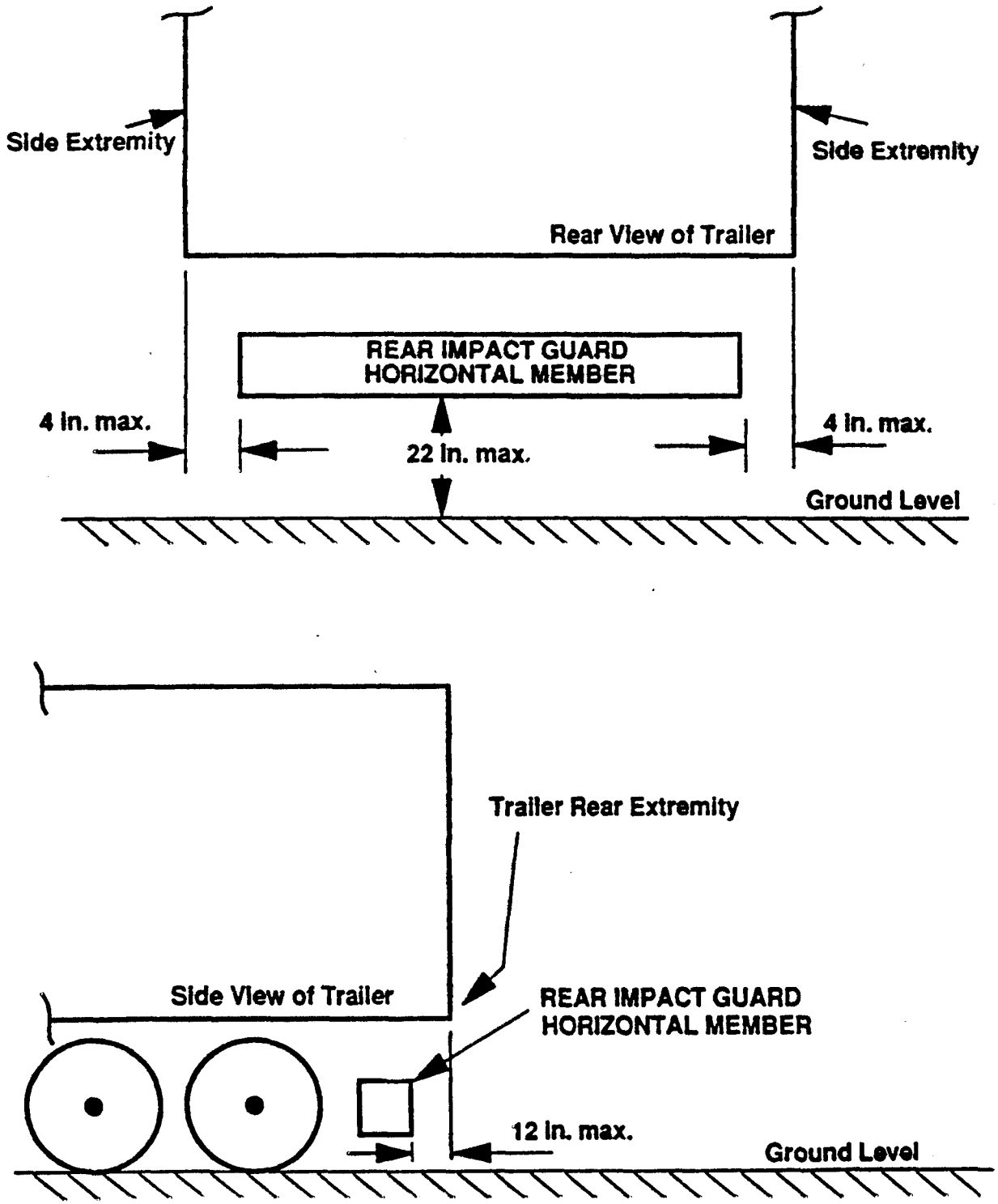

Figure 1. Configuration Requirements, Rear and Side View.

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S5.2.1 *Guard width.* At any height not more than 22 inches above the ground, the outermost edges of the guard shall not be located outboard of the longitudinal vertical planes tangent to the side extremities of the vehicle, nor inboard of the longitudinal vertical planes 4 inches inboard of those planes.

S5.2.2 *Guard lower edge.* The vertical distance between the lower surface of the horizontal member of the guard and the ground shall not exceed 22 inches at any point across the full width of the member when the vehicle is unloaded but has its full capacity of fuel and its tires are inflated in accordance with the vehicle manufacturer's recommendations.

S5.2.3 *Guard rear surface.* At any height not more than 22 inches above the ground, the rearmost surface of the horizontal member of the rear impact guard shall not be located rearward of a transverse vertical plane tangent to the rear extremity of the vehicle, nor forward of a transverse vertical plane located 12 inches in front of the first plane.

S5.3 *Installation requirements.*

S5.3.1 Except for guards that are produced and installed by a vehicle manufacturer for vehicles produced by him, each guard shall be mounted to the vehicle's chassis in accordance with directions provided by the guard manufacturer pursuant to S5.5 of § 571.____.

S5.3.2 Guards that are produced and installed by a vehicle manufacturer for vehicles produced by him shall be mounted to the vehicle's chassis.

Issued on: December 27, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Foreign Proposals To Amend Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of proposed amendments to CITES appendices and public meeting.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animals and plants. Species for which trade is controlled are listed in appendices I, II, and III to CITES. Any nation that is a party to CITES may propose amendments to appendix I or II for consideration by the other Parties.

This notice announces proposals submitted by Parties other than the United States and the Service's tentative negotiating positions, and invites information and comments on these proposals in order to develop negotiating positions for the U.S. delegation. The proposals will be considered at the eighth regular Meeting of the Conference of the Parties, to be held in Kyoto, Japan from March 2–13, 1992.

DATES: The U.S. Fish and Wildlife Service (Service) will consider all comments received by January 31, 1992, in developing final negotiating positions. The Service plans to publish a notice of its final negotiating positions prior to the meeting of the Parties.

A public meeting will also be held to receive comments from the public on January 8, 1992, at 2 p.m.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; Arlington Square Building, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240. The fax number is 703–358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

The public meeting will be held in room 7000 at the Department of the Interior, 18th and C Sts. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address; telephone 703–358–1708 (or FTS 921–1708).

SUPPLEMENTARY INFORMATION:

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also listed species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to appendices I and II for consideration at the meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses and the Secretariat's own findings and recommendations to all Parties no later than 30 days before the meeting. Amendments to the Appendices are adopted by a two-thirds majority of the Parties present and voting.

Information Sought

This notice announces proposals submitted by Parties other than the United States for consideration at the forthcoming meeting of the Parties, and sets forth tentative negotiating positions of the U.S. delegation on foreign proposals. The Service solicits comments on its tentative negotiating positions, on the biological status of the affected species, on the amount and type of trade in specimens of the species, and on the impact of trade on their populations, especially as it relates to any potential effects on survival of the species. Comments that provide this information based on the criteria for adding or removing species from the appendices would be especially helpful.

The Service has based its present tentative negotiating positions mainly on the review of information presented in the proposals by proponents and in terms of criteria adopted at previous meetings of the Conference of the Parties of CITES. Some of the proposals had to be translated into English from Spanish or French (also official languages under terms of the Convention). Because information provided in many of the proposals or otherwise available to the Service is too incomplete to allow clear judgments about their merits, several of the tentative negotiating positions presented may be revised as additional biological and trade data are obtained. Final

guidance for the delegation is to be based on the best available biological and trade information, including comments received in response to this notice.

Proposals

In accordance with the provisions of Article XV, paragraph 1(a) of the Convention: Argentina, Austria, Botswana, Brazil, China, Costa Rica, Denmark, Ethiopia, Germany, Indonesia, Kenya, Madagascar, Malawi, Malaysia, Namibia, the Netherlands, Paraguay, the Philippines, South Africa, and Sudan, Sweden, Switzerland, Tanzania, Thailand, Uganda, the United Kingdom of Great Britain and Northern Ireland, Zambia, and Zimbabwe, all Parties to the Convention, have communicated to the Secretariate the following proposals for amendment of Appendices I or II of the Convention. Proposals submitted by the United States will be discussed in a subsequent **Federal Register** notice.

A total of 144 proposals on both plant an animal species were submitted by countries other than the United States, including 17 proposals that were submitted based on the "Ten Year Review" concept first adopted at the 1981 Conference of the Parties in New Dalhi, India. Some of the proposals by Switzerland recommend the deletion from the appendices of those species that have not been reported in trade, unless the species should be included in appendix II because of similarity in appearance to related taxa that do appear in trade.

However, the lack of reported trade for some species proposed for deletion from the appendices may be due to (1) their rarity, (2) the possibility that their listing in the appendices has inhibited trade, or (3) the lack of proper documentation on the reporting of trade. Consequently, the Service does not believe that lack of appearance in trade is, by itself, a sufficient reason to warrant the removal of a taxon from the appendices. In establishing a tentative negotiating position on these "Ten Year Review" delisting proposals, the Service will consider the degree of vulnerability of the species and the likelihood of it entering trade.

In addition to the listing, delisting, and transfer proposals there are two other categories of proposals. Switzerland, in carrying out its responsibilty as CITES depository government, submitted proposal to transfer several populations of crocodiles from appendix II to appendix I. These proposals provide the basis for Parties to act on their previously stated intentions if countries do not submit, or Parties do not adopt, appropriate amendments under resolutions adopted by the third and seventh meeting of the Parties (Conf. 3.15 on ranching or Conf. 7.14 on export quotas). Such is the case for some populations of crocodiles presently on appendix II under special provision. However, for those populations for which ranching proposals or export proposals have been submitted, and if adopted by the Parties, Switzerland intends to withdraw its proposed amendment to transfer these populations to appendix I.

The second category of proposals involves those that would register the first commercial captive-breeding operations for an appendix I animal species. Sixteen such proposals, involving 15 species, have been submitted for consideration at the March meeting of the Conference of the Parties. The Service will consider these proposals based on the criteria described in resolution Conf. 7.10 (available from the Service upon request).

Proposals submitted by Parties other than the United States are listed in the following table. Tentative negotiating positions and the basis for making them also are indicated. These positions were taken largely on the basis of the information contained in the proposals. If insufficient population and/or trade information was provided, the Service's position is usually to oppose the proposal, pending the receipt of further information and a review of the relevant scientific literature. If no supporting documentation has been received the Service has taken no position on the proposed change. The complete text of each proposal received is available for public inspection at the Service's Office of Scientific Authority (see addresss above). The text of any referenced resolution from previous meetings of the Conference of the Parties is available from the Service's Office of Scientific Authority or the Office of Management Authority (see above addresses).

Proposed amendments and the Service's tentative position are as follows:

Species	Proposed amendment	Proponent	Tentative U.S. position
MAMMALS			
Order primates:			
Tarsius syrichta (Philippine tarsier)	Transfer from II to I	Philippines	Support (3).
Order edentata:			
Tamandua tetradactyla chapadensis (Tamandua, collared anteater).	Remove from II (ten year review)	Germany	Support (3,10).
Order pholidota:			
Manis temminckii (common African ground pangolin).	Remove from I	Botswana, Malawi, Nambia, and Zimbabwe.	Oppose (11).
Order carnivora:			
Acinonyx jubatus (cheetah)	Transfer from I to II (Botswana, Malwai, Namibia, Zambia, and Zambabwe populations with quotas).	Namibia, Zimbabwe	No position (1).
Dusicyon (=cerdocyon) thous (crab-eating fox).	Add to II	Argentina	Support (2,3).
Conepatus spp. (hog-nosed skunks)	....do	....do	Do.
Felis geoffroyi (Geoffroy's cat)	Transfer from II to I	Brazil	Support (3).
Hyaena brunnea (brown hyaena)	Remove from I	Botswana, Malawi, Nambia, and Zimbabwe.	Support (11).
Panthera pardus (leopard)	Transfer from I to II (Sub-Sahara population with quotas).	Botswana, Malawi, Namibia, Zambia, and Zimbabwe.	Oppose (17).
Panthera tigris altaica (Siberian tiger)	Transfer from I to II (captive breeding)	China	Oppose (16).
Ursidae spp. (bear spp.)	Add to II (USSR and Baltic States populations) [for look-alike reasons—Article II, 2(b)].	Denmark	Support (7).
Ursus arctos	Add to I (populations of China and Mongolia).	....do	Support (3).

Species	Proposed amendment	Proponent	Tentative U.S. position
Ursus americanus (American black bear)	Add to II [for look-alike reasons—Article II, 2(b)].	do	Oppose (8).
Order tubulidentata:			
Orycteropus afer (aardvark)	Remove from II	Botswana, Malawi, Namibia, and Zimbabwe.	Support (11).
Order proboscidea:			
Loxodonta africana (African elephant)	Transfer from I to II (Botswana, Malawi, Namibia, Zambia, and Zimbabwe populations).	Botswana, Malawi, Namibia, and Zimbabwe.	See discussion in footnote (18).
Do	Transfer from I to II (Botswana population).	Botswana	Do.
Do	Transfer from I to II (South Africa population).	South Africa	Do.
Order perissodactyla:			
Ceratotherium simum simum (southern white rhino).	Transfer from I to II	South Africa	Oppose (22).
Do	Transfer from I to II (Zimbabwe population).	Zimbabwe	Oppose (4,6,22).
Diceros bicornis (Black rhino)	Transfer from I to II (Zimbabwe population).	do	Do.
Do	Transfer from I to II	do	Oppose (16,22).
Order artiodactyla:			
Capra falconeri falconeri (astor markhor)	Transfer from II to I	United Kingdom	Support (6).
Capra falconeri heptneri (bukhara markhor)	do	do	Do.
Hippotragus equinus (roan antelope)	Remove from II	Botswana, Malawi, Namibia, Zambia, and Zimbabwe.	Support (11).
BIRDS			
Order rheiformes:			
Rhea americana (greater rhea)	Add to II	Argentina	Support (20).
Order anseriformes:			
Anas formosa (baikal teal)	Add to II	United Kingdom	Support (3).
Cygnus columbianus jankowskii (Jankowski's swan).	Remove from II (ten year review)	Germany	Support (10).
Order columbiformes:			
Goura spp. (crowned pigeons)	Transfer from II to I	Netherlands	Support (3).
Order psittaciformes:			
Amazona leucocephala (Cuban amazon)	Transfer from I to II (captive breeding)	Germany	Support (15).
Do	do	Philippines	Oppose (16).
Anodorhynchus hyacinthinus (Hyacinth macaw).	do	do	Do.
Ara ambigua (buffon's macaw)	do	do	Do.
Ara macao (scarlet macaw)	do	do	Do.
Ara maracana (illiger's macaw)	do	do	Do.
Ara militaris (military macaw)	do	do	Do.
Ara rubrogenys (red-fronted macaw)	do	do	Do.
Cacatua haematuropygia (red-vented cockatoo).	Transfer from II to I	do	Support (3).
Cacatua moluccensis (moluccan cockatoo)	Transfer from I to II (captive breeding)	do	Support (15).
Probosiger aterrimus (palm-cockatoo)	do	do	Oppose (16).
Order coraciiformes:			
Aceros spp. (hornbills)	Add to II (8 spp.)	Netherlands	Support (7).
Aceros (=Berenicornis) *comatus* (hornbill)	Add to I	Thailand	Oppose (4,9).
Aceros corrugatus (hornbill)	do	do	Do.
Aceros nipalensis (rufous-necked hornbill)	do	do	Do.
Aceros subruficollis (hornbill)	do	do	Do.
Aceros undulatus (hornbill)	Add to II	do	Support (3).
Anorrhinus spp. (hornbill)	do	Netherlands	Support (7).
Anorrhinus austeni (hornbill)	do	Thailand	Support (3).
Anorrhinus galeritus (hornbill)	do	do	Do.
Anthracoceros spp. (hornbills)	do	Netherlands	Oppose (4,5).
Anthracoceros coronautus convexus	do	Thailand	Support (3).
Anthracoceros albirostris (=*malabaricus*) (oriental pied-hornbill).	do	do	Do.
Anthracoceros malayanus (black hornbill)	Add to I	do	Oppose (4, 5, 9).
Buceros spp. (giant hornbills)	Add to II	Netherlands	Support (7).
Buceros bicornis (great Indian hornbill)	Transfer from II to I	do	Oppose (4, 5).
Buceros bicornis homari (great pied hornbill)	do	do	Do.
Buceros rhinoceros (rhinoceros hornbill)	do	Thailand	Do.
Penelopides spp. (hornbills)	Add to II	Netherlands	Do.
Ptilolaemus spp. (hornbills)	do	do	Do.
Order piciformes:			
Ramphastos spp. (toucans)	Add to II	Paraguay	Support (3)
Pteroglossus spp. (toucans)	do	do	Do.
Order passeriformes:			
Pittidae spp. (pittas)	Add to II (24–26 spp.)	Malaysia	Oppose (21).
Order crocodylia:			
Alligator sinensis (Chinese alligator)	Transfer from I to II (captive breeding)	China	Oppose (16).
Crocodylus cataphractus (African slender-snouted crocodile).	Transfer from II to I (Congo population)	Switzerland	Support (14).

Species	Proposed amendment	Proponent	Tentative U.S. position
Crocodylus niloticus (Nile crocodile)	Transfer Ethiopia population from I to II, pursuant to Resolution Conf. 3.15 on ranching.	Ethiopa	Support (12).
Do.	Transfer Kenya population from I to II, pursuant to Resolution Conf. 3.15 on ranching.	Kenya	Do.
Do.	Transfer Madagascar population from I to II, pursuant to Resolution Conf. 3.15 on ranching.	Madagascar	Do.
Do.	Transfer Tanzania population from I to II, pursuant to Resolution Conf. 3.15 on ranching.	Tanzania	Do
Do.	Maintain Sudanese population in II, subject to an export quota.	Sudan	Oppose (4, 13, 14, 25)
Do.	Transfer from I to II, (South Africa population).	South Africa	Support (3).
Do	Transfer from I to II (Uganda population subject to an export quota pursuant to resolution Conf. 7.14).	Uganda and Zimbabwe	Support (12).
Do	Transfer from II to I (Cameroon, Congo, Kenya, Madagascar, Sudan, and Tanzania populations).	Switzerland	Support (14).
Crocodylus porosus (saltwater crocodile)	Transfer Indonesia population from I to II, pursuant to resolution Conf. 3.15 on ranching.	Indonesia	Support (12).
Do	Transfer from II to I (Indonesia population).	Switzerland	Oppose (14).
Osteolaemus tetrapis (dwarf crocodile)	Transfer from II to I (Congo population)	do	Support (14).
Order squamata:			
Corucia zebrata (prehensile-tailed skink)	Add to II	Germany	Support (3).
Vipera wagneri (Wagner's viper)	do	Sweden	Support (6).
AMPHIBIANS			
Rana arfaki (frog)	Add to II	Germany	Support (7).
Rana blythii (frog)	do	do	Do.
Rana cancrivora (frog)	do	do	Do.
Rana crassa (frog)	do	do	Do.
Rana cyanophlyctis (frog)	do	do	Do.
Rana grunniens (frog)	do	do	Do.
Rana ibanorum (frog)	do	do	Do.
Rana ingeri (frog)	do	do	Do.
Rana kuhlii (frog)	do	do	Do.
Rana limnocharis (frog)	do	do	Do.
Rana macrodon (including *R. microtympanum*.	do	do	Do.
Rana magna (frog)	do	do	Do.
Rana malesiana (frog)	do	do	Do.
Rana modesta (frog)	do	do	Do.
Rana paramacrodon (frog)	do	do	Do.
Rana rugulosa (frog)	do	do	Do.
BONY FISHES			
Order clupeiformes:			
Clupea harengus	Add to I	Botswana, Malawi, Namibia, and Zimbabwe.	Oppose (4).
Order cypriniformes			
Gymnocharacinus bergi (characin)	do	Argentina	Support (2, 3).
Order atheriniformes:			
Cynolebius constanciae (killifish)	Remove from II (Ten year review)	Switzerland	Support (10).
Cynolebius marmoratus (killifish)	do	do	Do.
Cynolebius minimus (killifish)	do	do	Support (10).
Cynolebius opalescens (killifish)	do	do	Do.
Cynolebius splendens (killifish)	do	do	Do.
Order perciformes:			
Thunnus thynnus (bluefin tuna)	Add to I (Western Atlantic population)	Sweden	Oppose (24).
Do	Add to II (Eastern Atlantic population)	do	Do.
PLANTS			
Family anacardiaceae:			
Schinopsis spp. (quebrachos)	Add to II (3-7) spp.)	Argentina	Support (3,7).
Family araceae:			
Alocasia sanderiana (Sander's alocasia)	Remove from I (ten year review)	Philippines; Switzerland	Support (3,9,10).
Family bromeliaceae:			
Tillandsia spp. (tillandsias)	Add to II [400-500+ spp.]	Austria; Germany	Oppose (4,21).
Family cactaceae:			
Ariocarpus spp. (living-rock cacti)	Transfer from II to I (3+ spp.)	Netherlands	Support (3).
Discocactus spp. (discocacti)	Transfer from II to I (8+ spp.)	Brazil	Do
Melocactus conoideus (conelike Turk's-cap cactus).	Transfer from II to I	do	Support (3).
Melocactus deinacanthus (wonderfully bristled Turk's-cap cactus).	do	do	Do.
Melocactus glaucescens (grayish blue-green, wooly Turk's-cap cactus).	do	do	Do.

Species	Proposed amendment	Proponent	Tentative U.S. position
Melocactus paucispinus (few-spined Turk's-cap cactus).	do	do	Do.
Uebelmannia spp. (Uebelmann cacti)	Transfer from II to I (4+ spp.)	do	Do.
Family caryocaraceae:			
Caryocar costaricense (ajo; garlic tree)	Remove from II (ten year review)	Switzerland	Oppose 4,10).
Family fagaceae:			
Quercus copeyensis	Remove from II (ten year review)	Switzerland	Oppose (4,5,10).
Family humiriaceae:			
Vantanea barbourii (ira chiricana)	Remove from II (ten year review)	Switzerland	Oppose (4,10).
Family juglandaceae:			
Oreomunnea pterocarpa (gavilan)	Remove from I (ten year review)	Switzerland	Oppose (4,10).
Family leguminosae (= fabaceae):			
Cynometra hemitomophylla (guapinol negro)	Remove from II (ten year review)	Switzerland	Oppose (4,10).
Dalbergia nigra (Brazilian rosewood)	Add to I	Brazil	Support (3).
Intsia spp. (merbau, Borneo-teak)	Add to II (3 spp.)	Denmark and Netherlands	Support (3,7).
Pericopsis elata (afrormosia)	Add to II	Denmark and United Kingdom	Support (3).
Platymiscium pleiostachyum (cristobal, granadillo).	Remove from II (ten year review)	Switzerland	Oppose (4,10).
Tachigali versicolor (cana fistula)	do	do	Oppose (4,5,10)
Family meliaceae:			
Swietenia spp. (American mahoganies)	Add to II (2-3 spp.)	Costa Rica; [also U.S.A.]	Support (3,7).
Family moraceae:			
Batocarpus costaricensis (ojoche macho)	Remove from II (ten year review)	Switzerland	Oppose (4,5,10).
Family orchidaceae:			
Didiciea cunninghamii (didiciea)	Remove from I (ten year review)	Switzerland	Oppose (5,9,10)
Family palmae (= arecaceae):			
Areca ipot	Remove from II (ten year review)	Switzerland	Oppose (4,5,10)
Family thymelaeaceae:			
Gonystylus bancanus (amin)	Add to II	Denmark and Netherlands	Support (3,7).
Family zingiberaceae:			
Hedychium philippinense (Philippine garland flower).	Remove from I	Switzerland	Support (3,5,9,10).

The bases for the tentative U.S. positions on the proposals are:

(1) While this amendment to the appendices has been proposed, the Service has not received any supporting statement from the CITES Secretariat.

(2) The original proposal is in French or Spanish. The Service will provide an English translation upon request.

(3) The listing or delisting of the taxon or taxa, as proposed, appears to be justified by the information in the proposal or currently available to the Service. In terms of some of the timber proposals, however, the Service will support some of the timber proposals only if they are amended to exclude certain parts and/or derivatives of the taxon.

(4) The population status (i.e., the degree of threat of extinction) of the entire species or taxon does not appear to warrant the listing, downlisting, or delisting as proposed.

(5) Available information suggests that there is little likelihood that there has been or will be any significant international trade in this species.

(6) The Service would support listing, or retention, of this taxon in Appendix I on the basis of resolution Conf. 2.19 (i.e., due to the taxon's rarity, and because any trade in it would be detrimental), and because trade has been documented and may increase.

(7) Listing of this species (including population) or higher taxon appears justified because of its similarity of appearance to a species or taxa that are at risk of detrimental trade.

(8) This listing has been proposed because of the preceived need to regulate this species in order that trade in Asian bear species listed in appendix I or II may be brought under effective control due to similarity of appearance, particularly for the gall bladder trade (article II, paragraph 2b). The Service believes that the necessary regulation has been achieved with the recent listing of this species in appendix III by Canada. That listing is not acknowledged in the proposal.

(9) Biological and trade information presented in this proposal do not appear to support listing in appendix I. However, other information is available or may become available to support listing the species or taxon in Appendix II.

(10) This proposal was submitted under the ten year review resolution for downlisting or removal of the species and other taxa from the appendices. The Service either: Supports the proposal believing the information presented to be an accurate interpretation of the likely effect of trade and the lack of risk to the species; or opposes the proposal for removal believing that the lack of reported international trade for the species may be due to rarity, or the lack of proper documentation of actual trade.

(11) This downlisting has been proposed under the provisions of resolution Conf. 2.23, which provided for downlisting or removal of species or other taxa that were included in appendix I or II prior to application of the Berne criteria for addition of species to the appendices. The proposal does not present information sufficient to meet the downlisting criteria under Conf 1.2, but in most instances it appears that international trade is non-existent or extremely restricted, and therefore, would have been considered for downlisting or delisting under the "10-year review" process (Conf. 3.20) or periodic review process (Conf. 6.1) established subsequent to Conf. 2.23. Therefore, the Service intends to support most of these proposals either for downlisting or removal from the appendices, but will consult with Switzerland (previous chair of the 10-year review committee) or Germany (chair of the periodic review group of the Animals Committee). However, the Service's tentative position is to oppose the removal of the cape pangolin from Appendix I because of the possibility of trade in this species.

(12) The transfer of certain Nile and saltwater crocodile populations from appendix I to appendix II was proposed pursuant to resolution Conf. 3.15 on ranching, at least one population subject to annual export quotas for wild harvested specimens. The Service's initial support of these proposals is contingent upon assurance that annual reports are being regularly filed with the

CITES Secretariat by the proponent and that either (1) adequate management programs exist to monitor the wild population, or (2) animals will be returned to the wild in numbers greater than would have survived naturally (the original concept of Conf. 3.15).

(13) The transfer of certain populations from appendix I to II was proposed pursuant to resolution Conf. 5.21, subject to an annual export quota.

(14) Switzerland, as depository government, proposed the transfer from appendix II to I those species that were downlisted from appendix I to II under the provisions of Conf. 5.21. This transfer was called for under the provisions of Conf. 7.14 unless regular downlisting or ranching proposals were submitted for consideration and adopted at the upcoming meeting of the Parties. If the ranching proposals for crocodile populations in Indonesia, Kenya, Madagascar, and Tanzania are adopted by the Parties, Switzerland will presumably withdraw its proposal for those populations. However, the effect of the revised proposal, if all other crocodilian proposals were adopted, would be to return the populations of the dwarf and slender-snouted crocodile in the Congo, and the Nile crocodile in the Cameroon and the Congo, and possibly the Sudan, to appendix I.

(15) Present information supports the proposal to register this appendix I animal species as bred in captivity for commercial purposes under the provisions of resolution Conf. 7.10 (i.e., criteria for a proposal to register the first commercial captive-breeding operation for an appendix I animal species).

(16) Information presented does not indicate that the breeding program meets the criteria stipulated in resolution Conf. 7.10 for registration of the first commercial captive-breeding operation for an appendix I animal. In most instances, either second generation stock has not been produced, or has not been reliably produced. For the Chinese alligator the management program has not been presented in a manner to ensure that the collection will be managed in a way to minimize inbreeding.

(17) The Service recognizes the difficult, if not impossible, requirements imposed by the provision of Conf. 1.2 that expects a showing of improvement in population trends when no adequate surveys were available at the time of the listing. However, until this issue is further clarified, the Service cannot support this proposal under the provisions of Conf. 1.2. The proponent recognized this situation, and the proposal to transfer the leopard from appendix I to appendix II with export quotes adopted by the Parties was submitted under the provisions of resolution Conf. 7.14. This appears to represent an appropriate application of this resolution although such a downlisting can remain in effect for only two intervals between meetings of the Conference of the Parties. However, Conf. 7.14 requires, among other things, "sufficient evidence from a well-documented scientific report on population size and geographical range of the species based on at least a single survey to establish that the species should be included in the appendix II rather than appendix I, according to the criteria of Conf. 1.1." Population "estimates" are provided in the proposal, but this information does not appear to meet the standard stipulated in the resolution. The Service will seek additional information, but presently, the Service supports continuation of the export quotas system for trophies and skins for tourists as previously provided for in resolution Conf. 7.7.

(18) The Service believes that in order for the African countries to maintain substantial populations of African elephants the people in those countries must realize both consumptive and nonconsumptive benefits from this natural resource. The African elephant was listed in appendix I, at COP7 for a number of reasons including to control illegal trade in ivory. A resolution (Conf. 7.9) adopted with this listing acknowledged that some elephant populations may not have met the Berne criteria and set up special criteria for consideration of future downlisting proposals. The Service will consider support for downlisting to appendix II of some of the proposed populations, in accordance with the Conf. 7.9 criteria, if convinced that these populations are not threatened with extinction and that trade in illegal ivory will not be stimulated to the detriment of wild populations. Such assurance might be achieved by allowing only trade in non-ivory parts at this time. The challenges to CITES is to assist in the establishment of a regulated marketplace for elephant products from those countries that have abundant and well managed populations without impacting populations in those countries that do not. This necessitates a marketing system which demonstrably excludes illegally taken ivory. Several Southern African countries are now working towards this end by developing a Southern Africa Center for Ivory Marketing (SACIM). CITES should supplement this effort by developing an international system for monitoring the trade of ivory once it has left the SACIM Trade Center for consumer countries, such as allowing only one-time trade from country of harvest to consumer country with no further trade permitted including no trade in worked ivory. For South Africa, the Service has received the Panel of Experts report, and the Service expects to receive the Panel of Experts report for the other countries in January 1992.

(19) If the previous proposal is adopted this proposal becomes redundant, and presumably will be withdrawn.

(20) The addition of this species was recommended by the CITES Significant Trade Working Group, in large part because of the concern that large numbers of specimens of the subspecies listed in Appendix II were being illegally traded as specimens of the unlisted subspecies.

(21) Biological and/or trade information presented on this taxon seems insufficient to meet the Berne criteria. However, the Service recognizes that sufficient information may exist and/or become available to support the addition of certain of these species to appendix II. The issue then would be whether those not meeting appendix II, article II, paragraph 2(a) criteria could be practically and effectively distinguished from those included in Appendix II because of the potential for detrimental trade.

(22) All proposed amendments for rhinoceros were submitted to enable commercial trade in horns with the belief that properly controlled harvest (often involving removal of horns without harm to the animal) would support conservation of the species. The black rhinoceros population in Zimbabwe continues to be under significant poaching pressure, the white rhinoceros population in Zimbabwe is extremely small (about 400 animals), but he white rhinoceros population in South Africa appears to be relatively secure. Nevertheless, the Service believes that allowing legal trade in rhinoceros horn will, because of the extreme demand for this part, impose sufficient enforcement problems so as to contribute to additional illegal take of wild rhinoceros.

(23) The Service has supported interim downlistings of crocodile species provided conservative export quotas were established based on population status information. Furthermore, the Service has supported downlisting of crocodilians pursuant to ranching provisions when the wild adult breeding population is adequately protected. Harvest of adult stock has and can again quickly result in overharvesting. However, the Service believes that

South Africa has the strong management programs and enforcement capabilities necessary to preserve the wild populations.

(24) The Service opposes this proposal for the following reasons: (1) The 1991 population assessment indicates that current management by the International Commission for the Conservation of Atlantic Tunas (ICCAT) may have arrested the past decline in numbers of immature western Atlantic bluefin tuna; (2) ICCAT has agreed to accelerate recovery of the western Atlantic population by reducing quotas over the next four years and evaluating further reductions early in 1992; (3) ICCAT has convened a working group to control trade in western Atlantic bluefin tuna by non-members and to better document trade among members of ICCAT. The Service intends to re-evaluate its position if ICCAT does not implement these measures or if future assessments show a need for additional measures.

(25) At COP7, Sudan requested a one-time quota to dispose of 5,040 Nile crocodile skins. furthermore, Sudan reported that they had instituted a ban on hunting for 3 years, from January 1, 1989, to the end of December 1991. Sudan also agreed to inventory and tag all skins. The present proposal notes that an additional 11,960 skins have been stockpiled, of which 8,000 have been aequately preserved. All were reportedly legally taken in 1990. Sudan announces that hunting of wild crocodiles ended completely in 1991, and requests an export quota for 8,000 skins.

Future Actions

The Service has announced in the December 31, 1991 **Federal Register** the provisional agenda for COP8 and resolutions submitted by the Parties. That **Federal Register** notice also presented the Service's tentative negotiating positions on these agenda items and resolutions.

The Nomenclature Committee, in conjunction with the Wildlife Trade Monitoring Unit, has been working to review and resolve numberous ambiguities in the Appendices that arose from the listing of taxa at the plenipotentiary and first meetings of the Conference of the Parties. Supporting documents were not a matter of record at these meetings and either similar names may have had more than one interpretation or the scientific name used may not have been the preferred or commonly accepted name. The Service anticipates that the Nomenclature Committee will be submitting a list of over 50 such clarifications to the CITES Secretariat, and that this list should be available to the Service by the end of January 1992. Presumably only about a dozen of these clarifications will involve more than technical name changes.

The next regular meeting of the Parties is scheduled to be held in Kyoto, Japan from March 2–13, 1992. The Service will develop final negotiating positions and announce these decisions prior to the meeting of the Conference of Parties. These negotiating positions will be based upon the best available biological and trade information, taking into account comments received in response to this notice. If further information is presented at the meeting in Japan, the U.S. delegation to COP8 will also take it into account in determining whether the Service's previous positions remain appropriate.

Public Meeting

The Service announces a public meeting on January 8, 1992, at 2 p.m. in room 7000 at the Department of the Interior, 18th and C Streets, NW., Washington, DC. This meeting is being held to provide information about the eighth meeting of the Conference of the Parties, and to receive comments from the public on the proposed amendments to the Appendices, the proposed resolutions, and other agenda items.

This notice was prepared by Drs. Charles W. Dane, Bruce MacBryde, and Richard M. Mitchell, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Transportation, and Treaties.

Dated: December 26, 1991.

Richard N. Smith,

Deputy Director.

[FR Doc. 92–42 Filed 1–2–92; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 57, No. 2
Friday, January 3, 1992

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Revision of a System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture (USDA) proposes to revise the Privacy Act system of records maintained by the Food and Nutrition Service (FNS), entitled "Investigations of Fraud, Theft, or Other Unlawful Activities of Individuals Involving Food Stamps" designated as USDA/FNS–5, and to rename the system "Information on Persons Disqualified from the Food Stamp Program."

EFFECTIVE DATE: This notice will be effective, without further notice, March 4, 1992, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before February 18, 1992 to be assured of consideration.

ADDRESS: Comments should be addressed to: Abigail Nichols, Director, Program Accountability Division, room 907, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone: (703) 305–2414.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, FNS Privacy Act Officer, room 308, 3101 Park Center Drive, Alexandria, Virginia 22302. Telephone: (703) 305–2234.

SUPPLEMENTARY INFORMATION: FNS plans to implement a USDA-maintained, limited-access Nationwide data bank of information on individuals who have been disqualified from participation in the Food Stamp Program. The data base will be composed only of data supplied by State agencies; no Federally generated data will be included. The authority for compiling and maintaining such a data base is found in the Omnibus Budget Reconciliation Act of 1981 in which Congress specified that States will report information on disqualified individuals to the Secretary of Agriculture for purposes of Food Stamp Program enforcement.

In the mid-1980's, FNS maintained a data base of information on disqualified recipients under the system of records USDA/FNS–5, indicated above. Because of technical problems which resulted in unreliable data and because of the advent of the Computer Security Act of 1988, which mandated safeguards not inherent in the system, FNS suspended the collection of information under that system in July 1989. A new data base, and the software associated with it, called the Disqualified Recipient Subsystem (DRS), has been developed and is the successor to the earlier data base. This new data base will constitute the revised system of records.

The Food Stamp Program is a Federal food assistance entitlement program administered by and operating in all fifty States, the District of Columbia, the Virgin Islands, and Guam. Uniform nationwide eligibility standards are established by FNS and applied by State agencies. Federal law also requires that States apply uniform disqualification procedures when it is discovered that Food Stamp Program recipients have fraudulently obtained benefits, and further specifies that disqualifications for second and third violations be more stringent than for first-time offenses.

In order to assist States in assigning appropriate periods of disqualification, State agencies will provide to FNS on a monthly basis information on Food Stamp disqualification cases within the State. FNS will maintain this information in the Disqualified Recipient Subsystem and make it available to the various State agencies administering the Food Stamp Program for program enforcement purposes.

The DRS data will consist of information identifying individuals disqualified from the Food Stamp Program and information on present and any prior disqualifications.

Signed at Washington, DC on December 30, 1991.

Edward Madigan,
Secretary of Agriculture.

SYSTEM NAME:

Information on Persons Disqualified from the Food Stamp Program, USDA/FNS–5.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is under the control of the Deputy Administrator, Food Stamp Program, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302. The data will be maintained at the Department's National Computer Center, Kansas City, Missouri (NCC–KC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system consists of information on individuals who have been disqualified from food stamp participation for intentionally violating Food Stamp Program regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of standardized records containing identifying information (first name, middle initial, last name; Social Security number; date of birth; and sex) on individuals disqualified from the Food Stamp Program and information identifying the location, date(s) and length(s) of any disqualification determined and imposed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 2011–2031.

PURPOSE:

To facilitate the Congressional mandate to increase the severity of disqualifications from the Food Stamp Program for repeated instances of fraudulently obtaining Food Stamp Program benefits and to verify eligibility of applicants for Food Stamp Program benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records contained in this system may be disclosed, as part of a computer

matching program or otherwise, to State agency personnel responsible for investigating or prosecuting violations of the Food Stamp Program regulations, and to Federal, State, and local officials responsible for administration of the Food Stamp Program. Records contained in this system also may be disclosed to the General Accounting Office for program audit purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on the Department's computers at the NCC-KC or on magnetic tapes at that facility.

RETRIEVABILITY:

Records may be indexed and retrieved by name of the individual, by Social Security Number, by Federal Information Processing Standard (FIPS) code, or by a State case-file identification number.

SAFEGUARDS:

Records will be available only to identified State agency personnel charged with Food Stamp Program enforcement. Voice recognition technology may be used; such a system will release information only to authorized individuals calling from authorized telephone numbers. On-line access to the NCC-KC data base will be restricted to FNS personnel charged with system management. The NCC-KC is the repository of numerous Department systems of records and other sensitive data bases. It was constructed and is maintained as a highly secure facility.

State agencies will be provided information from this system of records only upon entering into a written agreement with FNS. This agreement includes the understanding that State agencies will provide full security for data released to them and will limit access to this data to authorized personnel only. Any reports generated by FNS will be for system evaluation purposes only and will be maintained in secured offices and facilities.

RETENTION AND DISPOSAL:

Because the law mandates a longer disqualification period if there have been any prior disqualifications, FNS intends to maintain these records permanently in an electronic or magnetic tape mode.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, room 907, Alexandria, Virginia 22302. Telephone: (703) 305-2414.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him, from the System Manager listed above.

RECORD ACCESS PROCEDURE:

An individual may obtain information about a record in the system which pertains to him by submitting a written request to the Systems Manger listed above. The envelope and the letter should be marked "Privacy Act Request."

A request for information pertaining to an individual should contain the name, address, date of birth and social security number of the individual, and any other information that will assist in locating the record.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, the reasons for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate.

RECORD SOURCE CATEGORIES:

Information in this system is provided by State agency personnel responsible for investigating cases involving intentional violations of Food Stamp Program Regulations.

[FR Doc. 92-87 Filed 1-2-92; 8:45 am]
BILLING CODE 3410-30-M

Privacy Act of 1974, Systems of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act Systems of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is (1) adding two new systems of records to support Contracting Officer and Real Property Leasing Officer Warrant Systems; (2) redesignating and revising two systems of records on Debarred and Suspended Bidders and Headquarters Parking; and (3) deleting Secretary's Controlled Correspondence as a Privacy Act system of records.

EFFECTIVE DATE: This notice will be adopted without further Federal Register publication on March 4, 1992 unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received at the address listed below on or before February 18, 1992 to be assured of consideration.

ADDRESS: Interested persons may submit written comments to Marilyn G. Wagner, Acting Director, Office of Operations, USDA, room 113-W Administration Building, Washington, DC 20250, or deliver them to room 113-W, USDA Administration Building, Jefferson Drive between 12th and 14th Streets, SW., Washington, DC between 8:30 am and 5 p.m., work days. Comments received may also be inspected during these hours in room 113-W, Administration Building.

FOR FURTHER INFORMATION CONTACT: For the Debarred and Suspended Bidders and Contracting Officer Warrant Systems: Linda Persons, Procurement Analyst ((202) 447-7529). For the Real Property Leasing Officer System: Marsha Pruitt, Realty Specialist ((202) 447-3338). For the other Systems: Sharon Roth, Program Analyst ((202) 447-3820). Address mail for all of the above to Office of Operations, USDA, room 134-W, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: USDA is establishing Contracting Officer Warrant (USDA/OO-2) and Real Property Leasing Officer Warrant (USDA/OO-3) systems of records. These systems will contain information necessary to evaluate training, experience, education, and proficiency of employees recommended for authority as procurement contracting officers or real property leasing officers. USDA is also redesignating and amending record systems on Debarred, Ineligible and Suspended Bidders (USDA/O&F 5, redesignated as USDA/OO-1) and on Employee Parking Applications for DC Headquarters parking privileges (USDA/O&F 6, redesignated as USDA/OO-4). The changes reflect organizational name changes, clarification of routine users, and editorial matters. USDA is also rescinding Secretary's Controlled Correspondence (USDA/O&F-7) as a Privacy Act system of records. These files are not retrievable by personal identifier and, therefore, do not constitute a Privacy Act system of records.

A Privacy Act Systems Report relating to each of the two new and two altered system, required by 5 U.S.C. 552a(r), was sent to the Committee on Government Operations of the House, the Committee on Governmental Affairs of the Senate,

and of the Office of Management and Budget, on December 30, 1991.

Signed at Washington, DC, on December 27, 1991.

Edward Madigan,

Secretary.

1. The existing System of Records USDA/O&F-5, Debarred, Ineligible, and Suspended Bidders, is redesignated USDA/OO-1 and is revised as follows:

SYSTEM NUMBER:

USDA/OO-1.

SYSTEM NAME:

Debarred, Ineligible and Suspended Bidders.

SYSTEM LOCATION:

Procurement Division, Office of Operations, USDA, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who, as principals or responsible employees of companies contracting with USDA or other Federal agencies, have committed or are suspected of having committed, illegal or irresponsible acts in connection with the performance of those contacts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract files on companies and their principal owners, officers or responsible employees, containing material relating to performance of individuals and their companies under government contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

Used in USDA to determine if a debarment or suspension action is appropriate to preclude individuals from contracting with the Federal government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records contained in this system may be disclosed:

1. To Federal Contracting Officers in connection with the Federal procurement process;

2. To Members of Congress to respond to inquiries made on behalf of individual constituents that are record subjects;

3. In response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding;

4. In a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding;

5. In the event that material in this system indicates a violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

POLICIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders at the address above.

RETRIEVABILITY:

Information can be retrieved by name of an individual or the name of the firm with which that person was associated.

SAFEGUARDS:

Records are kept in locked rooms in metal filing cabinets with access limited to those requiring the information for official purposes.

RETENTION AND DISPOSAL:

Records are sent to Federal Records Centers about 3 years after the close of a case and are destroyed about 2 years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Operations, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Persons may request information on this system of records, or information as to whether the system contains records pertaining to them from the Chief, Procurement Division, Office of Operations, USDA, Washington, DC 20250. Telephone (202) 447-3037. A request for information pertaining to an individual should contain: Name, address, company name, date of debarment, ineligibility or suspension, or date of last correspondence with the agency.

RECORD ACCESS PROCEDURE:

Persons may obtain information on procedures to gain access to system records pertaining to them by submitting a written request to the Director, Office of Operations.

CONTESTING RECORD PROCEDURES:

Persons may obtain information on procedures to contest system records pertaining to them by submitting a written request to the Director, Office of Operations.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from agency employees, other Federal agencies, law enforcement officials or judicial officers.

2. A new system of records USDA/OO-2 is added as follows:

SYSTEM NUMBER:

USDA/OO-2.

SYSTEM NAME:

Contracting Officer Warrant System.

SYSTEM LOCATION:

See appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Agriculture employees who have been delegated procurement authority under the Warrant System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, identification number, present employment, previous employment, education, experience, specialized training, series and grade, and level of warrant issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

Used by Heads of Contracting Activities or designees for evaluation purposes when delegating procurement authority. Data from the system provides program management information needed for planning, training, budgeting, and recruiting.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

Data from the system may be disclosed:

1. To Federal agencies in cases where concurrence of those agencies is necessary prior to designating a person as contracting officer for a specific procurement or class of procurement;

2. To Federal Contracting Officers in connection with the Federal procurement process;

3. To Members of Congress to respond to inquiries made on behalf of individual constituents that are record subjects;

4. In response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding;

5. In a proceeding before a court of adjudicative body to the extent that they are relevant and necessary to the proceeding;

6. In the event that material in this system indicates a violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper forms, originals or copies, preprinted or handwritten forms, and/or computer storage.

RETRIEVABILITY:

Information can be retrieved by name, identification number, office location.

SAFEGUARDS:

Records are maintained in standard filing equipment and computers. Access to the file is restricted to persons having a need to know the information in the course of their duties.

RETENTION AND DISPOSAL:

Records are maintained for 3 years after cancellation of the delegation and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Operations, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Covered employees may request information on this system and information on records relating to them from the Chief, Procurement Division, Office of Operations, USDA, Washington, DC 20250. Telephone (202) 447-3037.

CONTESTING RECORD PROCEDURES:

Persons may obtain information on procedures to contest system records pertaining to them by submitting a written request to the Director, Office of Operations.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from agency employees.

APPENDIX: ADDRESSES AT WHICH RECORDS IN SYSTEM USDA/OO-2 MAY BE MAINTAINED (SPECIFIC STREET ADDRESSES AND ZIP CODES MAY BE FOUND IN THE TELEPHONE DIRECTORS FOR EACH COMMUNITY UNDER THE CLASSIFICATION U.S. GOVERNMENT, DEPARTMENT OF AGRICULTURE).

Agricultural Marketing Service: Poultry Division; Livestock, Meat, Grain and Seed Division; Fruit and Vegetable Division, Washington, DC 20250.

Agricultural Research Service: Facilities Construction Management Division, Hyattsville, MD 20782; Contracting and Assistance Division, Beltsville, MD 20705; Beltsville Area Office, Beltsville, MD 20705; Central Plains Area Office, Ames, IA; Mid-South Area Office, Stoneville, MS; Midwest Area Office, Peoria, IL; Mountain States Area Office, Ft. Collins, CO; North Atlantic Area Office, Philadelphia, PA; Northern States Area Office, Minneapolis, MN; Northwest Area Office, Portland, OR; Pacific Basin Area Office, Albany, CA; South Atlantic Area Office, Athens, GA; Southern Plains Area Office, College Station, TX.

Agricultural Stabilization and Conservation Service: Management Services Division, Washington, DC; Kansas City Management Office, Kansas City, MO; Aerial Photography Field Office, Salt Lake City, UT; Kansas City Commodity Office, Kansas City, MO.

Animal and Plant Health Inspection Service: Administrative Services Division, Washington, D.C.; Procurement and Engineering Branch, Hyattsville, MD; Field Servicing Office, Minneapolis, MN.

Economics Management Staff: Administrative Services Division, Washington, DC.

Extension Service: Cooperative Management Staff, Washington, DC.

Farmers Home Administration: Administrative Services Division, Washington, D.C. 20250; Administrative Support Division, St. Louis, MO.

Federal Crop Insurance Corporation: Management Support Division, Washington, DC 20250.

Food and Nutrition Service: Administrative Services Division, Alexandria, VA; Mid-Atlantic Division, Robbinsville, NW; Southeast Region, Atlanta, GA; Minneapolis Computer Support Center, Minneapolis, MN; Mid-West Region, Chicago, IL; Southwest Region, Dallas, TX; Western Region, San Francisco, CA; New England Region, Burlington, MA; Mountain Plains Region, Denver, CO.

Food Safety and Inspection Service: Administrative Services Division, Washington, D.C.; Administrative Services Division, Minneapolis, MN.

Foreign Agricultural Service: Management Services Division, Washington, DC.

Forest Service: Administrative Services Division, Washington, DC; Geometronics Service Center, Salt Lake City, UT; Boise Interagency Fire Center, Boise ID; Alaska Region, Juneau, AK; Tongass NF Chatham Area, Sitka, AK; Tongass NF Stikine Area, Petersburg, AK; Tongass NF Ketchikan Area, Ketchikan, AK; Chugach NF, Anchorage, AK; Pacific Northwest Region, Portland, OR; Deschutes NF, Bend, OR; Fremont NF, Lakeview, OR; Malheur NF, John Day, OR; Mt. Hood NF, Gresham, OR; Ochoco NF, Prineville, OR; Rogue River NF, Medford, OR; Siskiyou NF, Grants Pass, OR; Siuslaw NF, Corvallis, OR; Umatilla NF, Pendleton, OR; Umpqua NF, Roseburg, OR; Wallowa-Whitman NF, Baker, OR; Willamette NF, Eugene, OR; Winema NF, Klamath Falls, OR; Okanogan NF, Okanogan, WA; Wenatchee NF, Wenatachee, WA; Olympic NF, Olympia, WA; Gifford Pinchot NF, Vancouver, WA; Mt. Baker-Snoqualmie NF, Seattle, WA; Colville NF, Colville, WA; Pacific Southwest Region, San Francisco, CA; Angeles NF, Arcadia, CA; Cleveland NF, San Diego, CA; Eldorado NF, Placerville, CA; Inyo NF, Bishop, CA; Klamath NF, Yreka, CA; Lassen NF, Susanville, CA; Lost Padres NF, Goleta, CA; Mendocino NF, Willo, CA; Modoc NF, Alturas, CA; Plumas NF, Quincy, CA; San Bernardino NF, San Bernardino, CA; Sequoia NF, Porterville, CA; Shasta-Trinity NF, Redding, CA; Sierra NF, Fresno, CA; Six Rivers NF, Eureka, CA; Stanislaus NF, Sonora, CA; Tahoe NF, Nevada City, CA; Northern Region, Missoula, MT; Clearwater NF, Orofino, ID; Idaho Panhandle NF, Coeur d'Alene, ID; Nezperce NF, Grangeville, ID; Bitteroot NF, Hamilton, MT; Beaverhead NF, Dillion, MT; Custer NF, Billings, MT; Deerlodge NF, Butte, MT; Flathead NF, Kalispell, MT; Gallatin NF, Bozeman, MT; Helena NF, Helena, MT; Kootenai NF, Libby, MT; Lewis and Clark NF, Great Falls, MT; Lolo NF, Fort Missoula, MT; Intermountain Region, Ogden, UT; Boise NF, Boise, ID; Caribou NF, Pocatello, ID; Challis NF, Challis, ID; Payette NF, McCall, ID; Salmon NF, Salmon, ID; Sawtooth NF, Twin Falls, ID; Targhee NF, St. Anthony, ID; Humbolt NF, Elko, NF; Toiyabe NF, Sparks, NV; Ashley NF, Vernal, UT; Dixie NF, Cedar City, UT; Fishlake NF, Richfield, UT; Manti-LaSal NF, Price, UT; Uinta NF, Provo, UT; Wasatch NF, Salt Lake City, UT; Bridger-Teton NF, Jackson, WY; Southwestern Region, Albuquerque, NM; Apache-Sitgreaves NF, Springeville, AZ; Coconino NF, Flagstaff, AZ; Coronado NF, Tucson,

AZ; Kaibab NF, Williams, AZ; Prescott NF, Prescott, AZ; Tonto NF, Phoenix, AZ; Carson NF, Taos, NM; Cibola NF, Albuquerque, NM; Gila NF, Silver City, NM; Lincoln NF, Alamagordo, NM; Santa Fe NF, Sante Fe, NM; Rocky Mountain Region, Lakewood, CO; Grand Mesa, Uncompahgre and Gunnison National Forests, Delta, CO; Rio Grande NF, Monte Vista, CO; Arapaho-Roosevelt NF, Fort Collins, CO; Routt NF, Steamboat Springs, CO; Pike-San Isabel NF, Pueblo, CO; San Juan NF, Durango, CO; White River NF, Glenwood Springs, CO; Nebraska NF, Chadron, NE; Black Hills NF, Custer, SD; Bighorn NF, Sheridan, WY; Medicine Bow NF, Laramie, WY; Shoshone NF, Cody, WY; Eastern Regions, Milwaukee, WI; Shawnee NF, Harrisburg, IL; Wayne-Hoosier NF, Bedford, IN; Hiawatha NF, Escanaba, MI; Huron-Manistee NF, Cadillac, MI; Ottawa NF, Ironwood, MI; Superior NF, Duluth, MN; Chippewa NF, Cass Lake, MN; Mark Twain NF, Rolla, MO; White Mountain NF, Laconia, NH; Allegheny NF, Warren, PA; Green Mountain NF, Ruthland, VT; Monongahela NF, Elkins, WV; Chequamegon NF, Park Falls, WI; Nicolet NF, Rhinelander, WI; Southern Region, Atlanta, GA; Ouachita NF, Hot Springs, AK; National Forests in Alabama, Montgomery, AL; Ozark and St. Francis National Forests, Russellville, AK; National Forests in Florida, Tallahassee, FL; Chattahoochee and Ocone National Forests; Gainesville, GA; Daniel Boone NF, Winchester, KY; Kisatchie NF, Pineville, LA; National Forests in Mississippi, Jackson, MS; National Forests in North Carolina, Asheville, NC; Francis Marion and Sumter National Forests, Columbia, SC; Cherokee NF, Cleveland, TN; National Forests in Texas, Lufkin, TX; George Washington NF, Harrisonburg, VA; Jefferson NF, Roanoke, VA; Caribbean NF, Rio Piedras, PR; North Central Forest and Range Experiment Station, St. Paul, MN; Northeastern Forest Experiment Station, Broomail, PA; Rocky Mountain Forest Experiment Station, Fort Collins, CO; Southeastern Forest Experiment Station, Asheville, NC; Southern Forest Experiment Station, New Orleans, LA; Forest Products Laboratory, Madison, WI.

Office of Finance and Management, National Finance Center: New Orleans, LA 70160.

Office of Information Resources Management: Ft. Collins Computer Center, Ft. Collins, CO 80524.

Office of Inspector General: Contracting and Procurement Branch, Resources Management Division, Washington, DC 20250.

Office of International Cooperation and Development: Management Services Branch, Washington, DC 20250.

Office of Operations: Procurement Division, Washington, DC 20250.

Rural Electrification Administration: Administrative Services Division, Washington, DC 20250.

Soil Conservation Service: National Office Administrative Staff, Washington, DC 20250; and State Administrative Offices in Auburn, AL; Anchorage, AK; Phoenix, AZ; Little Rock, AK; Davis, CA; San Juan, PR; Denver, CO; Storrs, CT; Dover, DE; Gainesville, FL; Athens, GA; Honolulu, HI; Boise, ID; Champaign, IL; Indianapolis, IN; Des Moines, IA; Salina, KS; Lexington, KY; Alexandria, LA; Orono, ME; College Park, MD; Amherst, MA; East Lansing, MI; St. Paul, MN; Jackson, MS; Columbia, MO; Bozeman, MT; Lincoln, NE; Reno, NV; Durham, NH; Somerset, NJ; Albuquerque, NM; Syracuse, NY; Raleigh, NC; Bismarck, ND; Columbus, OH; Stillwater, OK; Portland, OR; Harrisburg, PA; West Warwick, RI; Columbia, SC; Huron, SD; Nashville, TN; Temple, TX; Salt Lake City, UT; Winooski, VT; Richmond, VA; Spokane, WA; Morgantown, WV; Madison, WI; Casper, WY; and Administrative Officers at Technical Service Centers in Lincoln, NB; Portland, OR; Chester, PA; and Fort Worth, TX.

3. A new system USDA/OO-3 is added, as follows:

System Number:

USDA/OO-3.

System Name:

Real Property Leasing Officer Warrant System

System Location:

See appendix.

Categories of individuals covered by the system:

USDA employees who have been delegated real property leasing authority under the Warrant System.

Categories of records in the system:

Employee name, identification number, present employment, previous employment, education, experience, specialized training, series and grade, and level of warrant issued.

Authority for maintenance of the system:

U.S.C. 301.

PURPOSE(S):

Used by Heads of the Real Property Leasing Activity or designees for evaluation purposes prior to delegating real property leasing authority. Data from the system provides program management information needed for planning, training, budgeting, and recruiting.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Records contained in this system may be disclosed:

1. To Members of Congress to respond to inquiries made on behalf of individual constitutents who are record subjects;

2. In response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding;

3. In a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding;

4. In the event that material in this system indicates a violation of law, whether civil or criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retraining, and disposing of records in the system:

Storage:

Paper form, originals or copies, preprinted or handwritten forms, and/or computer storage.

RETRIEVABILITY:

Information can be retrieved by name, identification number, office location.

SAFEGUARDS:

Records are maintained in standard filing equipment and computers. Access to the file is restricted to persons having a need to know the information in the course of their duties.

RETENTION AND DISPOSAL:

Records are maintained for 7 years after cancellation of the delegation and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Operations, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Covered employees may request information on this system and information on records relating to them

from the Chief, Real Property Management Division, Office of Operations, USDA, Washington, DC 20250 Telephone (202) 447-5225.

CONTESTING RECORD PROCEDURES:

Persons may obtain information on procedures to contest system records pertaining to them by submitting a written request to the Director, Office of Operations.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from agency employees.

APPENDIX: ADDRESSES AT WHICH RECORDS IN SYSTEM USDA/OO-3 MAY BE MAINTAINED (SPECIFIC STREET ADDRESSES AND ZIP CODES MAY BE FOUND IN THE TELEPHONE DIRECTORY FOR EACH COMMUNITY, UNDER THE CLASSIFICATION U.S. GOVERNMENT, DEPARTMENT OF AGRICULTURE).

Agricultural Marketing Service: Administrative Services, Washington, DC 20250.

Agricultural Research Service: Facilities Construction Management Division, Hyattsville, MD 20782; Contracting and Assistance Division, Beltsville, MD 20705; Beltsville Area Office, Beltsville, MD 20705; Central Plains Area Office, Ames, IA; Mid-South Area Office, Stoneville, MS; Midwest Area Office, Peoria, IL; Mountain States Area Office, Ft. Collins, CO; North Atlantic Area Office, Philadelphia, PA; Northern States Area Office, Minneapolis, MN; Northwest Area Office, Portland, OR; Pacific Basin Area Office, Albany, CA; South Atlantic Area Office, Athens, GA; Southern Plains Area Office, College Station, TX.

Agricultural Stabilization and Conservation Service: Management Services Division, Washington, DC; Kansas City Management Office, Kansas City, MO; Aerial Photography Field Office, Salt Lake City, UT; Kansas City Commodity Office, Kansas City, MO.

Animal and Plant Health Inspection Service: Administrative Services Division, Washington, DC; Procurement and Engineering Branch, Hyattsville, MD; Field Servicing Office, Minneapolis, MN.

Economics Management Staff: Administrative Services Division, Washington, DC.

Extension Service: Cooperative Management Staff, Washington, DC.

Farmers Home Administration: Administrative Services Division, Washington, DC 20250; Administrative Support Division, St. Louis, MO.

Federal Crop Insurance Corporation: Management Support Division, Washington, DC 20250.

Food and Nutrition Service: Administrative Services Division, Alexandria, VA; Mid-Atlantic Division, Robbinsville, NW; Southeast Region, Atlanta, GA; Minneapolis Computer Support Center, Minneapolis, MN; Mid-West Region, Chicago, IL; Southwest Region, Dallas, TX; Western Region, San Francisco, CA; New England Region, Burlington, MA; Mountain Plains Region, Denver, CO.

Food Safety and Inspection Service: Administrative Services Division, Washington, DC; Administrative Services Division, Minneapolis, MN.

Foreign Agricultural Service: Management Services Division, Washington, DC.

Forest Service: Administrative Services Division, Washington, DC; Geometronics Service Center, Salt Lake City, UT; Boise Interagency Fire Center, Boise, ID; Alaska Region, Juneau, AK; Tongass NF Chatham Area, Sitka, AK; Tongass NF Stikine Area, Petersburg, AK; Tongass NF Ketchikan Area, Ketchikan, AK; Chugach NF, Anchorage, AK; Pacific Northwest Region, Portland, OR; Deschutes NF, Bend, OR; Fremont NF, Lakeview, OR; Malheur NF, John Day, OR; Mt. Hood NF, Gresham, OR; Ochoco NF, Prineville, OR; Rogue River NF, Medford, OR; Siskiyou NF, Grants Pass, OR; Siuslaw NF, Corvallis, OR; Umatilla NF, Pendleton, OR; Umpqua NF, Roseburg, OR; Wallowa-Whitman NF, Baker, OR; Willamette NF, Eugene, OR; Winema NF, Klamath Falls, OR; Okanogan NF, Okanogan, WA; Wenatchee NF, Wenatchee, WA; Olympic NF, Olympia, WA; Gifford Pinchot NF, Vancouver, WA; Mt. Baker-Snoqualmie NF, Seattle, WA; Colville NF, Colville, WA; Pacific Southwest Region, San Francisco, CA; Angeles NF, Arcadia, CA; Cleveland NF, San Diego, CA; Eldorado NF, Placerville, CA; Inyo NF, Bishop, CA; Klamath NF, Yreka, CA; Lassen NF, Susanville, CA; Lost Padres NF, Goleta, CA; Mendocino NF, Willow, CA; Modoc NF, Alturas, CA; Plumas NF, Quincy, CA; San Bernardino NF, San Bernardino, CA; Sequoia NF, Porterville, CA; Shasta-Trinity NF, Redding, CA; Sierra NF, Fresno, CA; Six Rivers NF, Eureka, CA; Stanislaus NF, Sonora, CA; Tahoe NF, Neveda City, CA; Northern Region, Missoula, MT; Clearwater NF, Orofino, ID; Idaho Panhandle NF, Coeur d' Alene, ID; Nezperce NF, Grangeville, ID; Bitteroot NF, Hamilton, MT; Beaverhead NF, Dillon, MT; Custer NF, Billings, MT; Deerlodge NF, Butte, MT; Flathead NF, Kalispell, MT; Gallatin NF, Bozeman, MT; Helena NF, Helena, MT Kootenai NF, Libby, MT; Lewis and Clark NF, Great Falls, MT; Lolo NF, Fort Missoula, MT; Intermountain Region, Ogden, UT; Boise NF, Boise, ID; Caribou NF, Pocatello, ID; Challis NF, Challis, ID; Payette NF, McCall, ID; Salmon NF, Salmon, ID; Sawtooth NF, Twin Falls, ID; Targhee NF, St. Anthony, ID; Humbolt NF, Elko, NF; Toiyabe NF, Sparks, NV; Ashley NF, Vernal, UT; Dixie NF, Cedar City, UT; Fishlake NF, Richfield, UT; Manti-LaSal NF, Price, UT; Uinta NF, Provo, UT; Wasatch NF, Salt Lake City, UT; Bridger-Teton NF, Jackson, WY; Southwestern Region, Albuquerque, NM; Apache-Sitgreaves NF, Springerville, AZ; Coconino NF, Flagstaff, AZ; Coronado NF, Tucson, AZ; Kaibab NF, Williams, AZ; Prescott NF, Prescott, AZ; Tonto NF, Phoenix, AZ; Carson NF, Taos, NM; Cibola NF, Albuquerque, NM; Gila NF, Silver City, MN; Lincoln NF, Alamagordo, NM; Santa Fe NF, Santa Fe, NM; Rocky Mountain Region, Lakewood, CO; Grand Mesa, Uncompahgre and Gunnison National Forests, Delta, CO; Rio Grande NF, Monte Vista, CO; Arapaho-Roosevelt NF, Fort Collins, CO; Routt NF, Steamboat Springs, CO; Pike-San Isabel NF, Pueblo, CO; San Juan NF, Durango, CO; White River NF, Glenwood Springs, CO; Nebraska NF, Chadron, NE; Black Hills NF, Custer, SD; Bighorn NF, Sheridan, WY; Medicine Bow NF, Laramie, WY; Shoshone NF, Cody, WY; Eastern Region, Milwaukee, WI; Shawnee NF, Harrisburg, IL; Wayne-Hoosier NF, Bedford, IN; Hiawatha NF, Escanaba, MI; Huron-Manistee NF, Cadillac, MI; Ottawa NF, Ironwood, MI; Superior NF, Duluth, MN; Chippewa NF, Cass Lake, MN; Mark Twain NF, Rolla, MO; White Mountain NF, Laconia, NH; Allegheny NF, Warren, PA; Green Mountain NF, Rutland, VT; Monogahela NF, Elkins, WV; Chequamegon NF, Park Falls, WI; Nicolet NF, Rhinelander, WI; Southern Region, Atlanta, GA; Ouachita NF, Hot Springs, AK; National Forests in Alabama, Montgomery, AL; Ozark and St. Francis National Forests, Russellville, AK; National Forests in Florida, Tallahassee, FL; Chattahoochee and Oconee National Forests, Gainesville, GA; Daniel Boone NF, Winchester, KY; Kisatchie NF, Pineville, LA; National Forests in Mississippi, Jackson, MS; National Forests in North Carolina, Asheville, NC; Francis Marion and Sumter National Forests, Columbia, SC; Cherokee NF, Cleveland, TN; National Forests in Texas, Lufkin, TX; George Washington NF, Harrisonburg, VA; Jefferson NF, Roanoke, VA; Caribbean NF, Rio Piedras, PR; North Central Forest and Range Experiment Station, St. Paul, MN; Northeastern Forest Experiment Station, Broomall, PA; Rocky Mountain Forest Experiment Station, Fort Collins, CO; Southeastern

Forest Experiment Station, Asheville, NC; Southern Forest Experiment Station, New Orleans, LA; Forest Products Laboratory, Madison, WI.

Office of International Cooperation and Development: Management Services Branch, Washington, DC 20250.

Office of Operations: Real Property Management Division, Washington, DC 20250.

Rural Electrification Administration: Administrative Services Division, Washington, DC 20250.

Soil Conservation Service: National Office Administrative Staff, Washington, DC 20250; and State Administrative Officers in Auburn, AL; Anchorage, AK; Phoenix, AZ; Little Rock, AK; Davis, CA; San Juan, PR; Denver, CO; Storrs, CT; Dover, DE; Gainesville, FL; Athens, GA; Honolulu, HI; Boise, ID; Champaign, IL; Indianapolis, IN: Des Moines, IA; Salina, KS; Lexington, KY; Alexandria, LA; Orono, ME; College Park, MD; Amherst, MA; East Lansing, MI; St. Paul, MN; Jackson, MS; Columbia, MO; Bozeman, MT; Lincoln, NE; Reno, NV; Durham, NH; Somerset, NJ; Albuquerque, NM; Syracuse, NY; Raleigh, NC; Bismarck, ND; Columbus, OH; Stillwater, OK; Portland, OR; Harrisburg, PA; West Warwick, RI; Columbia, SC; Huron, SD; Nashville, TN; Temple, TX; Salt Lake City, UT; Winooski, VT; Richmond, VA; Spokane, WA; Morgantown, WV; Madison, WI; Casper, WY; and Administrative Officers at Technical Service Centers in Lincoln, NB; Portland, OR; Chester, PA; and Fort Worth, TX.

4. Existing System of Records USDA/O&F-6, Parking Applications, is redesignated USDA/OO-4, and revised to read as follows:

SYSTEM NUMBER:

USDA/OO-4.

SYSTEM NAME:

Parking Applications.

SYSTEM LOCATION:

Facilities Management Division, Office of Operations, USDA, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for parking permits at the USDA Washington, DC, headquarters complex.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, agency, social security number, and home address of parking applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

Used to determine assignment of parking spaces at the USDA Washington, DC headquarters complex.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

No disclosure outside USDA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper forms, originals or copies, preprinted or handwritten forms, and/or computer storage.

RETRIEVABILITY:

Information can be retrieved by name, agency, identification number, office location, assigned parking space.

SAFEGUARDS:

Records are maintained in standard filing equipment and computers. Access to the file is restricted to persons having a need to know the information in the course of their duties.

RETENTION AND DISPOSAL:

Records are maintained for 12 months after submission of the application and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Operations, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Notification procedure: Covered employees may request information on this system and information on records relating to them from the Parking Coordinator, Facilities Management Division, Office of Operations, USDA, Washington, DC 20250. Telephone (202) 447-2902.

CONTESTING RECORD PROCEDURES:

Persons may obtain information on procedures to contest system records pertaining to them by submitting a written request to the Director, Office of Operations.

RECORD SOURCE CATEGORIES:

Information in this system comes from applications submitted by employees.

5. USDA/O&F-7, Secretary's Controlled Correspondence, USDA/O&F, is deleted.

[FR Doc. 92-84 Filed 1-2-92; 8:45 am]

BILLING CODE 3410-98-M

Grants; Brown University

AGENCY: Office of International Cooperation and Development (OICD) USDA.

ACTION: Notice of intent.

SUMMARY: OICD intends to award a Grant to Brown University to provide partial funding support for the project entitled "Humanitarianism and War: Learning the Lessons from Recent Armed Conflicts.".

Authority: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 USC 3291), and the Food Security Act of 1985 (Pub. L. 99-198).

OICD anticipates the availability of funds in fiscal year 1992 (FY92) for partial funding to the Thomas J. Watson Jr. Institute for International Studies. Brown University, as part of the joint program of Agency for International Development's Office of Foreign Disaster Assistance and OICD's Famine Mitigation Activity. The purpose of the project is to develop principles and policy guidelines to assist policy-makers and practitioners in improving the provision of humanitarian assistance and protection; and to break new conceptual ground regarding the intellectual and policy frameworks for such activities.

Based on the above, this is not a formal request for application. An estimated $35,000 will be available in FY92 as partial project support.

Information on proposed Grant #59-319R-2-001 may be obtained from: USDA/OICD/Administrative Services, Washington, DC 20250-4300.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 92-26 Filed 1-2-92; 8:45 am]

BILLING CODE 3410-DP-M

Soil Conservation Service

Trinidad Lake North Watershed, Colorado; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Trinidad Lake North Watershed, Las Animas County, Colorado.

FOR FURTHER INFORMATION CONTACT: Duane L. Johnson, State Conservationist,

Soil Conservation Service, 655 Parfet Street, rm. E200C, Lakewood, Colorado 80215–5517, telephone (303) 236–2886.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Duane L. Johnson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are the reduction of sediment reaching Trinidad Lake, improvement of the water quality in the Lake, and resource base protection. The planned works of improvement include sediment basins, proper grazing, and critical area plantings as well as many other enduring and management measures which will address these concerns.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Duane L. Johnson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under no. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: December 24, 1991.

Duane L. Johnson,

State Conservationist.

[FR Doc. 92–67 Filed 1–2–92; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-602]

Brass Sheet and Strip From the Federal Republic of Germany; Amendment to Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On November 27, 1991, the Department of Commerce published the final results of its administrative review of the antidumping duty order on brass sheet and strip from the Federal Republic of Germany. Based on the corrections of clerical errors, we have changed the weighted-average margin for the Wieland Group (Wieland-Werke AG, Langenberg Kupfer-und Messingwerke GmbH KG, and Metallwerke Schwarzwald GmbH) from 19.59 percent to 23.49 percent.

EFFECTIVE DATE: January 3, 1992.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Michael Diminich, or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1991, the Department of Commerce published in the **Federal Register** (56 FR 60087) the final results of its administrative review of the antidumping duty order (52 FR 6997; March 6, 1987) on brass sheet and strip from the Federal Republic of Germany. The review covered five manufacturers/exporters of this merchandise, Wieland-Werke AG, Langenberg Kupfer-und Messingwerke GmbH KG, and Metallwerke Schwarzwald GmbH, hereinafter collectively referred to as "the Wieland Group," William Prym, and Schwermetall Halbzeugwerke for the period August 22, 1986, through February 29, 1988. After publication of our final results, counsel for respondent, the Wieland Group, and counsel for the petitioners alleged, in a timely fashion, that clerical errors had been made in calculating the weighted-average margin. Further, both parties alleged that there was a typographical error in the final notice. We agree, in part, and have made corrections where appropriate.

Amended Final Results of Review

We made two corrections to computer programs. First, we deducted early payment discounts from the home market prices in all the Wieland Group computer programs. Second, we corrected a program error in the sales matching section of the ESP programs for the Wieland Group.

Further, the last line in the Department's Position of Comment 8 in the final notice should be changed from "* * * the highest interest rate in the range for home market sales and the lowest interest rate in the range for U.S. sales." to read "* * * the lowest interest rate in the range for home market sales and the highest interest rate in the range for U.S. sales."

As a result of our correction of these clerical errors, we have determined that a weighted-average margin of 23.49 percent exists for brass sheet and strip sold by the Wieland Group during the period August 22, 1986, through February 29, 1988.

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

Furthermore, the following deposit requirements will be effective upon publication of these amended final results of this administrative review for all shipments of the subject merchandise from the Federal Republic of Germany entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended:

(1) The cash deposit rate for any shipments of this merchandise manufactured or exported by manufacturers/exporters not covered by this review but specifically covered in the final determination of sales at less than fair value will continue to be the rate published in that final determination; (2) the cash deposit rate for William Prym, Schwermetall Halbzeugwerke, and the Wieland Group (Wieland-Werke AG, Langenberg Kupfer-und Messingwerke GmbH KG and Metallwerke Schwarzwald GmbH) will be 23.49 percent; and (3) the cash deposit rate for all other exporters/producers shall be 23.49 percent for shipment of the subject merchandise. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

We have determined that the cash deposit rate applies to all entries from the former German Democratic Republic entered or withdrawn from warehouse for consumption on or after October 3, 1990.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 24, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-99 Filed 1-2-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit: Oceans of Fun, Inc. (P482)

On August 20, 1991, notice was published in the **Federal Register** (56 FR 41334) that an application had been filed by Shelly L. Brandau, Oceans of Fun, Inc., for a permit to obtain four (4) captive-born California sea lions (*Zalophus californianus*) from licensed marine mammal facilities for public display at the Milwaukee County Zoo.

Notice is hereby given that on December 27, 1991, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

Issuance of this permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that Oceans of Fun, Inc. offers an acceptable program for education or conservation purposes. The facilities are open to the public on a regularly scheduled basis and access to facilities is not limited or restricted other than by the charging of an admission fee.

The Permit is available for review by interested persons by appointment in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, room 7324, Silver Spring, Maryland 20910 (301/713-2289);

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930 (508-281-9200);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893-3141);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514-6196); and

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115 (206/526-6150).

Dated: December 27, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 92-100 Filed 1-2-92; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 23-24 January 1992.

Time: 0800-1700 hours daily.

Place: Fort Leavenworth, Kansas.

Agenda: Members of the Army Science Board C3I Issue Group will meet to continue work on issues relating to the upcoming study entitled "Command and Control on the Move." The Group will receive numerous classified briefings on AirLand Battle doctrine. This meeting will be clolsed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Office, Sally Warner, may be contracted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-13 Filed 1-2-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 11-22 January 1992.

Time: 0800-1700 hours daily.

Place: 11 January 1992, depart CONUS, 12 January 1992, Rome/UK, 13 January 1992, Rome/UK, 14 January 1992, Madrid/The Hague, 15 January 1992, Zurich, 15 January 1992, Paris, 16 January 1992, Marignane, 17 January 1992, Bonn, 18 January 1992, Tokyo.

Agenda: The Army Science Board Ad Hoc Study Group on Comanche International will visit the above listed countries on the dates specified to explore collaborative opportunities in the development of the RAH-66 Comanche Helicopter Program. The Study team will provide briefings to the MOD's on status of the Comanche Program and discuss opportunities for collaboration. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified, proprietary and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-75 Filed 1-2-92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Cooperative Agreement

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy, Idaho Field Office (DOE-ID), announces that pursuant to the DOE Financial Assistance Rules 10 CFR part 600.7(b)(2)(i)(A) it intends to issue a renewal award to the Cooperative Agreement with American Iron and Steel Institute (AISI). The objective of the work is to provide for renewal of the research and development project for Direct Steelmaking.

FOR FURTHER INFORMATION CONTACT: Ginger Sandwina, U.S. Department of Energy, Idaho Field Office, 785 DOE Place, MS 1221, Idaho Falls, Idaho 83401-1562, 208/526-8698.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is Public Law 93-577, Federal Non-Nuclear Energy Research and Development Act of 1974 (ERDA) and Public Law 100-680, the "Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988." The unsolicited proposal meets the criteria for renewal of a project as set forth in 10 CFR 600.7(b)(2)(i)(A). The objective of the AISI "Direct Steelmaking" project is to develop a coal-based (coke-free) continuous in-bath smelting process for the direct production of liquid steel. The process development goals are: (a) Reduced energy consumption compared to the conventional coke oven—blast furnace—basic oxygen furnace route; (b) at least a 10% reduction in product cost;

and, (c) flexibility in raw materials input. The project will consist of laboratory studies and pilot-scale research and development. In addition, the project will include supporting studies on circulating fluid beds, continuous desulfurization and decarbonization, and mixed-phase heat transfer and fluid flow. A techno-economic analysis will be conducted at the conclusion of the experimental work in order to determine the feasibility of commercializing this coal-based, continuous direct steelmaking process in the U.S.A. The successful results of this research may lead to further industrial-scale tests before the technology can be adapted to industrial practice.

The anticipated project period for this renewal is 22 months. The total cost of this renewal is estimated at $18,500,000. Total project costs are estimated to be $52,000,000. Authorizing legislation requires AISI to provide at least 30% cost share of DOE's contribution. DOE funding for the first 12 months of this renewal is estimated to be $9,600,000.

Issued December 20, 1991.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 92-88 Filed 1-2-92; 8:45 am]

BILLING CODE 6450-01-M

Cooperative Agreement

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Field Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7(b)(2)(i)(C) it intends to award a Cooperative Agreement to City of Boise, Idaho. The objective of the work to be performed under this Cooperative Agreement is to resolve problems that preclude the City of Boise from fully developing geothermal resources.

FOR FURTHER INFORMATION CONTACT: Ginger Sandwina, U.S. Department of Energy, Idaho Field Office, 785 DOE Place, MS 1221, Idaho Falls, Idaho 83401-1562, (208) 526-8698.

SUPPLEMENTARY INFORMATION: The statutory authorities for the proposed award are 42 U.S.C. 2011 et seq., Atomic Energy Act of 1954 as amended, the Federal Non-nuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), the Energy Reorganization Act of 1974 (Pub. L. 93-438), and the Energy and Water Development Appropriation Bill of 1991 (Pub. L. 102-104). 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. This agreement will provide the City of Boise with the means to evaluate, access and improve geothermal resources. These activities are expected to help assist the citizens of the City of Boise to develop to a fuller extent the geothermal resources in the area. The anticipated total project period to be awarded is thirty-six (36) months. The total project cost is estimated to be $870,000.

Issued: December 13, 1991.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 92-89 Filed 1-2-92; 8:45 am]

BILLING CODE 6450-01-M

Title: The Physics of Coal Liquid Atomization; Acceptance of an Unsolicited Proposal Assistance (Grant) With Carnegie Mellon University

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of Acceptance of an Unsolicited Proposal Assistance (Grant) Award with Carnegie Mellon University.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center, announces that pursuant to 10 CFR 600.14, it intends to award a grant to Carnegie Mellon University based on acceptance of an unsolicited proposal. The Carnegie Mellon University has proposed a unique approach to expand the fundamental understanding on atomization of coal-liquid slurries. It is anticipated that the results of this research will provide a better prediction of atomizer performance and will lead to improved atomizer designs.

SUPPLEMENTARY INFORMATION:

Awardee: Carnegie Mellon University.

Grant Number: DE-FG22-92PC92152.

Grant Value: $434,791.

Scope: The objective of the grant is to investigate spray characteristics of coal-liquid slurries related to the physical properties of slurries.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236, Attn: Martin J. Byrnes, Telephone: AC (412) 892-4486.

Issued in Washington, DC on December 18, 1991.

Dale A. Siciliano,

Chief, Contracts Group 1, Pittsburgh Energy Technology Center.

[FR Doc. 92-90 Filed 1-2-92; 8:45 am]

BILLING CODE 6450-01-M

City of Chicago—Department of Planning Urban Consortium Energy Task Force; Award Based on Justification of Noncompetitive Financial Assistance

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE) Chicago Field Office, announces it intends to negotiate a sole source cooperative agreement renewal with the City of Chicago—Department of Planning-Urban Consortium Energy Task Force under document number DE-FC02-90CE27504. The renewal is made pursuant to 10 CFR 600.6(b)(2) and was justified in accordance with 10 CFR 600.7(b)(2). The object of the work is follow-on research, development, and application studies in the areas of energy, environment, economic and social development; energy efficient facilities; and transportation as they apply to energy problems in urban jurisdictions.

SUPPLEMENTARY INFORMATION: The program has formal components for technology transfer and experience exchange to interested urban jurisdictions. In addition to individual projects, a core program supports management coordination and technical assistance to each of the projects both collectively and individually.

The City of Chicago acts as the designated fiscal agent to receive the award on behalf of the Urban Consortium Energy Task Force. The project period for the grant is for 1½ year period, expected to begin in January 1992. DOE plans to provide funding in the amount of $2,111,389.00 for this project period.

FOR FURTHER INFORMATION CONTACT: Robert L. Kladiva, U.S. Department of Energy, DOE Chicago Field Office, 9800 South Cass Avenue, Argonne, IL 60439. 708/252-2365.

Issued in Chicago, Illinois on December 13, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 92-91 Filed 1-2-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP92-233-000, et al.]

El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

December 20, 1991.

[Docket No. CP92-233-000]

Take notice that on December 12, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 77978, filed in Docket No. CP92-233-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the firm transportation and delivery of 300,000 Mcf of natural gas per day to Southern California Gas Company (SoCal) at the Ehrenberg delivery point near Blythe, California, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that on August 31, 1990, as amended on October 5, 1990, El Paso filed its offer of settlement, request for approval of Stipulation and Agreement in Docket No. RP88-44-000 *et al.* (Global Settlement). El Paso states further that the Global Settlement provided, among other things, a schedule for the conversion of all existing firm sales entitlements to firm transportation. It is stated that under the provisions of Article III of the Global Settlement, each of El Paso's firm sales customers shall convert 100 percent of its firm sales entitlements to firm transportation, subject to the terms, conditions and requirements set forth in Article III.

It is said that based upon the Global Settlement, SoCal advised El Paso that it would convert to firm transportation service effective September 1, 1991.

Comment date: January 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Panhandle Eastern Pipe Line Company

December 20, 1991.

[Docket No. CP92-229-000]

Take notice that on December 11, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP92-229-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Colorado and Kansas (Baca County System), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it seeks to abandon and transfer ownership to Panda Resources, Inc. (Panda) certain Panhandle facilities in Baca County, Colorado and Morton County, Kansas, including: (1) One compressor station site with total compression of approximately 1,195 horsepower; (2) approximately 56 miles of pipeline, appurtenant facilities, operating and maintenance equipment and spare parts in inventory.

Panhandle states further that all facilities abandoned by Panhandle would remain in place for the continued use by Panda.

Comment date: January 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. North Country Gas Pipeline Corporation

December 23, 1991.

[Docket Nos. CP89-362-002 and CP89-363-002]

Take notice that on December 6, 1991, North Country Gas Pipeline Corporation (Applicant), Five Post Oak Park, suite 1400, Houston, Texas 77027, filed Docket Nos. CP89-362-002 and CP89-363-002 to amend to the "Order Approving Point of Importation and Exportation and Issuing Presidential Permit", issued to Applicant on April 3, 1991, in order to increase the diameter of its pipeline from 12-inches to 16-inches and to request changes in the environmental conditions, all set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that the Commission's order approving point of importation and Presidential Permit issued on April 3, 1991 in Docket Nos. CP89-362-000, CP89-362-001, CP89-363-000 and CP89-363-001, authorized Applicant to site, construct, operate and maintain natural gas pipeline facilities at the United States/Canada border near Champlain, New York as part of a 26-mile pipeline to be constructed by Applicant to transport gas from an interconnect with TransCanada PipeLines Limited to certain cogeneration, industrial and local distribution customers in Clinton County, New York.

Applicant requests authorization to amend the April 3, 1991 Order in order to increase the diameter of its pipeline facilities between the United States/Canada border and Saranac Energy Company Inc's (Saranac's) proposed nominal 240 MW cogeneration facility, from twelve to sixteen inches and requests that Article 2 of its Presidential Permit be amended to reflect this increase in pipeline diameter. Applicant seeks the Commissions' approval to reflect the fact that the pipeline will serve the Saranac facility instead of three separate 79.9 MW cogeneration facilities.

Applicant states that applicant's pipeline was intended to serve three 79.9 MW cogeneration facilities proposed to be constructed by affiliates of Applicant in Clinton County, New York. Applicant indicates that on July 12, 1991, the State of New York Public Service Commission ("NYPSC") approved the consolidation of the three cogeneration facilities into a single 240 MW facility to be located at the Saranac Energy Company, Inc. site. Applicant further states that the gas turbines to be utilized in the consolidated cogeneration facility will require a lower gas delivery pressure than those to be used in the three unconsolidated plants. It is indicated that at a lower delivery pressure of approximately 565 psi at a diameter of 12 inches, the capacity of the pipeline will decrease from 81 MMcf per day to about 58 MMcf per day. Applicant states that this reduced capacity will be insufficient to satisfy the anticipated requirements of the consolidated cogeneration facility as well as the other customers previously expected to receive gas through the Applicant's pipeline—Georgia-Pacific Corporation, which is expected to receive gas at its tissue paper mill in Plattsburgh, New York, and New York State Electric and Gas Corporation, which intends to utilize the Applicant pipeline to distribute gas to several communities in Clinton, County. To satisfy the anticipated demand, Applicant proposes to utilize 16 inch diameter pipeline from the United States/Canada border to the Saranac plant, which will raise the capacity of the pipeline to 105 MMcf per day.

Applicant requests that the Commission revise Conditions 2, 4, and 5 of the April 3, 1990 Order. Applicant states that these conditions required Applicant to file with the Commission copies of all comments and cultural resource survey reports prepared by the New York State Historic Preservation Officer (SHPO) concerning the three proposed cogeneration projects and that Applicant not commence construction of the pipeline facilities until the environmental review of the cogeneration projects was completed by the State of New York Department of Environmental Conservation. Applicant request that the condition be revised in order for Applicant to file with the Commission all comments of the SHPO

and copies of the cultural resource survey reports for the Saranac cogeneration facility, and for the associated power lines based on the New York SHPO's recommendation. Applicant submits that no revision is required to environmental conditions (4) and (5) on the understanding that the conditions apply to the consolidated cogeneration facility rather than the three unconsolidated plants.

Applicant states that the proposed increase in diameter is necessary to serve the anticipated demand for gas in the area. The Applicant also states that the proposed line increase in pipeline diameter is an insignificant change from the proposal originally approved by the Commission. The proposed location, route, and right-of-way for the border facilities have not changed. Applicant submits that, on November 27, 1991, it filed with the NYPSC a petition to revise the certificate of environmental compatibility and public need issued to Applicant on March 13, 1991 in accordance with the changes set forth in this amendment.

Comment date: January 13, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Northwest Pipeline Corporation

December 23, 1991.

[Docket No. CP92-237-000]

Take notice that on December 12, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900 filed in Docket CP92-237-000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon the gathering and exchange service with Williams Natural Gas Company (WNG) and upon approval of the abandonment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that Northwest and WNG have mutually agree to abandon the gathering and exchange agreement which was authorized on March 8, 1983 in Docket No. CP82-434-000 (Northwest) and Docket No. CP82-316-000 (WNG). This agreement covered wells in Carbon County, Wyoming.

Further, it has stated that Northwest and WNG executed a termination Agreement dated July 1, 1991, which terminated the Agreement effective July 1, 1991, since Northwest's and WNG's records indicate that no imbalance exist. Northwest also states that no abandonment of facilities is proposed in conjunction with the abandonment of this service.

Comment date: January 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

5. Williams Natural Gas Company

December 23, 1991.

[Docket No. CP92-244-000]

Take notice that on December 16, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, successor in interest to Cities Services Gas Company, filed in Docket CP92-244-000 an abbreviated application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon the gathering and exchange service with Northwest Pipeline Corporation (Northwest) and upon approval of the abandonment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG states that WNG and Northwest have mutually agreed to abandon the gathering and exchange agreement which was authorized on March 8, 1983 in Docket No. CP82-316-000 (WNG) and Docket No. CP82-434-000 (Northwest). This agreement covered wells in Carbon County, Wyoming.

Further, it has stated that WNG and Northwest executed a termination Agreement dated July 1, 1991, which terminated the Agreement effective July 1, 1991, since WNG's and Northwest's records indicate that no imbalance exist. WNG also states that no abandonment of facilities is proposed in conjunction with the abandonment of this service.

Comment date: January 13, 1992, in accordance with Standard Paragraph F at the end of this notice.

6. Transwestern Pipeline Company

December 23, 1991.

[Docket No. CP92-243-000]

Take notice that on December 16, 1991, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP92-243-000, pursuant to Section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing operation of certain pipeline and metering facilities in the states of Arizona and California, all as more fully set forth in the application which is on file with the Commission and is open to public inspection.

Transwestern states that it is currently constructing the Topock Interconnect facilities pursuant to section 311 of the NGPA. Transwestern plans to have these facilities available for service concurrently with the proposed completion date of its San Juan/Mainline Expansion Project. Transwestern requests the Commission to issue a certificate of public convenience and necessity to operate the Topock Interconnect pursuant to Section 7(c) of the Natural Gas Act. Transwestern requests the Commission to grant expeditious authorization so these facilities will be available concurrently with the proposed completion date of its San Juan/Mainline Expansion Project. The Topock Interconnect Facilities will connect Transwestern's system to the Mojave pipeline system. Without expeditious certificate authorization, Transwestern will be limited to transporting on the Topock Interconnect facilities to only qualified NGPA 311 shippers. This could result in Subpart G shippers not being able to access Mojave's markets with any gas supplies on Transwestern's system, including the San Juan Basin.

Comment date: January 13, 1992, in accordance with the Standard Paragraph F at the end of this notice.

7. Arkla Energy Resources, a Division of Arkla, Inc.

December 24, 1991.

[Docket No. CP92-248-000]

Take notice that on December 17, 1991, Arkla Energy Resources (AER), a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP92-248-000 a request pursuant to §§ 157.205, 157.211, 157.212 and 157.216 of the Commission's Regulations (18 CFR 175.205, 157.211, 157.212 and 157.216) under its blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 to construct and operate certain facilities in Arkansas, Louisiana and Texas, and to abandon certain facilities in Arkansas and Texas, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, AER proposes (1) to operate three existing taps for delivery of natural gas to Arkansas Louisiana Gas Company (ALG) for resale to consumers other than the right-of-way grantors for whom the taps were originally installed, (2) to upgrade one existing meter station for increased deliveries to ALG for resale consumers, and (3) to relocate two existing meter stations for deliveries to ALG and to abandon certain related AER pipeline facilities. AER further states that the gas will be delivered from its general system supply, which it states is adequate to provide the service.

Comment date: February 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Company

December 24, 1991.

[Docket No. CP92-257-000]

Take notice that on December 19, 1991, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska 68103-0330, filed a request with the Commission in Docket No. CP92-257-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon in place approximately 2.27 miles of its four-inch Elkhart, Kansas, branchline and 1,310 feet of this four-inch Hugoton, Kansas, branchline under Northern's blanket certificate issued in Docket No. CP82-401-000, all as more fully described in the application which is open to public inspection.

Northern proposes to abandon in place approximately 2.27 miles of its four-inch Elkhart, Kansas, branchline and 1,310 feet of its four-inch Hugoton, Kansas, branchline because these facilities have been replaced by new facilities. Northern states that the Commission authorized the Elkhart meter station and branchline and the Hugoton town border station and branchline in the "grandfather" order issued April 6, 1943, in Docket No. G-280. Northern further states that it installed these facilities in 1929 and 1931 to serve Peoples Natural Gas Company, Division of Utilicorp United Inc. (Peoples), for natural gas service to residential and commercial consumers in Elkhart and Hugoton, respectively. Northern states that the proposed abandonment would not result in the abandonment of service to any of Northern's existing customers and that Peoples has agreed to the proposed abandonment of facilities.

Comment date: February 10, 1992, in accordance with Standard Paragraph G at the end of this notice.

9. Transcontinental Gas Pipe Line Corporation

[Docket No. CP92-260-000]

December 24, 1991.

Take notice that on December 20, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP92-260-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon firm transportation service to Tennessee Gas Pipeline Company (Tennessee), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Transco has provided Tennessee with written notice of its desire to terminate the service agreement and service under Transco's Rate Schedule X-15, effective January 15, 1992. It is also stated that Transco requests authorization to provide replacement firm transportation service under Transco's Rate Schedule FT, effective as of January 15, 1992, at the same level of service as under Rate Schedule X-15 and that the pregranted abandonment provision of the Commission's Regulations not apply to such replacement FT service.

Comment date: January 3, 1992, in accordance with Standard Paragraph F at the end of this notice.

10. Northwest Pipeline Corporation

[Docket No. CP92-252-000]

December 24, 1991.

Take notice that on December 17, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP92-252-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a gas exchange service with Questar Pipeline Corporation (Questar), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that on October 4, 1966, Northwest's predecessor, El Paso Natural Gas Company (El Paso) and Cascade Natural Gas Corporation (Cascade) entered into a gas exchange agreement covering the delivery of not more than 6,000 Mcf per day of natural gas by Cascade from the Elk Springs and Winter Valley fields in Moffatt County, Colorado, into Northwest's Piceance Creek lateral in Rio Blanco County, Colorado, in exchange for the delivery of equivalent quantities of gas by Northwest into Cascade's pipeline at the discharge side of Northwest's Compressor Station No. 24 at the upstream terminus of Northwest's Piceance Creek lateral in Rio Blanco County, Colorado.

Northwest states that the exchange agreement was originally certificated in El Paso's Docket No. CP67-141 and Cascade's Docket No. CP67-154 by order issued February 13, 1967. It is also stated that effective January 21, 1968, El Paso's tariff was modified to reflect a volume increase to 9,000 Mcf per day under the exchange agreement.

It is stated that as a result of Northwest's acquisition of El Paso's Pacific Northwest Division in 1974, the exchange agreement is set forth as Rate Schedule X-17 in Northwest's F.E.R.C. Gas Tariff, Original Volume No. 2. It is also stated that in 1976, in Docket No. CP76-111, Mountain Fuel Resources, Inc., received approval to acquire Cascade's Colorado-Utah Division facilities and to continue operating under Cascade's previously certificate contracts, including the exchange with Northwest. In addition, it is stated that effective March 7, 1988, the name of Mountain Fuel Resources, Inc. was changed to Questar Pipeline Company.

Northest requests permission and approval to abandon the exchange of up to 6,000 Mcf per day of natural gas with Questar pursuant to Northwest's Rate Schedule X-17 of its F.E.R.C. Gas Tariff, Original Volume No 2. Northwest states that the primary term of the October 4, 1966 exchange agreement expired in 1976. Northwest further states that Questar's predecessor, Cascade Natural Gas Corporation was authorized to abandon its participation in the exchange service in 1984.

Northest states that no abandonment of facilities is proposed in conjunction with the abandonment of this service.

Comment date: January 14, 1992, in accordance with Standard Paragraph F at the end of the notice.

11. Northwest Pipeline Corporation

[Docket No. CP92-253-000]

December 24, 1991.

Take notice that on December 17, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP92-253-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon gathering and exchange services provided for Colorado Interstate Gas Company (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that in Docket No. CP78-122, order issued November 16, 1989, Northwest and CIG were authorized to transport and exchange up to 25,000 Mcf per day of natural gas. Northwest states that it has been gathering only 23 MMBtu per day of natural gas for CIG under Rate Schedule X-66 from a few wells connected by Northwest to CIG's system in the Blue Gap and Madden areas of Wyoming. In addition, Northwest states that it has terminated nearly all of its system gas supply purchase arrangements, so it no longer needs the expansive, system-wide gathering and transportation services provided by CIG.

It is stated that Northwest and CIG have agreed to terminate the

transportation and exchange services under Rate Schedule X-66. Northwest states that replacement gathering and open-access transportation agreements were executed which provide for CIG's continued gathering and transportation of Northwest's small remaining gas supplies which were formerly subject to the Rate Schedule X-66 transportation and exchange agreement. In addition, it is stated that to replace Northwest's gathering service for CIG under Rate Schedule X-66, Northwest and CIG entered into a non-certificated replacement gathering and processing agreement whereby Northwest agreed to gather on an interruptible basis and process up to 1,000 MMBtu per day of natural gas owned or controlled by CIG from various wells, including the wells which were formerly covered by the Rate Schedule X-66 agreement.

Comment date; January 14, 1992, in accordance with the Standard paragraph F at the end of this notice.

12. Northwest Pipeline Corporation

[Docket No. CP92-254-000]

December 24, 1991.

Take notice that on December 18, 1991, Northwest Pipeline Corporation (Northwest) 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP92-254-000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation and exchange service for Questar Pipeline Company (Questar), all as more fully set forth in the request which is open to public inspection.

Northwest states that the transportation service was authorized by the Commission in Docket Nos. G-15458 and G-17651. It is asserted that Pacific Northwest Pipeline Corporation (Pacific Northwest), a predecessor of Northwest, was authorized to exchange up to 100,000 Mcf per day of gas with Mountain Fuel Supply Company (Mountain Fuel), a predecessor of Questar, pursuant to the terms of an agreement dated July 1, 1958, on file with the Commission as Northwest's Rate Schedule X-15. It is stated that Pacific Northwest was authorized to transport gas for Mountain Fuel pursuant to the terms of an agreement dated December 6, 1958, on file with the Commission as Northwest's Rate Schedule X-16. It is explained that Northwest and Questar have mutually agreed to terminate the transportation and exchange service by signing a Termination Agreement dated October 1, 1990. It is explained that Northwest would replace the services proposed for abandonment with an open-access interruptible transportation service. It is further explained that no facilities would be abandoned in conjunction with the proposed abandonment of service.

Comment date: January 14, 1992, in accordance with Standard Paragraph F at the end of this notice.

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 by section 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 instance 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.

Lois D. Cashell,

Secretary.

[FR Doc. 92-31 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-143-008]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes In FERC Gas Tariff

December 26, 1991.

Take notice that Great Lakes Gas Transmission Limited Partnership ("Great Lakes"), on December 17, 1991, tendered to the Federal Energy Regulatory Commission (Commission) the following *pro forma* tariff sheets, to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volumes Nos. 2 and 3:

First Revised Volume No. 1

33rd Revised Sheet No. 1

Original Volume No. 2

39th Revised Sheet No. 1
Third Revised Sheet No. 4
First Revised Sheet Nos. 5 through 25

Original Volume No. 3

Second Revised Sheet No. 1
Second Revised Sheet No. 8
Second Revised Sheet No. 23

Great Lakes states that the purpose of the instant filing is to comply with Ordering Paragraph (B) of the "Opinion and Order Affirming in Part and Reversing in Part Initial Decision" issued by the Federal Energy Regulatory Commission ("Commission") on October 31, 1991, in Docket Nos. RP89-186-000, *et al.* (Opinion). In this regard, the Opinion directed Great Lakes to file, in Docket No. RP91-143-000, *pro forma* tariff sheets containing a capacity release and assignment program applicable to its firm transportation services (*see*, Opinion, *mimeo* at 20-21, 24).

Great Lakes further states that the *pro forma* tariff sheets would create new Rate Schedule CRT, applicable to the transportation of gas for the account of an assignee of firm capacity under the release and assignment program. In addition, the *pro forma* tariff are submitted, Great Lakes states, to include a Form of Service Agreement applicable to Rate Schedule CRT, an Amendatory Agreement to provide a contractual basis for the assignment of capacity, *pro forma* tariff sheets to designate the format for capacity release and

assignment requests, and various other technical changes to Great Lakes' FERC Gas Tariff to reflect the capacity release and assignment program.

Great Lakes states that copies of this filing were served on all of its customers, upon the Public Service Commissions of the States of Minnesota, Michigan, and Wisconsin, and upon all parties listed on the service list maintained by the Commission's Secretary in this proceeding.

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 January 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-36 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-052]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 26, 1991.

Take notice that on December 18, 1991, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Thirty-Fifth Revised Sheet No. 86
Forty-Fourth Revised Sheet No. 87
Forty-Seventh Revised Sheet No. 88
Twenty-Ninth Revised Sheet No. 89
Thirty-Eighth Revised Sheet No. 90
Twenty-Fifth Revised Sheet No. 94
Twenty-First Revised Sheet No. 95
Twenty-Fifth Revised Sheet No. 96
Twentieth Revised Sheet No. 97
Twenty-Fourth Revised Sheet No. 98
Twenty-Seventh Revised Sheet No. 99
Twenty-Third Revised Sheet No. 100
Twenty-First Revised Sheet No. 101
Twenty-Third Revised Sheet No. 102
Twenty-First Revised Sheet No. 103
Twentieth Revised Sheet No. 104
Twentieth Revised Sheet No. 105
Fourteenth Revised Sheet No. 105A
Twentieth Revised Sheet No. 106
Seventeenth Revised Sheet No. 107
Nineteenth Revised Sheet No. 108
Twentieth Revised Sheet No. 109
Twentieth Revised Sheet No. 110
Eighteenth Revised Sheet No. 111
Nineteenth Revised Sheet No. 112
Eighth Revised Sheet No. 112A
Twentieth Revised Sheet No. 113
Twentieth Revised Sheet No. 114
Nineteenth Revised Sheet No. 115
Seventeenth Revised Sheet No. 116
Twenty-First Revised Sheet No. 117
Twenty-Third Revised Sheet No. 118
Twenty-Fourth Revised Sheet No. 119
Seventeenth Revised Sheet No. 120
Nineteenth Revised Sheet No. 121
Fifteenth Revised Sheet No. 122
Fifteenth Revised Sheet No. 123
Fifteenth Revised Sheet No. 125
Fifth Revised Sheet No. 126
Fourth Revised Sheet No. 127
Fourth Revised Sheet No. 128
Third Revised Sheet No. 129
Sixth Revised Sheet No. 130
Sixth Revised Sheet No. 131

These tariff sheets are being filed to update the Index of Purchasers and Directory of Communities Served contained in Northern's FERC Gas Tariff, Third Revised Volume No. 1, reflecting the extension of Northern's IGIC approved by Commission order dated September 3, 1991, and Service Agreements associated with the Wisconsin Gas Company "Grantsburg" sale approved by Commission order dated September 6, 1991 in Docket No. CP91-1677-000. All Service Agreements contained in this filing became effective an November 1, 1991.

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 January 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-37 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-19-001]

Transwestern Pipeline Co. Compliance Filing

December 26, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on December 16, 1991 tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective December 1, 1991:

Substitute 4th Revised Sheet No. 28
Substitute 1st Revised Sheet No. 51A
Substitute 4th Revised Sheet No. 68A
Substitute Original Sheet No. 80A
Substitute Original Sheet No. 80B
Substitute 7th Revised Sheet No. 81
Substitute 1st Revised Sheet No. 92A
Substitute 1st Revised Sheet No. 92B
Substitute 1st Revised Sheet No. 92C
Substitute 1st Revised Sheet No. 92D

Transwestern states that the above-referenced tariff sheets are being filed to comply with the Commission's Order ("Order") issued November 29, 1991 in Docket No. RP92-19-000. The Order required Transwestern to refile revised tariff sheets within fifteen (15) days to reflect language for Unauthorized Gas that states Transwestern will only assess one penalty for each unauthorized gas infraction that occurs, and that penalties assessed against Transwestern or an affiliate will be refunded to other customers on Transwestern's system.

The Commission also approved the indexing of imbalances, but only prospectively. Therefore, Transwestern states, it is refiling revised tariff sheets to implement price indexing and Monthly Cash-Out for those imbalances occurring after January 1, 1992. In addition, the Commission's Order directed the FERC Staff to convene a technical conference to discuss the proposed tariff revisions dealing with Flexible Receipt Points, Flexible Delivery Points, and Monthly Cash-Out of past imbalances. Therefore, Transwestern states, it is refiling revised tariff sheets to be effective December 1, 1991 to remove these provisions until after the technical conference.

Transwestern requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the tariff sheets submitted by it to become effective December 1, 1991.

Transwestern states that copies of the filing were served upon all parties of record in this proceeding, all Transwestern's utility customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-38 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-1-55-002 and TM92-2-55-001]

Questar Pipeline Co.; Tariff Filing

December 26, 1991.

Take notice that Questar Pipeline Company, on December 16, 1991 tendered for filing and acceptance to be effective December 1, 1991, and January 1, 1992, the following tariff sheets:

	Effective date
Original Volume No. 1:	
Second Substitute Fifteenth Revised Sheet No. 12.	December 1, 1991.
Substitute Sixteenth Revised Sheet No. 12.	January 1, 1992.
Original Volume No. 1-A:	
Substitute Seventh Revised Sheet No. 5.	January 1, 1992.
Original Volume No. 3:	
Substitute Eighth Revised Sheet No. 8.	January 1, 1992.

Questar states that the purpose of this filing is to (1) refile its purchase gas cost adjustment in compliance with the November 29, 1991, order in Docket No. TQ92-1-55-000 and (2) update tariff sheets filed November 27, 1991, in Docket No. TM92-2-55-000 implementing the Gas Research Institute Charge by incorporating revised base sales and transportation rates in accordance with Questar's November 15, 1991, compliance filing in Docket No. RP91-140-008 as supplemented on December 10, 1991, and December 12, 1991.

Questar states that it has provided a copy of this filing to parties listed on the Commission's official service list of Docket Nos. TQ92-1-55-000 and TM92-2-55-000.

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 January 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-34 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-16-005]

Superior Offshore Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 26, 1991.

Take notice that on December 19, 1991, Superior Offshore Pipeline Co. ("SOPCO") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1:

1. Sixth Revised Sheet No. 40;
2. Sixth Revised Sheet No. 41;
3. Fifth Revised Sheet No. 42;
4. Fifth Revised Sheet No. 43; and
5. First Revised Sheet No. 43a.

The above-referenced tariff sheets are being filed to ensure continued compliance with the findings and conditions set forth in the Commission's May 23, 1991 "Order on Order Nos. 497 and 497-A Compliance Filings," issued in Docket Nos. MT-88-1-000, *et al.*,[1] and the Commission's May 23, 1991 "Order" specifically applicable to SOPCO in Docket No. MG 88-23-000,[2] part 161 of the Commission's Regulations concerning Standard of Conduct for Interstate Pipelines With Market Affiliates and Order Nos. 497 and 497-A. The principal purpose of the above-referenced tariff sheets is to reflect an updated list of operating personnel for the SOPCO system resulting from a September 1, 1991 reorganization of management and operational personnel of all Mobil Corporation affiliate pipeline systems.

SOPCO requests that the above-referenced tariff sheets be made effective February 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding.

[1] Algonquin Gas Transmission Company, *et al.*, 55 FERC ¶ 61,261 (1991).

[2] Superior Offshore Pipeline Company, 55 FERC ¶ 61,289 (1991).

Any person wishing to become a party must file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-35 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-17-003]

Texas Sea Rim Pipeline, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 26, 1991.

Take notice that on December 19, 1991, Texas Sea Rim Pipeline, Inc. ("Sea Rim") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2:

1. Second Revised Sheet No. 113;
2. Second Revised Sheet No. 114;
3. Second Revised Sheet No. 115;
4. First Revised Sheet No. 115a; and
5. Second Revised Sheet No. 116.

The above-referenced tariff sheets are being filed to ensure continued compliance with the findings and conditions set forth in the Commission's May 23, 1991 "Order or Order Nos. 497 and 497-A Compliance Filings," issued in Docket Nos. MT-88-1-000, *et al.*,[1] and the Commission's May 23, 1991 "Order" specifically applicable to Sea Rim in Docket No. MG 88-24-000,[2] Part 161 of the Commission's Regulation concerning Standards of Conduct for Interstate Pipeline With Market Affiliates and Order Nos. 497 and 497-A. The principal purpose of the above-referenced tariff sheets is to reflect an update list of operating personnel for the Sea Rim system resulting from a September 1, 1991 reorganization of management and operational personnel of all Mobil Corporation affiliate pipeline systems.

Sea Rim requests that the above-referenced tariff sheets be made effective February 1, 1992.

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 Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the

[1] Algonquin Gas Transmission Company, *et al.*, 55 FERC ¶ 61,261 (1991).

[2] Texas Sea Rim Pipeline, Inc., 55 FERC ¶ 61,290 (1991).

protestants parties to the proceeding. Any person wishing to become a party must file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-33 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-19-000]

Transwestern Pipeline Co.; Rescheduling of Technical Conference

December 26, 1991.

Take notice that the technical conference, previously scheduled for Wednesday, January 8, 1992, has been rescheduled. The conference has been scheduled for Wednesday, January 15, 1992 at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 92-39 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-21-001]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 26, 1991.

Take notice that Williams Natural Gas Company (WNG) on December 16, 1991 tendered for filing Substitute First Revised Sheet No. 219 to be included in its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that this filing was made in compliance with Commission order (order) issued November 29, 1991 in Docket No. RP92-21-000. The order directed WNG to file revised tariff sheets within 15 days of the date of the order to clarify that if WNG's currently effective PGA rates are based on an interim PGA filing, any sales of excess deliveries to the Company during a supply curtailment will be made at the WACOG included in such interim PGA filing. Substitute First Revised Sheet No. 219 is being filed to clarify the WACOG basis for the purchase of excess deliveries.

WNG states that copies of its filing were served on all jurisdictional purchasers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before January 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-32 Filed 1-2-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-104-NG]

Global Petroleum Corp.; Application To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 4, 1991, of an application filed by Global Petroleum Corp. (Global) for blanket authorization to import and export up to 100 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year period commencing with the date of first import or export delivery. Global intends to use the existing facilities to transport the proposed imports and exports, no new construction would be required. Global would submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, February 3, 1992.

ADDRESSES:

Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3G-087, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8233.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: Global is a Massachusetts corporation with its principal place of business in Waltham, Massachusetts. Global is a marketer of natural gas and is an affiliate with Trinity Pipeline Inc., an aggregator and marketer of natural gas.

Global proposes to secure quantities of U.S. natural gas from a variety of suppliers in various producing states and resell to customers outside the U.S. Also, Global contemplates purchasing natural gas supplies from a variety of foreign suppliers and reselling such supplies to any suitable domestic purchaser, including local distribution companies, pipelines, and commercial and industrial end-users. Global requests authorization to import and export natural gas and LNG for its own account as well as for the accounts of others. Although the identity of the parties are not known at this time, Global states that the individual import and export transactions would be conducted through arm's length bargaining and the price would be competitive in the marketplace. In addition, Global asserts that the gas to be exported would be incremental to the needs of current domestic purchasers in the area from which the supplies would come.

The decision on Global's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested

import and export authority. The applicant asserts that this import/export arrangement would be in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Global's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 27, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-92 Filed 1-2-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4090-5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 16, 1991 Through December 20, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

Draft EISs

ERP No. D-AFS-L82012-ID Rating EC2, Lucky Peak Nursery Pest Management Program, Implementation, Intermountain Region, Boise National Forest, Ada County, ID.

Summary: EPA has reviewed the Draft Environmental Impact Statement (DEIS). EPA rated the DEIS EC-2 (Environmental Concerns-Insufficient Information). EPA has concerns regarding the potential for surface and ground water chemical contamination and surface water eutrophication.

ERP No. D-BIA-K85063-00 Rating EO2, Fort Mojave Indian Reservation Planned Community Development, Mojave Valley Resort, Lease Approval, Sites Selected, Section 404 Permit and Coast Guard Permit, San Bernardino Co., CA, Clark Co., NV and Mohave Co., AZ.

Summary: EPA expressed environmental objections regarding potential impacts to air and water quality, wetlands, sensitive species and biodiversity. EPA requested additional information in the FEIS on the jurisdiction and enforcement of environmental laws; monitoring and mitigation; and impacts to air and water quality, vegetation, wildlife, including cumulative impacts.

ERP No. D-DOE-K36103-CA Rating EC2, Sacramento Metropolitan Area Flood Control Plan, Implementation, Yolo and Sacramento Counties, CA.

Summary: EPA expressed environmental concerns because the DEIS did not rigorously explore and objectively evaluate all alternatives, nor did it sufficiently discuss compliance with environmental laws (Clean Water Act, Clean Air Act), nor did it sufficiently discuss means to mitigate adverse direct, indirect and cumulative impacts to wetlands, water quality, air quality and other natural resources. EPA noted that, based on the information in the DEIS, it was unable to determine the least environmentally damaging practicable alternative which fulfills the basic project purpose, as required by the Clean Water Act.

ERP No. D-SFW-L70011-AK Rating EC2, Federal Subsistence Management Program for Federal Public Lands in Alaska, Implementation, AK.

Summary: EPA had environmental concerns based on the potential for adverse effects if adequate funding is not received to implement the entire program. Additional information is needed to describe the feedback loop for the use of population status information in the subsistence use decision process.

Final EISs

ERP No. F-BLM-G02000-NM Albuquerque District Resource Management Plan (RMP) Amendment, Oil and Gas Leasing and Development, Farmington, Rio Puerco and Taos Resource Areas, Implementation, Several Counties, NM.

Summary: EPA feels while the FEIS attempts to be responsive to issues such as cumulative impacts, methane migration, air quality, etc., there is little documentation offered by BLM to validate the responding statements. Additional studies or analyses are warranted on these issues to fill remaining data gaps. As such, we

continue to have concerns with the proposal. Region 6 believes that the recently signed MOU between BLM and EPA, to deal with oil and gas activities in the San Juan Basin, may be the best mechanism to resolve these issues.

ERP No. FA-COE-A30031-FL Manatee County Shore Protection Project, Beach Protection Extension and Groins Construction, Updated Modifications, Manatee County, FL.

Summary: EPA continues to have a degree of environmental concern about removal of sand from the offshore borrow area because this could affect the long-term sand budget for this section of Anna Maria Island. Additionally, the value of using artificial reefs as mitigation for hard bottom loss remains a matter of discussion.

Dated: December 30, 1991.

William D. Dickerson,

Deputy Officer, Office of Federal Activities.

[FR Doc. 92-98 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4090-4]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260-5073 OR (202) 260-5075. Availability of Environmental Impact Statements Filed December 23, 1991 Through December 27, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910449, FINAL EIS, FAA, TX, Stinson Municipal Airport Improvement, Airport Layout Plan, Approval and Funding, City of San Antonio, Bexar County, TX, Due: February 03, 1992, Contact: Ms. Mo Keane (817) 624-5606.

EIS No. 910450, DRAFT EIS, SFW, CA, Tijuana Estuary Tidal Restoration Project, Implementation, Tijuana River National Estuarine Research Reserve, Section 10 and 404 Permits and Special Use Permit, San Diego County, CA, Due: March 04, 1992, Contact: Robert Fields (503) 429-6164.

EIS No. 910451, DRAFT EIS, FRC, WA, ID, NV, OR, WY, CA, Northwest Natural Pipeline Gas Expansion Project, Construction and Operation, Licensing, from points in Canada and the United States to Washington, Oregon, Idaho, Wyoming, Nevada and California, WA, OR, ID, WY, NV and CA, Due: February 18, 1992, Contact: Lauren O'Donnell (202) 208-0874.

EIS No. 910452, DRAFT EIS, UAF, NM, Cannon Air Force Base Realignment, F/EF-111 Basing, Implementation, Curry County, NM, Due: February 18, 1992, Contact: Brenda Cook (804) 764-4430.

EIS No. 910453, DRAFT EIS, BLM, UT, Diamond Mountain Resource Area, Resource Management Plan, Implementation, Daggett, Duchesne and Uintah Counties, UT, Due: April 01, 1992, Contact: Penelope Smalley (801) 789-1362.

EIS No. 910454, DRAFT EIS, COE, PA, Curwensville Lake Water Storage Reallocation, Implementation, Susquehanna River Basin, Susquehanna River, Clearfield County, PA, Due: February 18, 1992, Contact: Claire D. O'Neill (410) 962-4958.

Dated: December 30, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-97 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4090-3]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; Bennington Landfill Site, Bennington, VT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Banner Publishing Corporation, Town of Bennington, Bennington Iron Works, Inc., Bijur Lubricating Corporation, Chemical Fabrics Corporation, Courtaulds Structural Composites, Inc., East Mountain Transport, Environmental Action, Inc., Eveready Battery Corporation, G.C.D.C., Inc., Johnson Controls Inc., and Textron, Inc. for costs incurred by EPA in conducting response actions at the Bennington Landfill Superfund Site in Bennington, Vermont as of February 9, 1991.

DATES: Comments must be provided on or before February 3, 1992.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: In the Matter of Bennington Landfill Superfund Site, Bennington, VT, U.S. EPA Docket No. I-91-1094.

FOR FURTHER INFORMATION CONTACT: Andrew Raubvogel, U.S. Environmental Protection Agency, Office of Regional Counsel, RCV, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565-3169.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Bennington Landfill Superfund Site in Bennington, VT. The settlement was approved by EPA Region I on December 16, 1991, subject to review by the public pursuant to this Notice. Banner Publishing Corporation, Town of Bennington, Bennington Iron Works, Inc., Bijur Lubricating Corporation, Chemical Fabrics Corporation, Courtaulds Structural Composites, Inc., East Mountain Transport, Environmental Action, Inc., Eveready Battery Corporation, G.C.D.C., Inc., Johnson Controls, Inc., and Textron, Inc., the Settling Parties, have executed signature pages committing them to participate in the settlement. Under the proposed settlement, the Settling Parties are required to pay $197,920.64 to the Hazardous Substances Superfund. EPA believes the settlement is fair and in the public interest.

EPA is a entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice approved this settlement in writing on December 3, 1991.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Andrew Raubvogel, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCV, Boston, Massachusetts 02203, (617) 565-3169.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG,

Boston, Massachusetts (U.S. EPA Docket No. I-91-1094).

Dated: December 16, 1992.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-83 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4090-2]

Proposed Administrative Settlement under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; In re: Great Northern Nekoosa Corp.; East Millinocket, ME

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Great Northern Nekoosa Corporation for costs incurred by EPA in conducting response actions at their facility in East Millinocket, Maine.

DATES: Comments must be provided on or before February 3, 1992.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: Great Northern Nekoosa Corporation, East Millinocket, Maine, U.S. EPA Docket No. TSCA-I-87-1041.

FOR FURTHER INFORMATION CONTACT: Kathleen Woodward, U.S. Environmental Protection Agency, Office of Regional Counsel, RCV, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565-4891.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Great Northern Nekoosa Corporation in East Millinocket, ME. The settlement was approved by EPA Region I on September 27, 1991, subject to review by the public pursuant to this Notice. Great Northern Nekoosa Corporation, the Settling Party, has executed signature pages committing them to participate in the settlement. Under the proposed settlement, the Settling Party is required to pay $210,000 to the Hazardous Substances Superfund. EPA believes the settlement is fair and in the public interest.

EPA is a entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under Section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Kathleen Woodward, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCV, Boston, Massachusetts 02203, (617) 565-4891.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts (U.S. EPA Docket No. TSCA-I-87-1041).

Dated: December 16, 1991.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-82 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted To Office of Management and Budget for Review

December 20, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None.

Title: Section 73.30, Petition for authorization of an allotment in the 1605-1705 kHz band.

Action: New collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 250 responses; 2 hours average burden per response; 500 hours total annual burden.

Needs and Uses: Section 73.30(a) requires any party interested in applying for an AM broadcast station to be operated on one of the ten channels in the 1605-1705 kHz band must first file a petition for the establishment of an allotment to its proposed community of service. Each petition must include certain information. Section 73.30(b) requires a petitioner if awarded an allotment, sixty (60) days from the date of public notice of selection to file an application for construction permit (FCC Form 301). Upon grant of the application and the construction of the authorized facility, the applicant must file a covering license application (FCC Form 302). The data will be used by FCC staff to determine whether applicant meets basic technical requirements to migrate to the expanded band.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 92-63 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 91-300; DA 91-1535]

Private Land Mobile Radio Services; Virginia Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Virginia (Region 42). As a result of accepting the Plan for Region 42, licensing of the 821-824/866-869 MHz band in that region may begin immediately.

EFFECTIVE DATE: December 20, 1991.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Before the Federal Communications Commission, Washington, DC 20554.

In the Matter of Virginia Public Safety Plan
[PR Docket No. 91-300]

Order

Adopted: December 11, 1991.
Released: December 20, 1991.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On March 11, 1991, Region 42 (Virginia) submitted its public safety plan to the Commission for review. The plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Virginia. On September 20, 1991, Virginia filed revisions to the plan, based on conversations with the Commission's staff.

2. The Virginia plan was placed on Public Notice for comments on October 9, 1991, 56 FR 52549 (October 21, 1991). The Commission received no comments in this proceeding.

3. We have reviewed the plan submitted for Virginia and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87-112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Virginia.

4. Therefore, we accept the Virginia Public Safety Radio Plan. Furthermore, licensing of the 821-824/866-869 MHz band in Virginia may commence immediately.

Federal Communications Commission.
Ralph A. Haller,
Chief, Private Radio Bureau.
[FR Doc. 92-11 Filed 1-2-92; 8:45 am]
BILLING CODE 6712-01-M

[DA 91-1574]

Public Safety Region 5 Meeting Announced

December 18, 1991.

The Southern California Chapter of the Associated Public-Safety Communications Offices (APCO) will be conducting a meeting pursuant to General Docket 87-112, for the purpose of revising the Southern California 800 MHz Regional Communication Plan, Region 5, for the counties of San Diego and Imperial. Interested parties should contact: Garrett Mayer, Convenor and Committee Chairman, Los Angeles County Communications, 1110 North Eastern Avenue, Los Angeles, CA 90063, Phone (213) 267-2320.

The affected areas are defined by the physical boundaries of the counties of San Diego and Imperial.

The meeting will be held at the San Diego County Administrative Center, 1600 Pacific Highway, room 358, San Diego, CA 92101 on January 24, 1992, at 10 a.m.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632-6497.

Federal Communications Commission.
William F. Caton,
Acting Secretary
[FR Doc. 92-61 Filed 1-2-92; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of 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.: 224-010736-005.

Title: Long Beach/Long Beach Container Terminal, Preferential Assignment Agreement.

Parties: City of Long Beach, Long Beach Container Terminal, Inc.

Synopsis: This Agreement, filed December 17, 1991, provides for certain revisions in the preferential assignment lease between the City of Long Beach and Long Beach Container Terminal, Inc. Those revisions include the description of the assigned premises and adjustments in the compensation provisions.

Agreement No.: 217-011362.

Title: Tecomar, S.A. de C.V./ Transportation Maritima Mexicana, S.A. de C.V./Euro-Gulf International, Inc., Slot Charter Agreement, a/k/a Tecomar/TMM/EGI Slot Charter Agreement.

Parties: Tecomar, S.A. de C.V., Transportacion Maritima Mexicana, S.A. de C.V. Euro-Gulf International, Inc.

Synopsis: The proposed Agreement establishes a slot chartering arrangement between the parties in the trade between ports and points in North Europe including Felixstowe, and ports and points in the U.S. Atlantic and Gulf Coast, and the Gulf Coast of Mexico. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: December 27, 1991.

Ronald D. Murphy,
Assistant Secretary.
[FR Doc. 92-7 Filed 1-2-92; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice if hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 3389.
Name: Miguel D. Marave dba Marave & Associates.
Address: 138 Arena St., Unit C, El Segundo, CA 90245.
Date Revoked: October 24, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 1708-R.
Name: International Forwarding & Project Management, Inc.
Address: Five Beekman St., suite 520, New York, NY 10038.
Date Revoked: October 30, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 3107.
Name: Tradelink International, Inc.
Address: 416 E. Hennepin Ave., suite 105, Minneapolis, MN 55414.
Date Revoked: October 31, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 1683R.
Name: Pacific Steamship Agency, Inc. dba R. B. Abbott & Co. Inc.
Address: 1050 Green St., San Francisco, CA 94133.
Date Revoked: November 2, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 2229.
Name: T-A-T Airfreight, Inc. dba Tatmar Co.
Address: 4401 N.W. 74th Ave., Miami, FL 33152.
Date Revoked: November 8, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 3247.

Name: Drew Freight, Inc.

Address: 29 Broadway, New York, NY 10006-3030.

Date Revoked: November 20, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 1958.

Name: Wilson Maritime, Inc.

Address: 125 Elizabeth St., #3B, New York, NY 10013.

Date Revoked: November 22, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 2008R.

Name: Moses E. Shamash & Company.

Address: 5758 W. Century Blvd., suite 212, Los Angeles, CA 90045.

Date Revoked: November 26, 1991.

Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92-73 Filed 1-2-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

MASSBANK Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 27, 1992.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. MASSBANK Corp., Reading, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of MASSBANK for Savings, Reading, Massachusetts.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Majoning National Bancorp, Inc., Youngstown, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Mahoning National Bank of Youngstown, Youngstown, Ohio.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Triangle Bancorp, Inc., Raleigh, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Triangle Bank and Trust Company, Raleigh, North Carolina.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company and International Regulation) 101 Market Street, San Francisco, California 94105:

1. Continental Bancorporation, Las Vegas, Nevada; to become a bank holding company by acquiring 100 percent of the voting shares of Continental National Bank, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, December 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-44 Filed 1-2-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be open to the public on Wednesday, January 22, 1992, from 9 a.m. to 5 p.m.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S. Code, and section 10(d) of the Federal Advisory Committee Act, a meeting closed to the public will be held on January 23, 1992, from 8:30 a.m. to 12:30 p.m. to review, discuss, and evaluate grant applications. The discussion and review of grant applications could reveal confidential personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

ADDRESS: The meeting will be at the Hyatt Regency Hotel, 7400 Wisconsin Avenue, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Judith D. Moore, Executive Secretary at (301) 227-8142.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) establishes the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to the actions of AHCPR to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and the organization, financing, and delivery of health care services.

The Council is composed of public members appointed by the Secretary. These members are:

Linda H. Aiken, Ph.D.; Mr. Edward C. Bessey; Joseph F. Boyle, M.D.; Linda Burnes-Bolton, Dr. P.H.; Joseph T. Curti, M.D.; Gary L. Filerman, Ph.D.; Juanita W. Fleming, Ph.D.; David Hayes-Bautista, Ph.D.; William S. Kiser, M.D.; Kermit B. Knudsen, M.D.; Norma M. Lang, Ph.D.; Barbara J. McNeil, M.D.; Mr. Walter J. McNerney; Lawrence H. Meskin, D.D.S., Ph.D.; Theodore J. Phillips, M.D.; Barbara Starfield, M.D.; and Donald E. Wilson, M.D.

There also are Federal ex officio members. These members are:

Administrator, Alcohol, Drug Abuse and Mental Health Administration; Director, National Institutes of Health; Director, Centers for Disease Control; Administrator, Health Care Financing Administration; Commissioner, Food and Drug Administration; Assistant Secretary of Defense (Health Affairs);

and Chief Medical Director, Department of Veterans Affairs.

II. Agenda

On Wednesday, January 22, 1992, the open portion of the meeting will begin at 9 a.m. with the call to order by the Council Acting Chairman. The Administrator will report on AHCPR activities and discuss the Council's advice on AHCPR planning activities. In the afternoon the AHCPR Administrator and other AHCPR staff will present an update on AHCPR's clinical guidelines development followed by a presentation by AHCPR staff on grant review procedures. The Council will recess at 5 p.m.

On Thursday, January 23, 1992, the Council will resume at 8:30 a.m. with a closed meeting to review grant applications. The meeting will then adjourn at 12:30 p.m.

Agenda items are subject to change as priorities dictate.

Dated: December 19, 1991.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92-6 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-90-M

Food and Drug Administration

[Docket No. 91F-0480]

E.I. Dupont de Nemours and Co., Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E.I. duPont de Nemours and Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,1-difluoroethane as a blowing agent in the production of polystyrene articles intended to contact food.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B4303) has been filed by E.I. duPont de Nemours and Co., Inc., Wilmington, DE 19898. The petition proposes to amend the food additive regulations to provide for the safe use of 1,1-difluoroethane as a blowing agent in the production of polystyrene articles intended to contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 23, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-53 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0465]

Gycor International, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Gycor International, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of citric acid, disodium ethylenediamine tetraacetate, sodium lauryl sulfate, and monosodium phosphate as components of a sanitizing solution for general use on food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B4301) has been filed by Gycor International, Ltd., c/o Hogan & Hartson, 555 Thirteenth St. NW., Washington, DC 20004. The petition proposes to amend the food additive regulations in § 178.1010 *Sanitizing solutions* (21 CFR 178.1010 to provide for the safe use of citric acid, disodium ethylenediamine tetraacetate, sodium lauryl sulfate, and monosodium phosphate as components of a sanitizing solution intended for general use on food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: December 23, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-52 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0399]

3-V Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that 3-V Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,3-propanediamine, N,N″-1,2-ethanediylbis-, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine as a light stabilizer for polypropylene and polyethylene complying with 21 CFR 177.1520.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4277) has been filed by 3-V Chemical Corp., P.O. Drawer Y, Georgetown, SC 29442. The petition proposes to amend the food additive regulations in § 178.2010 Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) to provide for the safe use of 1,3-propanediamine, N,N″-1,2-ethanediylbis-, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine as a light stabilizer for polypropylene and polyethylene complying with 21 CFR 177.1520.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the

Federal Register in accordance with 21 CFR 25.40(c).

Dated: December 23, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-54 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0493]

Staar Surgical Co.; Premarket Approval of Elastimide ™ Models AQ-1000, AQ-1001, AQ-1002, AQ-1005, and AQ-1016 Silicone Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Staar Surgical Co., Monrovia, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Elastimide ™ Models AQ-1000, AQ-1001, AQ-1002, AQ-1005, and AQ-1016 Silicone Posterior Chamber Intraocular Lenses. The devices are to be manufactured under an agreement with Softlensco, Inc., Los Angeles, CA, which has authorized Staar Surgical Co. to incorporate information contained in its approved premarket approval application (PMA) (P900048) for the Elastimide ™ Models AQ-1000, AQ-1001, AQ-1002, AQ-1005, and AQ-1016 Silicone Posterior Chamber Intraocular Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of November 29, 1991, of the approval of the application.

DATES: Petitions for administrative review by February 3, 1992.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna L. Rogers, Center for Devices and Radiological Health (HFZ-463), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On September 30, 1991, Staar Surgical Co., Monrovia, CA 91016, submitted to CDRH an application for premarket approval of Elastimide ™ Models AQ-1000, AQ-1001, AQ-1002, AQ-1005, and AQ-1016 Silicone Posterior Chamber Intraocular Lenses. These devices are indicated for primary implantation for the visual correction of aphakia in persons 60 years of age or older in whom a cataractous lens has been removed by extracapsular cataract extraction. The devices are intended to be placed in the ciliary sulcus or capsular bag. The application includes authorization from Softlensco, Inc., Los Angeles, CA 90071, to incorporate information contained in its approved PMA for Elastimide ™ Models AQ-1000, AQ-1001, AQ-1002, AQ-1005, and AQ-1016 Silicone Posterior Chamber Intraocular Lenses.

In accordance with the provisions of section 515(f)(2) of the act as amended by the Safe Medical Devices Act of 1990, this PMA was not referred to the Ophthalmic Devices Panel, the FDA advisory panel, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On November 29, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations for a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 3, 1992, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: December 24, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Diseases and Radiological Health.

[FR Doc. 92-102 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91M-0496]

Staar Surgical Co.; Premarket Approval of Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Staar Surgical Co., Monrovia, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens. The device is to be manufactured under an agreement with Softlensco, Inc., Los Angeles, CA, which has authorized Staar Surgical Co. to incorporate information contained in its approved premarket approval application (P880091) for the Elastic™ Model AA-4203 Silicone Posterior Chamber Lens. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of November 29, 1991, of the approval of the application.

DATES: Petitions for administrative review by February 3, 1992.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for

administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna L. Rogers, Center for Devices and Radiological Health (HFZ-463), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On September 30, 1991, Staar Surgical Co., 1911 Walker Ave., Monrovia, CA 91016, submitted to CDRH an application for premarket approval of the Elastic ™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens. The device is indicated for primary implantation for the visual correction of aphakia in persons 60 years of age or older in whom a cataractous lens has been removed by phacoemulsification extracapsular cataract extraction. The lens is intended to be placed only in the capsular bag following successful circular tear anterior capsulotomy with a verified absence of radial tears. The application includes authorization from Softlensco, Inc., Los Angeles, CA 90071, to incorporate information contained in its approved premarket approval application for the Elastic™ Model AA-4203 Silicone Posterior Chamber Intraocular Lens.

In accordance with the provisions of section 515(f)(2) of the act as amended by the Safe Medical Devices Act of 1990, this premarket approval application was not referred to the Ophthalmic Devices Panel, an FDA advisory panel, for review and recommendation because the information in the premarket approval application substantially duplicates information previously reviewed by the panel. On November 29, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 3, 1992, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: December 24, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 92-103 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Nashville District Office, chaired by Raymond K. Hedblad, District Director. The topic to be discussed is food labeling.

DATES: Wednesday, January 15, 1992, 9:30 a.m.

ADDRESSES: Guy M. Tate Bldg., Jefferson County Department of Health, 1400 Sixth Ave. South, Birmingham, AL 35233.

FOR FURTHER INFORMATION CONTACT: Sandra S. Baxter, Public Affairs Specialist, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615-781-5372.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 27, 1991.

Robert L. Spencer,

Acting Deputy Commissioner for Policy.

[FR Doc. 92-4 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Orlando District Office, chaired by Douglas D. Tolen, District Director. The topic to be discussed is food labeling reform.

DATES: Monday, January 27, 1992, 10 a.m. to 12 a.m.

ADDRESSES: Palm Beach County Cooperative Extension Service, 559 North Military Trail, West Palm Beach, FL 33415.

FOR FURTHER INFORMATION CONTACT: Estela Niella-Brown, Public Affairs Specialist, Food and Drug Administration, P.O. Box 59-2256, Miami, FL 33159-2256, 305-526-2919.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 27, 1991.

Robert L. Spencer,

Acting Deputy Commissioner for Policy.

[FR Doc. 92-5 Filed 1-2-92; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Availability of Information on Technology Transfer and Government-Owned Inventories Available for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health desires to announce the availability of information concerning the technology transfer programs of the Public Health Service, including government-owned inventions available for licensing. The information, contained in the "1991 PHS Technology Transfer Directory" (November 1991), includes the following: (1) Acronyms of participating PHS agencies; (2) List of technology keywords and names of all PHS scientists who indicated this keyword as an area of collaborative interest; (3) Addresses of PHS investigators interested in forming collaborations with industry; (4) List of PHS technology transfer resource personnel; (5) List of existing Cooperative Research and Development Agreements (CRADAs); (6) Model license agreements, model CRADA agreement and technology transfer policy statements; and (7) List of existing DHHS-owned inventions available for licensing to interested companies. This information is available in a printed version or can be supplied in a machine-readable form for publishers, on-line services and similar organizations.

The NIH Office of Technology Transfer is also considering the formation of non-exclusive CRADAs with publishers, on-line services and similar organizations to further research and development efforts regarding information dissemination for PHS inventions and technology transfer.

ADDRESS: Inquiries should be directed to: Mr. Steven Ferguson, Technology Management Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892 (telephone: (301) 496-0750; fax: (301) 402-0220).

Dated: December 17, 1990.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 92-19 Filed 1-2-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-91-3370]

Submission of Proposed Information Collection to OMB

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department consulted with a number of potential users prior to this publication; however, additional public comments are solicited on the proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay Weaver, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, phone (202) 708-0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing an information collection package with respect to the Section 202 Supportive Housing Program for the Elderly and the Section 811 Supportive Housing Program for Persons with Disabilities.

The information collected will be forms currently used for processing requests for conditional commitment and firm commitment, as well as loan closings, which have been modified, as necessary, to convert Section 202 loan applications to either the Section 202 Supportive Housing Program for the Elderly or the Section 811 Supportive Housing Program for Persons with Disabilities. As provided for in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1992, eligible projects in the pipeline which have not been initially closed as of December 31, 1991, will be converted during the period January 1, 1992 to April 1, 1992 to the appropriate supportive housing program. The Department has requested OMB to complete its paperwork review of the forms within 1 working day. Any control number issued by OMB to cover this emergency situation would be valid for no more than 90 days.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

This Notice lists the following information: (1) The title of the information collection proposal; (2) the office or agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, or reinstatement, and (9) the telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 24, 1991.

Arthur J. Hill,

Assistant Secretary for Housing—Federal Housing Commissioner.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Collecting information from approved applicants under Section 202 Housing for the Elderly or Disabled.

Office: Housing.

Description of the Need for the Information and its Proposed Use: This information will enable HUD to convert Section 202 direct loan projects for the elderly or disabled to either the Section 202 Supportive Housing Program for the Elderly or the Section 811 Supportive

Housing Program for Persons with Disabilities.

Form Number: Various processing and closing forms.

Respondents: Nonprofit organizations and nonprofit consumer cooperatives which have been previously approved under the Notices of Fund Availability for Section 202 Housing for the Elderly or Handicapped.

Frequency of Submission: One time.

Reporting Burden:

	Number of respondents	×	Frequency of responses	×	Hrs. per response	=	Burden hours
202/811	350		1		10.5		3,675
	100		1		1.5		150
	50		1		.5		25
					[1] 12.5		3,850

[1] See attached table for burden hours for each application requirement.

Status: Revision of forms used in direct loan program.

Contact: Sharon Mizell, HUD (202) 708-2866, Jennifer Main, OMB (202) 395-6880.

Dated: December 24, 1991.

[FR Doc. 92-20 Filed 1-2-92; 8:45 am]

BILLING CODE 4210-27-M

Office of Administration

[Docket No. N-91-975]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 16, 1991.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Proposal: Recertification of Family Income and Composition, Section 235 (b).

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The forms are submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The forms are also used by mortgagees to report statistical and general program data to HUD.

Form Number: HUD-93101 and 93101-A.

Respondents: Individuals or households and businesses or other for-profit.

Frequency of Submission: On occasion, monthly and annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-93101	150,000		1.25		1		187,500
HUD-93101-A	962		12		.17		1,962

Total Estimated Burden Hours: 189,462.

Status: Reinstatement.

Contact: Florence Brooks, HUD, (202) 708–1719, Jennifer Main, OMB, (202) 395–6880.

Dated: December 16, 1991.

[FR Doc. 92–21 Filed 1–2–92; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-59]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: January 3, 1992.

ADDRESSES: For further information, contact James Forsberg, Department of Housing and Urban Development, room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized and underutilized Federal buildings and real property determined by HUD to be suitable for use for facilities to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable this week.

Dated: December 24, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 92–2 Filed 1–2–92; 8:45 am]

BILLING CODE 4210–29–M

Office of Fair Housing and Equal Opportunity

[Docket No. D-91-975; FR-3197-D-01]

Redelegation of Authority Under the Fair Housing Act and 24 CFR Part 103

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Under this notice, the Assistant Secretary for Fair Housing and Equal Opportunity for the Department of Housing and Urban Development (HUD) redelegates certain authority under 24 CFR 103.400 to make determinations of no reasonable cause respecting fair housing complaints. This redelegation is made to the Directors of the Regional Offices for Fair Housing and Equal Opportunity (Regional Directors). The Assistant Secretary retains authority to make determinations of no reasonable cause respecting fair housing complaints.

EFFECTIVE DATE: December 13, 1991.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, room 5208, 451 Seventh Street, SW., Washington, DC 20410–2000, telephone: (202) 708–0836. A telecommunications device for hearing impaired persons (TDD) is available at (202) 401–4913. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Part 103 of title 24 of the Code of Federal Regulations contains HUD's regulations governing the complaint processing procedures under the Fair Housing Act. Under 24 CFR 103.400, in processing complaints under the Act, the General Counsel of HUD is delegated exclusive authority to make all determinations of whether or not reasonable cause exists to believe that discrimination occurred. The General Counsel redelegated the authority in 24 CFR 103.400 to make determinations of no reasonable cause to the Assistant Secretary for Fair Housing and Equal Opportunity under a redelegation of authority published in the **Federal Register** on December 28, 1990, at 55 FR 53293.

Under this redelegation, the Assistant Secretary for Fair Housing and Equal Opportunity redelegates to the ten HUD Regional Directors for Fair Housing and Equal Opportunity the authority, redelegated by the General Counsel, in 24 CFR 103.400, to issue determinations of no reasonable cause in processing fair housing complaints and to carry out functions attendant to such determinations. This redelegation includes determinations in all cases including, but not limited to, zoning and land use matters. The Assistant Secretary retains authority to issue no reasonable cause determinations in these matters. This redelegation also does not affect the authority of the General Counsel, or the authority redelegated to the ten Regional Counsel, to make determinations of reasonable cause and no reasonable cause under 24 CFR 103.400.

Section A—Authority Redelegated

The Assistant Secretary for Fair Housing and Equal Opportunity redelegates to the Directors of the Regional Offices of Fair Housing and Equal Opportunity the authority under 24 CFR 103.400:

1. To determine that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur in processing fair housing complaints;

2. To carry out the following functions attendant to such a determination;

(a) Issuing a short and plain written statement of the facts upon which the Regional Director has based the no reasonable cause determination;

(b) Dismissing the complaint based on the no reasonable cause determination;

(c) Notifying the aggrieved person and the respondent of the dismissal (including the written statement of facts) as required by 24 CFR 103.400(a)(1); and

(d) Making public disclosure of the dismissal as described in 24 CFR 103.400(a)(1).

Section B—No Further Redelegation

The authority granted to the Regional Office Directors under this notice may not be further redelegated pursuant to this redelegation.

Dated: December 13, 1991

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 92–22 Filed 1–2–92; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Wapato Irrigation Project, Washington

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final notice of operation and maintenance rates.

SUMMARY: The purpose of this notice is to change the assessment rates for

operating and maintaining the Wapato Irrigation Project for 1992 and subsequent years. The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: Date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232-4169, telephone FTS 429-6750; commercial (503) 231-6750.

SUPPLEMENTARY INFORMATION: On November 8, 1991 in the **Federal Register**, Volume 56, No. 217, Page 57348, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for Calendar Year 1992 and subsequent years until further notice.

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. However, the chairman of the Yakima Tribal Council submitted a letter dated December 9, 1991. The letter stated the Tribe was objecting to assessment of O&M charges and was also opposed to the 22% increase in the O&M rates.

The Tribes objections was considered in this final publication. The need for this increase still exists and must be upheld in order to maintain the level of service needed.

A portion of the payments section was deleted since it was not consistent with the interest and penalty fees section. This following sentence was deleted "To all assessment on lands in non-Indian ownership and lands in Indian ownership remaining unpaid on or after July following due date shall be considered delinquent." Therefore, the assessment rates and related provisions as set forth below are adopted effective 30 days after date of publication in the **Federal Register**. Operation and maintenance rates and related information are published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and delegated by the Assistant Secretary—Indian Affairs to the Area Director in BIAM 3. This notice is given in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 of the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Wapato Irrigation Project for Calendar Year 1992 and subsequent years. This notice is pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 587), and March 7, 1928 (45 Stat. 210).

The purpose of this notice is to announce an increase in the Wapato Project assessment rates proportionate with actual operation and maintenance costs. The assessment rates for 1992 will amount to an increase of 22% for the Wapato Satus unit, and Additional Works lands and no increase for the Toppenish-Simcoe & Ahtanum units.

Wapato Irrigation Project-General

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in part 171, Operation and Maintenance, title 25-Indians, Code of Federal Regulations. (42 FR 30362, June 14, 1977)

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 of each year. These dates may be varied by 20 days depending on weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Request for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules.

Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Charges for Speical Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1992 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report	$15.00
(2) Requests for Verification of Account Delinquency Status, Per Report	10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee) Per Bill	10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill	10.00
(5) Requests for Other Special Services similar to the above, when appropriate, Per Report	10.00
(6) Requests for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County, Recording Fee	10.00
(7) Review of subdivision plats	10.00

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1992 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar year 1992 and subsequent years until further notice, is fixed at $9.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bills issued for any

tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1992 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$36.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	36.00
(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre	6.80
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands	39.60

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied against all tracts of less than one acre.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Wilford Bowker,

Acting Portland Area Director.

[FR Doc. 92-68 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[WO760-00-4410-01-2410]

Public Land and Resources; Planning, Programming, and Budgeting

AGENCY: Bureau of Land Management; Interior.

ACTION: Notification of resource management planning schedule.

SUMMARY: A provision of the regulation governing resource management planning on the public lands administered by the Bureau of Land Management (BLM) requires the agency to annually publish a planning schedule (43 CFR 1610.2(b)). The schedule provides the public information on the status of resource management plans (RMP's) in preparation. Projected new RMP starts for the 3 succeeding fiscal years are also identified to provide the public an opportunity to comment on the projected planning schedule and to aid coordination with other Federal agencies and levels of government.

There are currently 41 RMP efforts in progress (not including plan amendments). The BLM expects that 13 of these plans will be completed in Fiscal Year (FY) 1992 and that an additional 13 will be completed in FY 1993. This large number of ongoing RMP's is having a significant effect on the agency's capacity both to start new plans and to maintain the existing base of completed RMP's.

In FY 1992 five new RMP starts are projected. New starts beyond FY 1992 are not identified at this time. It is anticipated that, upon completion of a substantial number of the RMP's in progress, there will be sufficient capacity to start a limited number of new RMP's and revise some older RMP's. Prospects for new starts (and revisions) beyond those identified in this schedule appear at this time to include the following RMP's: Lower Gila (Arizona); Deep Creek (Idaho); Malheur/Jordan (Oregon); and Grand (Utah, a revision).

There are extensive opportunities for the public to participate in the resource management planning process (43 CFR 1610.2). The preparation of each RMP (or plan amendment) begins with the publication of a Notice of Intent to initiate a plan. Subsequent public notice and participation opportunities are provided as required by the regulations. Publication of a draft RMP and associated draft environmental impact statement, as indicated on the schedule, is a key opportunity for public comment.

A number of plan amendments are in progress to address oil and gas resources in high priority areas. These amendments are identified in a separate table since there is considerable public interest associated with them and, unlike most plan amendments, they have been scheduled over more than 1 year. These plan amendments will determine the availability of public lands for oil and gas leasing and the associated terms and conditions.

A key to the abbreviations used follows the schedule.

DATES: Comments on the schedule will be accepted until January 31, 1992.

ADDRESSES: Comments should be sent to: Director (WO-760), Bureau of Land Management, rm. 406 LS, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gordon Knight or Bruce E. Flinn, (202) 653-8824.

Dated: December 12, 1991.

Cy Jamison,

Director.

TABLE 1.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE

State, district and resource area	Plan name type (major resource/issue)	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995
Alaska:					
Anchorage					
Glennallen	Southcentral RMP (recreation wildlife)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Arizona:					
Phoenix					
Kingman	Kingman RMP (realty, ACEC, grazing, wildlife)	ARMP/ROD			
Arizona Strip					
Districtwide	Arizona Strip RMP (realty, off-road vehicles, recreation, cultural).	ARMP/ROD			
Safford					
Districtwide	Safford RMP (recreation, off-road vehicles, ACEC)	ARMP/ROD			
California:					
Bakersfield					
Bishop	Bishop RMP (grazing, realty, geothermal	PRMP/FEIS ARMP/ROD			
Caliente	Caliente RMP ((O&G, realty)	DRMP/DEIS PRMP/FEIS	ARMP/ROD		
California Desert					
Indio	South Coast RMP (O&G, realty, forestry, recreation)	PRMP/FEIS ARMP/ROD			
Susanville					
Alturas	Alturas RMP revision (grazing, wildlife)			DRMP/DEIS	PRMP/FEIS
Ukiah					
Arcata	Arcata RMP (timber, T&E, recreation)	ARMP/ROD			
Redding	Redding RMP (timber, T&E, wildlife)	PRMP/FEIS ARMP/ROD			
Colorado:					
Canon City					
Royal Gorge	Royal Gorge RMP (grazing, realty, O&G, recreation)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
San Luis	San Luis RMP (grazing, wildlife, water)	ARMP/ROD			
Montrose					
Gunnison	Gunnison Basin RMP (grazing, wildlife, riparian, recreation)	PRMP/FEIS ARMP/ROD			
Craig					
White River	White River RMP (O&G, riparian, T&E, oil shale)	DRMP/DEIS PRMP/FEIS	ARMP/ROD		
Idaho:					
Boise					
Owyhee	Owyhee RMP (grazing, wildlife)	ARMP/ROD			
Salmon					
Challis	Challis RMP (realty, grazing)		DRMP/DEIS	PRMP/FEIS ARMP/ROD	
Shoshone					
Bennett Hills	Bennett Hills RMP (grazing, recreation)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Montana:					
Lewistown					
Judith Valley, Phillips	Judith/Valley/Phillips RMP (O&G, realty, off-road vehicle)	ARMP/ROD			
Big Dry	Big Dry RMP (realty, off-road vehicles)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Nevada:					
Battle Mountain					
Tonopah	Tonopah RMP (O&G, realty)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Las Vegas					
Stateline	Stateline RMP (realty, T&E species)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
New Mexico:					
Las Cruces					
Mimbres	Mimbres RMP (off-road vehicles, mining, realty)	PRMP/FEIS ARMP/ROD			
Roswell					
Roswell	Roswell RMP (O&G, mining, off-road vehicles)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Tulsa					
Oklahoma	Oklahoma RMP (O&G, coal leasing)		DRMP/DEIS PRMP/FEIS	ARMP/ROD	
	Texas RMP (O&G, coal leasing)		NOI	DRMP/DEIS	PRMP/FEIS ARMP/ROD
Oregon:					
Burns					
Three Rivers	Three Rivers RMP (grazing, wildlife, realty, watershed)	ARMP/ROD			
Coos Bay					
Districtwide	Coos Bay RMP (forestry, watershed, wildlife, realty, ACEC)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Eugene					
Districtwide	Eugene RMP (forestry, watershed, ACEC, realty)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Lakeview					
Klamath Falls	Klamath Falls RMP (forestry, watershed, wildlife, range, ACEC).	DRMP/DEIS	PRMP/FEIS ARMP/ROD		

TABLE 1.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State, district and resource area	Plan name type (major resource/issue)	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995
Medford					
Districtwide	Medford RMP (forestry, wildlife, watershed, realty, ACEC)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Roseburg					
Districtwide	Roseburg RMP (forestry, wildlife, watershed, realty, ACEC)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Salem					
Districtwide	Salem RMP (forestry, wildlife, watershed, realty)	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Eastern States:					
Jackson	Florida RMP (lands, minerals, wildlife, recreation)	NOI	DRMP/DEIS	PRMP/FEIS	ARMP/ROD
Milwaukee	Michigan RMP (oil and gas)	NOI	DRMP/DEIS	PRMP/FEIS	ARMP/ROD
Utah:					
Cedar City					
Kanab-Escalante	Kanab-Escalante RMP (recreation, wildlife)		DRMP/DEIS	PRMP/FEIS	ARMP/ROD
Dixie	Dixie RMP (recreation, range, wildlife)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Richfield					
Henry Mountain	Henry Mountain RMP (ACEC, wildlife)	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Vernal					
Diamond Mountain	Diamond Mountain RMP (wildlife, O&G)	PRMP/FEIS	ARMP/ROD		
Wyoming:					
Casper					
Newcastle	Newcastle RMP (O&G)	PRMP/FEIS	ARMP/ROD		
Rock Springs					
Green River	Green River RMP (O&G, grazing, wild horses, cultural resources).	DRMP/DEIS PRMP/FEIS	ARMP/ROD		
Worland					
Grass Creek	Grass Creek RMP (wildlife, watershed)		DRMP/DEIS PRMP/FEIS	ARMP/ROD	

Key to planning schedule abbreviations:
ACEC—Area of Critical Environmental Concern.
ARMP/ROD—Approved Resource Management Plan and Record of Decision.
DRMP/DEIS—Draft Resource Management Plan and Draft Environmental Impact Statement.
PRMP/FEIS—Proposed Resource Management Plan and Final Environmental Impact Statement.
NOI—Notice of Intent.
O&G—Oil and Gas.

TABLE 2—BUREAU OF LAND MANAGEMENT HIGH PRIORITY OIL AND GAS PLAN AMENDMENT SCHEDULE

State, district & resource area	Plan name, type (major resource/issues)	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995
California:					
Bakersfield					
Hollister	Hollister RMPA (O&G)	DRMPA/ DEIS PRMPA/ FEIS	ARMPA/ ROD		
Colorado:					
Canon City					
Northeast	Statewide RMPA (O&G)	ARMPA/ ROD			
Craig					
Kremmling	Statewide RMPA	ARMPA/ ROD			
Little Snake	....do				
Grand Juction					
Glenwood Springs	Statewide RMPA	ARMPA/ ROD			
Montrose					
San Juan/San Miguel	Statewide RMPA	ARMPA/ ROD			
Montana:					
Miles City					
Districtwide	Miles City RMPA (O&G)	DRMPA/ DEIS	PRMPA/ FEIS ARMP/ROD		
Nevada:					
Battle Mountain					
Shoshone-Eureka	Shoshone-Eureka RMPA (O&G)			NOI	DRMPA/ DEIS
Elko					
Elko	Elko RMPA (O&G)	DRMPA/ DEIS	PRMPA/ FEIS ARMPA/ ROD		

TABLE 2—BUREAU OF LAND MANAGEMENT HIGH PRIORITY OIL AND GAS PLAN AMENDMENT SCHEDULE—Continued

State, district & resource area	Plan name, type (major resource/issues)	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995
Ely					
Egan	Egan RMPA (O&G)	DRMPA/ DEIS	PRMPA/ FEIS ARMPA/ ROD		
New Mexico:					
Albuquerque					
Districtwide	Albuquerque RMPA (O&G)	PRMPA/ FEIS ARMPA/ ROD			
Roswell					
Carlsbad	Carlsbad RMPA (O&G)	DRMPA/ DEIS	PRMPA/ FEIS	ARMPA/ ROD	
Oregon:					
Spokane					
Districtwide	Spokane RMPA (O&G)	ARMPA/ ROD			
Utah:					
Vernal					
Book Cliffs	Book Cliffs RMPS (O&G)		NOI	DRMPA/ DEIS	PRMPA/ FEIS ARMPA/ ROD

Key to Oil and Gas Amendment Schedule:
DRMPA/DEIS—Draft Resource Management Plan Amendment/Draft Environmental Impact Statement.
PRMPA/FEIS—Proposed Resource Management Plan Amendment/Final Environmental Impact Statement.
PMFPA/EA—Proposed Management Framework Plan Amendment/Environmental Analysis.
AMFPA/DR—Approved Management Framework Plan Amendment/Decision Record.

[FR Doc. 92-138 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-84-M

[UT-050-02-4410-08]

Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: The Richfield District Advisory Council will hold a meeting on January 28, 1992. The meeting will start at 10 a.m. in the District Office, 150 East 900 North, Richfield, Utah.

The agenda will include:

1. Election of officers
2. Update on wild horses
3. Update on the Henry Mountain Planning
4. Overview of Animal Damage Control Program
5. Update on R.S. 2477
6. Progress on the Otter Creek Plan
7. Owens wilderness proposal (HR 1500)
8. The Henry Mountain Bison

Interested persons may make oral statements to the Council between 1:15 p.m. and 2:15 p.m. or file written comments for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801-896-8221). For further information contact: Bert Hart, District Public Affairs Specialist at the above address.

Dated: December 23, 1991.

Neil Thomas,

Assistant District Manager, Administration.

[FR Doc. 92-69 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-943-02-4212-13; IDI-27025, IDI-27542]

Notice of Exchanges and Order Providing for Opening of Public Lands; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Exchange and Opening Order.

SUMMARY: The United States has issued two exchange conveyance documents as shown below under Section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchanges, this document contains an order which opens lands received by the United States to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384-3163.

1. In two exchanges made under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

IDI-27025 (Conveyed to Dennis M. and Jean S. Baker)

T. 2 N., R. 3 E.,
sec. 34, S½SE¼.
IDI-27542 (Conveyed to Faulkner Land & Livestock Company)
T. 5 S., R. 13 E.,
sec. 19, E½SW¼ and W½SE¼;
sec. 30, NW¼NE¼ and NE¼NW¼.
T. 6 S., R. 15 E.,
sec. 31, lot 4, W½NE¼, E½W½, and SE¼.
Comprising 761.41 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

(Acquired from Dennis M. and Jean S. Baker)

T. 2 N., R. 4 E.,
sec. 8, NE¼NW¼, W½W½, SE¼SW¼, and SW¼SE¼.

(Acquired from Faulkner Land & Livestock Company)

T. 2 S., R. 16 E.,
sec. 10, E½SW¼ and SE¼;
sec. 11, W½NE¼, E½NW¼, SW¼NW¼, N½SW¼, and NW¼SE¼;
sec. 15, N½NE¼ and NE¼NW¼.
Comprising 960.00 acres of private land.

The purpose of the exchanges was to acquire non-Federal lands which have high public values for wildlife, recreation, and riparian habitat. The

public interest was well served through completion of both exchanges. The values of the Federal and private lands involved in the Baker exchange were appraised at $22,000 and $21,000, respectively. The values of the Federal and private lands involved in the Faulkner exchange were appraised at $96,000 and $75,000, respectively. In each exchange, the Bureau of Land Management received an equalization payment to compensate for the difference in land values.

3. At 9 a.m. on February 3, 1992, the reconveyed private lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on February 3, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on February 3, 1992, the reconveyed private land described below will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law:

Boise Meridian

T. 2 N., R. 4 E.,
sec. 8, SE¼SW¼ and SW¼SE¼.
Containing 80.00 acres.

Appropriation of any of the lands described above under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The balance of the private lands reconveyed from the Bakers have been and remain open to the general mining laws and operation of the mineral leasing laws. The mineral estate in the private lands reconveyed from Faulkner Land & Livestock Company is outstanding in third parties, and therefore, remains closed to the mining and mineral leasing laws.

Dated: December 23, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92-14 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-GG-M

[MT-930-4214-11; MTM 80092]

Proposed Withdrawal and Public Meeting; Montana

December 26, 1991

Correction

In notice document 91-25108 appearing on pages 52281-52283 in the issue of Friday, October 18, 1991, make the following correction:

In the third column, under T. 20 N., R. 29 E., sec. 27, E½" should read "N½."

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 92-70 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

Revised Availability of Draft Environmental Impact Report/ Environmental Impact Statement on the Restoration of the Tidal Prism and Enhancement of Wetlands in the Tijuana Estuary

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised notice of availability.

SUMMARY: This notice advises the public that the Fish and Wildlife Service has completed a Draft Environmental Impact Report/Draft Environmental Impact Statement (DEIR/DEIS) for the enhancement of the tidal prism to Tijuana Estuary, San Diego County, California. Notice of this action was originally published in the **Federal Register** November 8, 1991. This revised notice announces a new public meeting and extends the comment period for public review. This is a joint action between the State of California Coastal Conservancy and the Fish and Wildlife Service. A public meeting regarding the DEIR/DEIS will be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain comments and information from other agencies and the public on the issues in the DEIR/DEIS. Comments and participation in this process are solicited.

DATES: Written comments should be received on or before March 4, 1992. A public meeting will be conducted on January 22, 1992 by the U.S. Fish and Wildlife Service and the California Coastal Conservancy. See **ADDRESSES** below for location and time.

ADDRESSES: Comments should be addressed to:

Tom Alexander, Manager, Tijuana Slough National Wildlife Refuge, P.O. Box 355, Imperial Beach, California 92032.

The public meeting on January 22, 1992, will be held from 7 p.m. to 9 p.m. at the Tijuana Estuary Visitor Center, 301 Caspian Way, Imperial Beach, California 91932.

FURTHER INFORMATION CONTACT: Jim King, California Coastal Conservancy, 1330 Broadway, suite 1100, Oakland, California 94612, (510) 464-1015.

Copies of the DEIR/DEIS are available for review at:

Tijuana Estuary Visitor Center, 301 Caspian Way, Imperial Beach, California 91932

and

San Diego County Library, Imperial Beach Branch, 810 Imperial Beach Blvd., Imperial Beach, California 91932

and

Governmental Reference Library, 602 County Administration Center, 1600 Pacific Highway, San Diego, California 92101.

SUPPLEMENTAL INFORMATION: The Tijuana River National Estuarine Research Reserve (Reserve) is located in San Diego County, California. Within the Reserve is the Tijuana Slough National Wildlife Refuge. The Fish and Wildlife Service is a member of the Management Authority for Reserve. A management plan approved by this Management Authority proposes to restore the wetlands of the Tijuana Estuary. The Fish and Wildlife Service, the State of California Department of Parks and Recreation, and the California Coastal Conservancy are to assume the responsibility to provide technical advice and funding assistance as available for restoration activities within the Reserve.

The Fish and Wildlife Service with the other interested Federal, State, and local agencies proposes to restore the tidal prism and circulation for the southern arm of the Tijuana Estuary. Without extensive restoration of the tidal prism and tidal circulation in the near future, the very saline habitats which led to the establishment of the Tijuana Slough National Wildlife Refuge and the Tijuana River National Estuarine Research Reserve could be lost.

The DEIR/DEIS under review now is a programmatic environmental document

and covers the two main phases of the restoration proposal. The Model Project (first phase of restoration) consists of three parts; a 20 acre experimental marsh, widening of a critical portion of Oneonta Slough and a Connector Channel from the upper reach of Oneonta Slough to the northern end of the tidal lagoons.

The later phase of the project includes 495 acres of wetland restoration and construction of a river training structure and will be reviewed in more detail in supplemental environmental documents.

The major short-term impacts associated with this project are the loss of high saltmarsh and transition zone habitats. The major long-term impact will be the permanent loss of uplands in the estuary. The document addresses the impacts to water and wetland dependent species during construction, and during the short-term loss of habitat values. Long-term impacts to terrestrial species are also discussed. Of particular concern is any possible adverse impacts to listed, proposed, or candidate endangered species that may be found in the project area. Therefore, the document contains discussions of these possible impacts as well as means to mitigate the loss of habitat values.

The environmental review of this project is being conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal regulations and Service procedures for compliance with those regulations.

Dated: December 20, 1991.

Don Weathers,

Acting Regional Director.

[FR Doc. 92–1 Filed 1–2–92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

New River Gorge National River Environmental Impact Statement for General Management Plan; Bluestone Scenic River

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the general management plan for the Bluestone Scenic River.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS) is preparing an enviornmental impact statement to assess the impacts of alternative management strategies for the recreation area, which will be described in a general management plan (GMP). A range of alternatives will be formulated for resource protection, visitor use and interpretation, facilities development and operations.

Persons wishing to provide input to the scoping process for the GMP and EIS should address comments to the Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, West Virginia, 25846. Comments should be received no later than 60 days from the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Superintendent, New River Gorge National River, at the above address, telephone 304–465–0508, or Lorraine Mintzmyer 215–597–7013.

Issued on: December 19, 1991.

Charles P. Clapper, Jr.,

Regional Director, Philadelphia, Pennsylvania.

[FR Doc. 92–93 Filed 1–2–92; 8:45 am]

BILLING CODE 4310-70-M

New River Gorge National River Environmental Impact Statement for General Management Plan; Gauley River National Recreation Area

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the general management plan for the Gauley River National Recreation Area.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS) is preparing an environmental impact statement to assess the impacts of alternative management strategies for the recreation area, which will be described in a general management plan (GMP). A range of alternatives will be formulated for resource protection, visitor use and interpretation, facilities development and operations.

Persons wishing to provide input to the scoping process for the GMP and EIS should address comments to the Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, West Virginia, 25846. Comments should be received no later than 60 days from the publication of this notice. The draft GMP and EIS are expected to be completed and available for public review by late 1992. The final GMP, EIS and Record of Decision are expected to be completed in 1993.

FOR FURTHER INFORMATION CONTACT: Superintendent, New River Gorge National River, at the above address, telephone 304–465–0508, or Lorraine Mintzmyer 215–597–7013.

Issued on: December 19, 1991.

Charles P. Clapper, Jr.,

Regional Director, Philadelphia, Pennsylvania.

[FR Doc. 92–94 Filed 1–2–92; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1 sec. 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, January 31, 1992.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet for a regular business meeting which will convene at Park Headquarters, Marconi Station, South Wellfleet, Massachusetts at 1 p.m. for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
   a. Beach Monitoring—Boston Harbor project
   b. Visitor Survey Questionnaire
5. Superintendent's Report
6. 30th Anniversary meeting agenda
7. Update on Advisory Commission legislation
8. Dune cottages
9. New Business
10. Agenda for Next Meeting
11. Date for Next Meeting
12. Communications/public comment
13. Adjournment.

The business meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663.

Dated: December 23, 1991.

Carol F. Aten,

Acting Regional Director.

[FR Doc. 92-95 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-70-M

Hydropower Projects; Meeting

ACTION: Notice.

SUMMARY: Notice is hereby given that the National Park Service (NPS) will hold a workshop to discuss updating NPS technical assistance and consultation policy and guidelines relating to recreation on existing and potential hydropower projects.

DATE AND TIME: January 22 and 23, 1992—9 a.m.

PLACE: Grand Hyatt Hotel, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Haas, National Park Service, Philadelphia, PA, Telephone: (215) 597-1582 or FTS 597-1582.

Dated: December 27, 1991.

Jerry L. Rogers,

Acting Director, National Park Service.

[FR Doc. 92-96 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0035), Washington, DC 20503, telephone 202-395-7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Environmental Resources, 30 CFR Part 779.

OMB approval number: 1029-0035.

Abstract: Applicants for surface coal mining permits are required to provide an adequate description of the environmental resources that may be affected by proposed surface mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Coal Mine Operators.

Annual Responses: 2,108.

Annual Bureau Hours: 171,845.

Estimated Completion Time: 82 hours.

Bureau clearance officer: Andrew F. DeVito, 202-343-5150.

Dated: November 19, 1991.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92-76 Filed 1-2-92; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-321]

Certain Soft Drinks and Their Containers; Decision To Issue a Limited Exclusion Order and a Cease and Desist Order as to Respondent Cobros Food Corp.; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and a cease and desist order and has terminated the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3095.

SUPPLEMENTARY INFORMATION: The authority for the Commission's actions is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended, and in §§ 210.25(c) and 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.25(c) and 210.58.)

On November 23, 1990, Kola Colombiana (Kola) filed a complaint with the Commission alleging violations of section 337 of the Tariff Act of 1930 as amended (19 U.S.C. 1337) in the importation and sale of certain soft drinks and their containers. In its complaint, Kola asserted violations of section 337 based upon false representation or designation of origin, common law trademark infringement, and misappropriation of trade dress.

The Commission instituted an investigation into the allegations of Kola's complaint on December 17, 1990, and published a notice of investigation in the **Federal Register**. 55 FR 53205 (Dec. 27, 1990). The notice named International Grain Trade, Inc. of New York, New York; Universe Trading Corp. of Miami, Florida; Colgran Ltda. of Bogota, Colombia; and Cobros Food Corp. (Cobros) of Corona, New York, as respondents. On May 28, 1991, the presiding administrative law judge (ALJ) issued an initial determination (ID) finding respondent Cobros in default. The Commission determined not to review that ID. Subsequently, complainant Kola and the three remaining respondents jointly moved to terminate the investigation as to those respondents on the basis of a consent order. On September 3, 1991, the ALJ issued an ID granting that motion, after amendment. The Commission determined not to review that ID. 56 FR 50927 (Oct.9, 1991).

Subsequently, on September 23, 1991, complainant filed a declaration stating that it sought a limited exclusion order and cease and desist order against defaulting respondent Cobros, pursuant to section 337(g)(1) and interim rule 210.25(c).

Section 337(g)(1) of the Tariff Act of 1930 as amended, 19 U.S.C. 1337(g)(1), provides that the Commission shall presume the facts alleged in a complaint to be true, and, upon request, issue a limited exclusion order and/or cease and desist order if: (1) A complaint is filed against a person under section 337, (2) the complaint and a notice of investigation are served on the person, (3) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice, (4) the person fails to show good cause why it should not be found in default, and (5) the complainant seeks relief limited solely to that person. Such an order shall be issued unless, after considering the effect of such relief upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion should not be issued.

The Commission determined that each of the statutory requirements for the issuance of a limited relief was satisfied with respect to defaulting respondent Cobros. The Commission also determined that the public interest factors enumerated in section 337(g)(1) do not preclude the issuance of such relief. Finally, the Commission

determined that the bond under the limited exclusion order during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the imported articles.

Copies of the limited exclusion order, the cease and desist order, 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 202-252-1000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: December 27, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-74 Filed 1-2-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31990]

Missouri Pacific Railroad Co.—Trackage Rights Exemption—Southern Pacific Transportation Co.; Exemption

Southern Pacific Transportation Company (SP) has agreed to grant overhead trackage rights to Missouri Pacific Railroad Company (MP) over 6.94 miles of SP trackage, known as the Belt Line Trackage, between mileposts 0.0 and 6.94, in Dallas, TX. The parties' trackage rights agreement modifies and extends various agreements between the parties (or their predecessors) for use of the Belt Line Trackage.[1] The trackage rights were to have become effective on December 20, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer and Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: December 24, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

(SEAL)

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-56 Filed 1-2-92; 8:45 am]

BILLING CODE 7035-01-M

[1] The various agreements were entered into on February 4, 1919, October 20, 1922, September 4, 1990, November 5, 1990, and November 19, 1991.

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers.

Volume I

New York:

NY91-23(Jan. 3, 1992) ..... p. 952s, p. 952t.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage

Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Florida:
FL91-17(Feb. 22, 1991)..... p. 141, p. 142.
Mississippi:
MS91-8(Feb. 22, 1991)..... p. ALL.
MS91-9(Feb. 22, 1991)..... p. ALL.
MS91-10(Feb. 22, 1991)..... p. ALL.
Pennsylvania:
PA91-4(Feb. 22, 1991)..... p. 985, pp. 986-987.

Volume II

Michigan:
MI91-3(Feb. 22, 1991)..... p. 477, pp. 479-481, 487.
MI91-4(Feb. 22, 1991)..... p. 491, pp. 495-498.
MI91-5(Feb. 22, 1991)..... p. 499, pp. 500-512.
MI91-7(Feb. 22, 1991)..... p. 515, pp. 516-534b.
Ohio:
OH91-29(Feb. 22, 1991)..... p. 903, pp. 904-942.
Texas:
TX91-19(Feb. 22, 1991)..... p. ALL.

Volume III

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the State covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 27th day of December 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-16 Filed 1-2-92; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8964]

Rio Algom Mining Corp.; Final Finding of No Significant Impact Regarding the Issuance of a Source Material License to Rio Algom Mining Corp., Smith Ranch Commercial Mine Project, Converse County, Wyoming

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of final finding of no significant impact.

1. Proposed Action

The administrative action is issuance of a commercial source and byproduct material license. This license will authorize in situ leach uranium recovery of the Smith Ranch Project in Converse County, Wyoming.

2. Reasons for Finding of No Significant Impact

An environmental assessment was prepared by the staff at the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV. The environmental assessment performed by the Commission's staff evaluated potential impacts onsite and offsite due to radiological releases that may occur during the course of the operation. Documents used in preparing the assessment included operational data from the O-Sand and Q-Sand Research and Development in situ leach operation and the licensee's application dated March 31, 1988, as amended. Based on the review of operational data and the application materials, the Commission has determined that no significant impact will result from the proposed action, and therefore, an Environmental Impact Statement is not warranted.

The following statements support the final finding of no significant impact and summarize the conclusions resulting from the environmental assessment.

A. The ground-water monitoring program proposed by Rio Algom Mining Corp. is sufficient to monitor the operations and will provide a warning system that will minimize any impact on ground water. Furthermore, aquifer testing indicates that the production zone is adequately confined, thereby assuring hydrologic control of mining solutions.

B. Radiological effluents from the proposed operation of the well field and processing plant will be within regulatory limits and will be continuously monitored.

C. The environmental monitoring program is comprehensive and will detect any radiological releases resulting from the operation.

D. Radioactive wastes will be minimal and will be disposed of at an approved site in accordance with applicable Federal and State regulations.

E. Ground water, based on previous applicant demonstration projects, can be restored to baseline conditions or applicable class of use standards.

F. Cultural resources eligible for and listed on the National Register of Historic Places will not be adversely affected by the mining project.

In accordance with 10 CFR 51.33(a), the Director of the Uranium Recovery Field Office made the determination to issue a draft finding of no significant impact and to accept comments on the draft finding for a period of 30 days after issuance in the **Federal Register**. The draft finding was published in the **Federal Register** on October 28, 1991. No public comments were received.

This finding, together with the Environmental Assessment setting forth the basis for the findings, is available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Denver, Colorado this 23rd day of December 1991.

Ramon E. Hall,

Director.

[FR Doc. 92-65 Filed 1-2-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-277, 50-278, 50-352, 50-353]

Philadelphia Electric Co., Public Service Electric and Gas Co., Delmarva Power and Light Co., Atlantic City Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3) (Limerick Generating Station, Units 1 and 2); Exemption

I

The Philadelphia Electric Company, et. al. (PECo, the licensee), is the holder of Operating License Nos. DPR-44, DPR-56, NPF-39 and NPF-85 which authorizes operation of the Peach Bottom Atomic Power Station, Units 2

and 3 (PBAPS), and the Limerick Generating Station, Units 1 and 2 (LGS), at steady state reactor core power levels not in excess of 3293 megawatts thermal. These licenses provide, among other things, that the licensee is subject to the rules, regulations, and orders of the Commission now or hereafter in effect.

The Limerick facility consists of two boiling water reactors located at the licensee's site in Montgomery and Chester Counties, Pennsylvania. The Peach Bottom facility also consists of two boiling water reactors located at the licensee's site in York County, Pennsylvania.

II

This exemption grants a one-time schedular exemption to eight (8) Senior Reactor Operators limited to fuel handling (LSROs) to permit them to take their first annual requalification operating test during January 1992 instead of the end of 1991. The docket numbers for the eight LSROs are: 55-61452, 55-61453, 55-61454, 55-61455, 55-61456, 55-61457, 55-61459 and 55-61461.

III

By letter dated October 18, 1991, the licensee requested an exemption, in accordance with 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(2) and 10 CFR 55.59(c)(4)(i) related to annual requalification operating tests for LSROs. Pursuant to 10 CFR 55.53(h) a licensee, as a condition of the license, shall complete a requalification program as described by 10 CFR 55.59. In 10 CFR 55.59(c)(4)(i), the requalification program must include annual operating tests, and 10 CFR 55.59(a)(2) stipulates that each licensee shall pass an annual operating test.

NRC Generic Letter (GL) No. 89-03, "Operating Licensing National Examination Schedule," issued March 24, 1989, specified two examination months for each facility during which operator licensing examinations would be conducted each year. The purpose of the national examination schedule is to provide a consistent time period for conducting the examinations at each facility so that the facility can establish a standard schedule for conducting the required licensed operator training, and so that the NRC can schedule the resources required for conducting the examinations. The national examination schedule months for LGS, Units 1 and 2, are January and July. The scheduled months for PBAPS are February and August. PECo is requesting, on behalf of the licensed LSROs, a one-time schedular exemption from the requirements of 10 CFR 55.59(a)(2) with regard to each individual licensed LSRO to conduct the first annual requalification operating test for the multi-site licensed LSROs in January 1992 in conformance with the national examination schedule for LGS instead of the end of 1991. By letter dated October 18, 1991, from R. J. Conte, Region I, to D. M. Smith, PECo, the NRC confirmed that arrangements have been made for administration of fuel handling licensing examinations at LGS, for both Limerick and Peach Bottom, during the week of January 13, 1992.

The two units at PBAPS and the two units at LGS are all BWR-4 reactors. PECo has a nuclear maintenance group responsible for core alterations, reactor refueling and in-vessel maintenance activities (e.g., control rod drive replacement) during refueling outages at both LGS and PBAPS. The Technical Specifications (TS) require that all core alterations shall be observed and directly supervised by either a licensed Senior Operator (SRO) or licensed LSRO. To meet this requirement, PECo has implemented a new LSRO program that established LSROs with a dual license applicable at both PBAPS, Units 2 and 3 and LGS, Units 1 and 2. The objective of the LSRO program is to maintain a small group of licensed personnel to supervise core alterations (reactor refueling and in-vessel maintenance activities) during refueling outages at each of the four nuclear units, LGS and PBAPS. There are currently eight (8) LSROs who hold a dual SRO license limited to fuel handling involved in the current Peach Bottom Unit 3 refueling outage.

The LSROs were initially licensed at LGS, Units 1 and 2, on September 10, 1990. The licenses were amended on January 9, 1991, to include PBAPS, Units 2 and 3, based on successful completion of training on the differences between LGS and PBAPS, and written and operating examinations on these differences. According to 10 CFR 55.59(a)(2) and 10 CFR 55.59(c)(4)(i), the LSROs licensed in September 1990 have to pass an annual operating test (i.e., by the end of 1991) to maintain their licenses. The licensees are requesting a one-time schedular exemption in order to bring the requalification exams in accordance with the NRC's National Examination Schedule.

Prior to shutdown of Peach Bottom Unit 3 on September 14, 1991, for the current refueling outage, there was an indication of several fuel pin failures as evidenced by slightly elevated offgas activity. A sample inspection of some fuel bundles revealed the possibility of widespread debris (metal shavings, etc) in the core. PECo decided to remove, inspect, clean, as necessary and reinsert the 508 fuel assemblies that would otherwise have remained in the reactor. The additional, unanticipated fuel handling and other core alterations are going to tie-up the LSROs until the end of December 1991.

IV

The Commission has determined that pursuant to 10 CFR 55.11, the exemption requested by PECo's letter of October 18, 1991, is authorized by law and will not endanger life or property, and is otherwise in the public interest. Accordingly, the Commission hereby grants the following exemption:

Philadelphia Electric Company and the eight Senior Reactor Operators limited to fuel handling (LSROs) identified in the letter of October 18, 1991, are granted a one-time schedular exemption from the requirements of 10 CFR 55.59(a)(2) and 10 CFR 55.59(c)(4)(i) to permit the LSROs to take the annual requalification operating test in January 1992 instead of in 1991.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant effect on the quality of the human environment (56 FR 65514).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of December 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-66 Filed 1-2-92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION
Coast Guard

[CGD-91-067]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Request for members to fill vacancies.

SUMMARY: The U.S. Coast Guard is seeking members for three year terms on the Navigation Safety Advisory Council (NAVSAC). On June 30, 1992, there will be seven vacancies on the 21-member Council. The Coast Guard will review all applications and make recommendations to the Secretary. The appointments will be made by the Secretary of Transportation.

DATES: Completed applications must be received by February 28, 1992.

ADDRESSES: To request an application, either call (202) 267-0415 and give your

name and mailing address or write to Commandant (G-NSR-3), U.S. Coast Guard, 2100 Second St., SW., room 1420, Washington, DC 20593-0001. Completed applications and resumes should be mailed or delivered to the above address.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director, Navigation Safety Advisory Council at (202) 267-0415.

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council was originally established as the Rules of the Road Advisory Council (RORAC) under the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073). The RORAC provided advice to the Secretary of Transportation on matters relating to the International and Inland Navigation Rules.

Section 105 of the Coast Guard Authorization Act of 1989 (Pub. L. 101-225; 33 U.S.C. 1231a(e)), enacted December 12, 1989, changed the name of the RORAC to the Navigation Safety Advisory Council (NAVSAC), broadened the scope of the Council, and extended the life of the Council to September 30, 1995.

NAVSAC is a deliberative body which advises the Secretary of Transportation, via the Commandant, U.S. Coast Guard, on matters relating to the prevention of vessel collisions, rammings, and groundings, including, but not limited to: Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.

The Council consists of 21 members who have expertise, knowledge and experience in the Navigational Rules of the Road (International and Inland), aids to navigation, navigational safety equipment, vessel traffic service, and traffic separation schemes and vessel routing. To assure balanced representation, members are chosen, insofar as practical, from the following groups: (1) Recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety; (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry; (3) individuals with an interest in maritime law; and (4) Federal and state officials with responsibility for vessel and port safety.

The Council meets twice a year at various sites in the continental United States. Members are entitled to per diem in lieu of subsistence, as well as reimbursement for travel expenses to attend the meetings. The three year membership term will begin July 1, 1992, and expire June 30, 1995.

Dated: December 24, 1991.

W.J. Ecker,

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

[FR Doc. 92-77 Filed 1-2-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 39-91]

Treasury Notes, Series AJ-1993; Interest Rate

Washington, December 19, 1991.

The Secretary announced on December 18, 1991, that the interest rate on the notes designated Series AJ-1993, described in Department Circular—Public Debt Series—No. 39-91 dated December 16, 1991, will be 5 percent. Interest on the notes will be payable at the rate of 5 percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-17 Filed 1-2-92; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 40-91]

Treasury Notes, Series W-1996

Washington, December 20, 1991.

The Secretary announced on December 19, 1991, that the interest rate on the notes designated Series W-1996, described in Department Circular—Public Debt Series—No. 40-91 dated December 16, 1991, will be 6⅛ percent. Interest on the notes will be payable at the rate of 6⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-18 Filed 1-2-92; 8:45 am]

BILLING CODE 4810-40-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-80]

Canadian Provincial Practices Affecting Canadian Imports of Beer

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determinations under section 304 of the Trade Act of 1974, as amended ("Trade Act").

SUMMARY: The USTR determines, consistent with a report of a dispute settlement panel established under the General Agreement on Tariffs and Trade ("GATT"), that acts, policies or practices of Canada violate the provisions of a trade agreement (specifically, the GATT), and that action shall be taken in the form of substantially increased duties on beer and malt beverages from Canada sufficient to offset fully the nullification or impairment of GATT rights resulting from these Canadian acts, policies or practices. The USTR further determines that, pursuant to section 305(a)(2) of the Trade Act, it is desirable to implement such action no later than April 10, 1992.

DATES: Action shall be implemented no later than April 10, 1992.

ADDRESSES: Section 301 Committee, Office of the United States Trade Representative, room 223, 600 17th Street, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Rick Ruzicka, Director, Canadian Affairs, (202) 395-3412, or Andrew Shoyer, Assistant General Counsel, (202) 395-7203.

SUPPLEMENTARY INFORMATION: On June 29, 1990, an investigation was initiated pursuant to section 302 of the Trade Act upon the petition of G. Heileman Brewing Company with respect to Canadian provincial liquor board practices concerning imported beer. On the same day, the United States requested consultations with Canada under Article XXIII:1 of the GATT, as required under section 303 of the Trade Act. Consultations were held with Canada in July 1990, but no mutually satisfactory resolution was reached at that time. On September 14, 1990, the Stroh Brewery Company submitted a section 301 petition concerning pricing and distribution practices in the province of Ontario. On October 19, 1990, the USTR determined to address these allegations in the existing investigation rather than to initiate a separate investigation.

A dispute settlement panel was established under GATT Article XXIII:2 on February 6, 1991, at the request of the United States, and issued its report to the Contracting Parties on October 16, 1991. The Panel concluded, *inter alia*, that Canada had failed to make "serious, persistent and convincing efforts" to ensure observance by the provincial liquor boards of the provisions of the GATT as they relate to the restrictions on points of sale and discriminatory markups that had been found in 1988 to be inconsistent with the GATT, and that this failure constituted

prima facie nullification or impairment of U.S. rights under the GATT. Moreover, the Panel found that the restrictions on the private delivery of imported beer maintained by 8 of the 10 Canadian provinces were inconsistent with Canada's national treatment obligation under the GATT, and that minimum price requirements set in relation to domestic prices were also inconsistent with the GATT. The Panel recommended that the Contracting Parties request Canada to take reasonable steps to ensure observance of the provisions of the GATT by the provincial liquor boards, and to report to the Contracting Parties on the measures taken with regard to access to points of sale and differential markups before the end of March 1992 and with regard to private delivery and other matters before the end of July 1992. A copy of the panel report has been placed in the public file in this matter (Docket No. 301-80).

Consultations were commenced with the Government of Canada following receipt of the panel report, but no mutually satisfactory resolution has been reached.

On the basis of the investigation initiated under section 302 of the Trade Act, the consultations conducted pursuant to section 303 of the Trade Act, and the final report of the GATT dispute settlement panel, the USTR proposed on November 22, 1991 (published on November 27, 1991, at 56 FR 60,128) to determine that the rights to which the United States is entitled under a trade agreement are being denied. The USTR further proposed to continue consultations with the Government of Canada to reach a mutually satisfactory resolution in this matter. If such a resolution was not reached by December 29, 1991, or if one of the other conditions stated in section 301(a)(2) of the Trade Act had not been satisfied, then the USTR proposed to take action within the scope of section 301(c) of the Trade Act. As stated in the notice of proposed determinations, among the actions that the USTR has considered taking is the suspension of duty bindings and increase in duties on Canadian beer and other alcoholic beverages. The USTR requested that public comments be submitted no later than December 23, 1991.

Determinations

No mutually satisfactory resolution has been reached with the Government of Canada, nor has any other provision of section 301(a)(2) of the Trade Act been satisfied. Accordingly, the USTR determines, consistent with the report of the GATT dispute settlement panel, that acts, policies or practices of Canada violate the provisions of a trade agreement (specifically, the GATT), and that action shall be taken in the form of substantially increased duties on beer and malt beverages from Canada (entered under Harmonized Tariff Schedule of the United States subheading 2203.00.00) sufficient to offset fully the nullification or impairment of GATT rights resulting from these Canadian practices. The USTR further determines that, pursuant to section 305(a)(2) of the Trade Act, it is desirable to implement such action no later than April 10, 1992. The USTR will continue to consult with the Government of Canada in an effort to obtain an agreement from the Government of Canada to eliminate these practices, consistent with the report of the Panel, in an expeditious manner, such that the implementation of action under section 301 of the Trade Act will no longer be necessary. Until that time, the U.S. Customs Service has been requested to monitor the volume of entries, and withdrawals from warehouse for consumption, of Canadian beer and malt beverages, effective immediately, to ensure the effective implementation of action under section 301 of the Trade Act.

Joshua B. Bolten,

General Counsel.

[FR Doc. 92-71 Filed 1-2-92; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 2
Friday, January 3, 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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration; Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on December 10, 1991 (56 FR 64543) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for December 12, 1991. This notice is to amend the agenda for that meeting to add an item to the open session.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for December 12, 1991, is amended to add the following item to the open session:

Open Session

- System Banks' Requests Concerning Preferred Stock and Capital Preservation Agreement Debt.

Date: December 30, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-31337 Filed 12-31-91; 2:27 p.m.]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:30 a.m., Wednesday, January 8, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Issues concerning the treatment of intangible assets for purposes of calculating regulatory capital.
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-31335 Filed 12-31-91; 1:08 pm]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Wednesday, January 8, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding acquisition of computers within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

December 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-31336 Filed 12-31-91; 1:08 pm]

BILLING CODE 6201-01-M

Federal Register

Friday
January 3, 1992

Part II

Department of Housing and Urban Development

Grants and Cooperative Agreements; Availability, etc.: Family Self-Sufficiency Program; Public and Indian Housing; Section 8 Incentive Award Rental Vouchers and Certificates

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-91-3353; FR 3166-N-01]

NOFA—Notice of Total Funding (FY 1991 and 1992 Funding) for Section 8 Incentive Award Rental Vouchers and Rental Certificates in Connection With the Family Self-Sufficiency Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA); notice of total available funding for Fiscal Years 1991 and 1992 for Section 8 incentive award rental certificates and rental vouchers under the family self-sufficiency (FSS) program.

DATE: Applications must be received in the HUD Field Office/Indian Programs Office by close of business on February 10, 1992.

SUMMARY: On September 30, 1991 (56 FR 49612), HUD published a notice of funding availability that (1) identified the amount of budget authority available for FY 1991 for competitive FSS Incentive Awards of Rental Voucher and Rental Certificate funding for public housing agencies (PHAs) and Indian housing authorities (IHAs) (Section 8—FSS Incentive Awards); and (2) invited PHAs and IHAs to apply for these awards.

HUD has determined to make available up to $934 million of budget authority for Section 8—FSS Incentive Awards. The $934 million represents the combined amount of budget authority available for Section 8—FSS Incentive Awards for FY 1991 and FY 1992. This combined amount is being made available under the application process described in the September 30, 1991 NOFA.

HUD has decided to combine the FY 1991 and FY 1992 Section 8—FSS Incentive Award funding, and make the total amount available under a single application and funding round to minimize the administrative burdens involved in having two Section 8—FSS Incentive funding rounds in FY 1992.

The NOFA published on September 30, 1991:

(1) Provides the instructions to PHAs and IHAs governing the submission of applications for Section 8—FSS Incentive Awards; and

(2) Describes the procedures for rating, ranking and approving PHA/IHA applications for these awards.

PHAs and IHAs applying for Section 8—FSS Awards are requested to refer to the September 30, 1991 NOFA for the above information.

PHAs that have already submitted applications in response to the September 30, 1991 NOFA may supplement their applications.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Rental Assistance Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone number (202) 708-0477, or (202) 708-4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) for under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2502-0466.

II. Purpose and Substantive Description

A. Authority

Sec. 23, United States Housing Act of 1937, as added by sec. 554, Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

B. Background

The purpose of the Rental Voucher and the Rental Certificate Programs is to assist eligible families to pay rent for decent, safe, and sanitary housing. The purpose of the FSS Program is to promote the development of local strategies to coordinate the use of public housing and rental assistance under the Section 8 Rental Certificate and Rental Voucher Programs with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency. The Notice of Program Guidelines governing the FSS Program was published on September 30, 1991 (56 FR 49592). The regulations for allocating housing assistance budget authority are codified at 24 CFR part 791.

C. Allocation Amounts

1. Housing Needs Formula. Approximately $934 million of budget authority is available for Section 8—FSS Incentive Awards for FY 1991 and FY 1992, and is being allocated to HUD Field Offices using the housing needs factors established in accordance with 24 CFR 791.402.

2. Program Type. Attachment 1 to this NOFA revises and supersedes Attachment 5 to the September 30, 1991 NOFA. Attachment 1 announces the allocation of the total number of units and the allocation of combined budget authority for FY 1991 and FY 1992 for the Rental Voucher Program and for the Rental Certificate Program to each Field Office, based on the housing needs factors.

The allocation of budget authority to each Field Office is the total amount for both rental certificates and rental vouchers. The allocations have been structured to give Field Offices flexibility in approving PHA applications for a specific program type (Rental Voucher or Rental Certificate) by allocation of available rental certificate or rental voucher budget authority among allocation areas in the Field Office jurisdiction.

The number of units for each Field Office as set forth in Attachment 1 is an estimate. These estimates are based on the average fair market rents for two-bedroom units in the Field Office's jurisdiction and on a 50 percent Rental Certificate Program and a 50 percent Rental Voucher Program mix. The actual number of units assisted will vary from these estimates because of differences in actual bedroom-size mix and the actual mix of Rental Vouchers and Rental Certificates that are funded in each Field Office.

D. Eligibility

All PHAs/IHAs are invited by this NOFA to submit applications for an incentive award of Rental Vouchers (24 CFR part 887) and Rental Certificates (24 CFR part 882) for use in connection with the FSS Program.

III. Selection Criteria, Application Requirements and Application Process

Information regarding the selection criteria, ranking factors, application requirements and the application process for Section 8—FSS Incentive Awards is set forth in the NOFA published in the **Federal Register** on September 30, 1991 (56 FR 49614). The application due date is extended one month to close of business on February 10, 1992. Also, with respect to the discussion in the September 30, 1991 NOFA of the rating points for "Selection Criterion 1: PHA/IHA Administrative Capability" as set forth in the section I(E)(1)(a)(ii) of the September 30, 1991 NOFA (56 FR 49613), the applicable date for determining the leasing rate for one

year for rental vouchers and rental certificates (or occupancy rate for public/Indian housing units) under the Annual Contributions Contract (ACC) is one year as of September 30, 1991 (not "September 30, 1990," as set forth in the September 30, 1991 NOFA at 56 FR 49613).

Dated: December 19, 1991.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

TABLE 1 —FY 92 FAMILY SELF-SUFFICIENCY ALLOCATION FACTORS BY HUD OFFICE

HUD office	Metro		Non-Metro		Composite	
	Units	Dollars	Units	Dollars	Units	Dollars
Boston, MA Office	750	34,634,135	94	3,595,135	844	38,229,270
Hartford, CT Office	329	13,566,890	46	1,692,225	375	15,259,115
Manchester, NH Office	126	4,826,340	234	7,517,900	360	12,344,240
Providence, RI Office	119	4,265,555	25	1,033,950	144	5,299,505
Buffalo, NY Office	519	15,035,215	223	6,123,040	742	21,158,255
New York, NY Office	2,980	116,667,645	35	1,160,660	3,015	117,828,305
Newark, NJ Office	928	39,385,075	0	0	928	39,385,075
Baltimore, MD Office	327	10,800,630	47	1,341,665	374	12,142,295
Charleston, WV Office	63	1,702,815	175	3,954,655	238	5,657,470
Philadelphia, PA Office	735	24,009,755	121	3,333,160	856	27,342,915
Pittsburgh, PA Office	310	7,980,495	122	3,242,000	432	11,222,495
Richmond, VA Office	273	7,705,075	227	5,323,980	500	13,029,055
Washington, DC Office	360	17,158,445	0	0	360	17,158,445
Atlanta, GA Office	372	11,019,270	371	7,425,550	743	18,444,820
Birmingham, AL Office	247	5,769,460	199	3,709,370	446	9,478,830
Columbia, SC Office	163	3,958,760	184	3,692,150	347	7,650,910
Greensboro, NC Office	297	7,403,850	399	8,702,760	696	16,106,610
Jackson, MS Office	61	1,576,530	325	6,412,485	386	7,989,015
Jacksonville, FL Office	905	28,027,005	107	2,726,230	1,012	30,753,235
Louisville, KY Office	169	4,151,530	293	6,060,120	462	10,211,650
Knoxville, TN Office	112	2,660,225	71	1,400,600	183	4,060,825
Nashville, TN Office	201	5,330,205	133	2,639,085	334	7,969,290
Caribbean Office	239	5,970,385	103	2,044,165	342	8,014,550
Chicago, IL Office	1,143	41,604,810	283	6,828,485	1,426	48,433,295
Cincinnati, OH Office	230	5,999,965	35	779,060	265	6,779,025
Cleveland, OH Office	427	11,327,760	110	2,626,465	537	13,954,225
Columbus, OH Office	178	4,586,480	134	2,995,700	312	7,582,180
Detroit, MI Office	494	14,583,565	41	978,515	535	15,562,080
Grand Rapids, MI Office	160	4,323,705	148	3,577,185	308	7,900,890
Indianapolis, IN Office	307	8,228,475	171	3,793,900	478	12,022,375
Milwaukee, WI Office	343	9,466,080	204	4,708,400	547	14,174,480
Minneapolis-St. Paul MN Office	256	8,733,650	164	3,882,695	420	12,616,345
Fort Worth, TX Office	553	15,782,805	316	6,891,510	869	22,674,315
Houston, TX Office	337	8,909,965	75	1,738,585	412	10,648,550
Little Rock, AR Office	87	2,126,910	218	4,212,840	305	6,339,750
New Orleans, LA Office	339	9,563,135	191	3,556,720	530	13,119,855
Oklahoma City, OK Office	146	3,804,125	179	3,485,455	325	7,289,580
San Antonio, TX Office	295	8,401,055	108	2,281,255	403	10,682,310
Des Moines, IA Office	108	3,033,825	222	5,181,165	330	8,214,990
Kansas City, MO Office	232	5,958,605	222	4,581,420	454	10,540,025
Omaha, NE Office	68	1,763,475	112	2,412,320	180	4,175,795
St. Louis, MO Office	184	5,192,330	132	2,633,355	316	7,825,685
Denver CO Regional Office	387	10,868,030	393	10,234,610	780	21,102,640
Honolulu, HI Office	99	4,837,960	71	3,120,805	170	7,958,765
Los Angeles, CA Office	2,271	102,105,490	71	2,609,905	2,342	104,715,395
Phoenix, AZ Office	181	5,781,555	79	2,159,010	260	7,940,565
Sacramento, CA Office	197	6,237,575	47	1,484,180	244	7,721,755
San Francisco, CA Office	1,080	49,887,135	128	4,089,350	1,208	53,976,485
Anchorage, AK Office	25	976,215	39	1,584,570	64	2,560,785
Portland, OR Office	234	7,131,810	257	7,428,090	491	14,559,900
Seattle, WA Office	338	11,168,060	142	4,029,270	480	15,197,330

[FR Doc. 92-40 Filed 1-2-92; 8:45 am]

BILLING CODE 4210-33-M

federal register

Friday
January 3, 1992

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA: Notice of Meeting and Proposed Actions; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on February 10-11, 1992. The meeting will be held at the National Institutes of Health (NIH), Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. on February 10, 1992, to adjournment at approximately 5 p.m. on February 11, 1992. The meeting will be open to the public to discuss the following proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958):

Proposed Major Actions to the NIH Guidelines;

Five additions to appendix D of the NIH Guidelines Regarding Human Gene Therapy/Gene Transfer Protocols;

An amendment to appendix D-XV of the NIH Guidelines Regarding a Human Gene Therapy Protocol;

Amend section IV-B and add sections IV-C and IV-D to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols;

Amend sections III-A and IV-C of the NIH Guidelines regarding publishing notice of meetings and proposed actions in the **Federal Register**;

Amend introduction, section IV-B and V of the Points to Consider regarding review by the Human Gene Therapy Subcommittee;

Amend appendices B-I-B-1 and B-I-B-2 of the NIH Guidelines to include only pathogenic genera and species of the bacterial order, *Actinomycetales*, in the current list of microorganisms;

Amend Appendices B-I-C-1 and B-I-B-1 in the NIH Guidelines regarding *Mycobacterium* avium;

Other Matters To Be Considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair. Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, Phone (301) 496-9838, FAX (301) 496-9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: December 24, 1991.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-107 Filed 1-2-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on February 10-11, 1992. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the NIH Guidelines.

DATES: Comments received by January 28, 1992, will be reproduced and distributed to the RAC for consideration at its February 10-11, 1992, meeting.

ADDRESSES: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Building 231, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by FAX to 301-496-9839.

All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Nabel

In a letter dated October 18, 1991, Dr. Gary J. Nabel of the University of Michigan Medical School, Ann Arbor, Michigan, indicated his intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"Immunotherapy of Malignancy by In Vivo Gene Transfer into Tumors."

This request was published for comment in the **Federal Register** on November 4, 1991 (56 FR 56415).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on November 21-22, 1991. Provisional approval was given with the following conditions: (i) Amend consent form regarding possibility of sensitization to the human antigen; (ii) expand the clinical protocol regarding the number of biopsies; (iii) make available the nucleotide sequence analysis of the total construct of the vector; and (iv) provide clarification concerning the status of DNA integration in tumor cells.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory

Committee for consideration during the February 10–11, 1992, meeting.

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Cornetta

In a letter dated October 10, 1991, Dr. Kenneth Cornetta of Indiana University, Indianapolis, Indiana, indicated his intention to submit a human gene transfer protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"Retroviral-Mediated Gene Transfer of Bone Marrow Cells During Autologous Bone Marrow Transplantation for Acute Leukemia."

This request was published for comment in the **Federal Register** on November 4, 1991 (56 FR 56415).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on November 21–22, 1991. Provisional approval was given with the following conditions: (i) Amend the consent form regarding the possible benefit of the introduction of gene; (ii) amend the consent form regarding compensation to the patient related to the research aspects of the protocol; (iii) demonstrate that the transduced leukemic cells will survive the freezing process; and (iv) add a statistical section that addresses the interpretation of recurrent labeled bone marrow specimens.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during the February 10–11, 1992, meeting.

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Economou

In a letter dated October 15, 1991, Dr. James S. Economou of the University of California, Los Angeles, indicated his intention to submit a human gene transfer protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"The Treatment of Patients with Metastatic Melanoma and Renal Cell Cancer Using In Vitro Expanded and Genetically-Engineered (Neomycin Phosphotransferase) Bulk, CD8(+) and/or CD4(+) Tumor Infiltrating Lymphocytes and Bulk, CD8(+) and/or CD4(+) Peripheral Blood Leukocytes in Combination with Recombinant Interleukin-2 Alone, or with Recombinant Interleukin-2 and Recombinant Alpha Interferon."

This request was published for comment in the **Federal Register** on November 4, 1991 (56 FR 56415).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on November 21–22, 1991. Provisional approval was given with the following conditions: (i) All data concerning vector safety and testing must be submitted; (ii) patient eligibility will be limited to those with at least one lesion that can be biopsied post therapy; (iii) add the schedule for the post therapy assessment of cell trafficking; (iv) develop a statistical section for analysis of cell trafficking; (v) submit proportionality experiments demonstrating the limits of the ability to quantitate differences in ratio of the two vectors; (vi) submit data showing stable integration of the genetic markers in chronic cell cultures; (vii) modify the consent form so that the language concerning biopsies is moved from the biomodulator section to the viral marker section; and (viii) include a stopping rule in the protocol if the in vivo trafficking data is uninterpretable.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during the February 10–11, 1992, meeting.

IV. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Greenberg

In a letter dated October 8, 1991, Dr. Philip D. Greenberg of the University of Washington, Seattle, Washington, indicated his intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"A Phase I/II Study of Cellular Adoptive Immunotherapy Using Genetically Modified CD8+ HIV-Specific T Cells for HIV-Seropositive Patients Undergoing Allogeneic Bone Marrow Transplant."

This request was published for comment in the **Federal Register** on November 4, 1991 (56 FR 56415).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on November 21–22, 1991. Approval was given with the following requested changes in the patient consent form: (i) Reword language regarding unforeseen problems; (ii) reword the language concerning the costs associated with the research aspects of the protocol and billing to the patients; (iii) clearly distinguish between the therapy and the gene modification portions of the protocol; (iv) use less technical terminology throughout the document; and (v) provide hard copies of the helper-virus assay and vector testing slides presented during the subcommittee meeting.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during the February 10–11, 1992, meeting.

V. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Freeman

In a letter dated May 10, 1990, Dr. Scott M. Freeman of the University of Rochester School of Medicine, Rochester, New York, indicated his intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"Gene Transfer for the Treatment of Cancer."

This request was published for comment in the **Federal Register** on July 2, 1991 (56 FR 30398).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on July 29–30, 1991. Provisional approval was given with the stipulation that the PA-1 ovarian cancer cell line be tested for potential pathogens as per FDA guidelines. Further, it was requested that there should be more preclinical studies on the MFG vector to assure that it does not contain replication competent retroviruses.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during the October 7–8, 1991, meeting.

This request was published for comment in the **Federal Register** on September 3, 1991 (56 FR 43686).

The protocol was reviewed during the Recombinant DNA Advisory Committee meeting on October 7–8, 1991. The Recombinant DNA Advisory Committee passed a motion to defer approval of the protocol by a vote of 19 in favor, 0 opposed, and no abstentions. The protocol can be considered again when the following requests have been met: (i) Improvement of the animal model so that it has some relevance to the malignancy seen in patients; (ii) examination of the animal model for the tumor specificity of cytotoxic T lymphocytes; (iii) demonstration of the efficacy of this proposed treatment by measuring the tumor burden in patients and state whether this will be done by laparoscopy or imaging techniques or both; (iv) refinement of safety tests; and (v) elimination of every reference to

cancer vaccine in the patient consent form.

VI. Amendment to Appendix D-XV of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Drs. Blaese and Anderson

In a letter dated December 20, 1991, Drs. R. Michael Blaese and W. French Anderson of the National Institutes of Health, Bethesda, Maryland, requested an action item concerning a major amendment to the protocol entitled, "Treatment of Severe Combined Immunodeficiency Disease (SCID) due to Adenosine Deaminase (ADA) Deficiency with Autologous Lymphocytes Transduced with a Human ADA Gene."

This protocol was originally approved by the Recombinant DNA Advisory Committee at its meeting on July 31, 1990, and approved by the Director, NIH (September 12, 1990, 55 FR 37565).

The requested amendment would use as a supplemental therapy CD-34+ cells (the peripheral blood stem cell fraction) transduced with the gene coding for adenosine deaminase.

VII. Amending Section IV-B and Adding Sections IV-C and IV-D to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects Regarding Reporting Requirements for Human Gene Transfer/Gene Therapy Protocols

At the Human Gene Therapy Subcommittee meeting on July 30-31, 1991, the subcommittee formed a Working Group on Data Management. The working group was charged with developing a system for analyzing approved protocol results for the purpose of ensuring quality control in the approval process and to devise a follow-up procedure for analyzing already approved protocols. During the Human Gene Therapy Subcommittee meeting on November 21-22, 1991, a proposed reporting document was developed by the working group and submitted for review that would become Sections IV-C and IV-D of the Points to Consider.

Sections IV-C and IV-D of the *Points to Consider* will be an expansion of the *Reporting Requirement* section. It includes the requirements for the investigators to provide a detailed follow-up of approved human gene therapy/gene transfer protocols.

The Human Gene Therapy Subcommittee suggested minor changes to this section. The Recombinant DNA Advisory Committee will receive the following modified version of this proposed section from the Human Gene Therapy Subcommittee at the meeting of February 10-11, 1992. Section IV, Reporting Requirements, of the *Points to Consider* will be amended in Section IV-B, and two new sections, IV-C and IV-D, will be added.

Section IV-B of the *Points to Consider* currently reads:

"Section IV-B. Reports regarding the general progress of patients should be filed with both your local IRB and ORDA within 6 months of the commencement of the experiment and at six-month intervals thereafter. These twice yearly reports should continue for a sufficient period of time to allow observation of all major effects. In the event of a patient's death, a summary of the special post mortem studies and statement of the cause of death should be submitted to the IRB and ORDA, if available."

Reporting requirements will be more clearly defined in the new Sections IV-C and IV-D of the *Points to Consider* below. Therefore, Section IV-B will now read:

"Section IV-B. Reports regarding the general progress of patients should be filed with both your local IRB and ORDA. ORDA requests the first report after one year of the commencement of the experiment (See Section IV-C), and at yearly intervals thereafter (See Sections IV-D). These reports should continue for a sufficient period of time to allow observation of all major effects. In the event of a patient's death, a summary of the special post mortem studies and statement of the cause of death should be submitted to the IRB and ORDA, if available."

Two new sections, IV-C and IV-D will be added to the *Points to Consider*. The proposed sections read as follows:

"Section IV-C. Reporting Form "A". This information is being collected from each gene transfer protocol approved by the RAC that involves human subjects. The information on this form will be requested only with the first report.

"Section IV-C-1. General Information.

"Section IV-C-1-a. Indicate the: (1) Name of principal investigator, (ii) name of study, and (iii) date of report.

'Section IV-C-1-b. What is the current status of the study (i.e., is it open or closed)? If closed, include: (i) Date protocol closed; (ii) describe reason for closure; and (iii) submit summary.

"Section IV-C-2. Approval Process of Protocol.

"Section IV-C-2-a. Supply a copy of the latest version of the protocol including copies of sample case report forms or any other data collection forms that are being employed as part of this study.

"Section IV-C-2-b. Indicate the dates of the following approvals: Institutional Review Board, Institutional Biosafety Committee, Human Gene Therapy Subcommittee, Recombinant DNA Advisory Committee, and Food and Drug Administration.

"Section IV-C-2-b-(1). Note major changes suggested by each committee and the responses to those suggestions.

"Section IV-C-2-c. Have there been any amendments to the protocol?

"Section IV-C-2-d. Describe your proposed standard quality control measures.

"Section IV-D. Reporting Form "B". An annual update of the following information will be required. Each question may not be applicable to each protocol.

"Section IV-D-1. General Information.

"Section IV-D-1-a. Indicate the: (i) Name of principal investigator, (ii) name of study, and (iii) date of report.

"Section IV-D-1-b. What is the current status of the study (i.e., is it open or closed)? If closed, include: (i) Date protocol closed; (ii) describe reason for closure; and (iii) submit summary.

"Section IV-D-1-c. Have there been any amendments to the protocol? If so, indicate the dates of the following approvals: Institutional Review Board (IRB) and Office of Recombinant DNA Activities (ORDA).

"Section IV-D-1-d. Have there been any adverse reactions reported? If so, describe. What dates were they reported to the IRB and ORDA?

"Section IV-D-2. Measurements of Gene Transfer Success *In Vitro*.

"Section IV-D-2-a. Describe what you are doing currently and how this compares with what you proposed.

"Section IV-D-2-b. What material are you administering to the patients via what route? is this different from what you proposed?

"Section IV-D-2-c. What *in vitro* evidence is there for the efficacy of the genetic manipulation prior to administration of the material, i.e., the efficiency of gene transfer and the manufacture of the desired product? How do your results compare with anticipated results?

"Section IV-D-2-d. Have there been any unexpected results of the ongoing quality control measures? In particular, has there been any incidence of replication competent virus or vector rearrangement? Are these tests performed for each lot of materials administered?

"Section IV-D-2-e. Are there problems that have occurred that you did not anticipate prior to starting the

protocol? What are these? Have they resulted in a change in your procedures?

"Section IV-D-3. Measure of Gene Transfer Success *In Vivo*.

"Section IV-D-3-a. Positive effects.

"Section IV-D-3-a-(1). In the patients treated, has there been any evidence of activity of the transferred gene? what is the documentation for this? How does this compare with what you anticipated?

"Section IV-D-3-a-(2). Has the patients' condition improved?

"Section IV-D-3-a-(3). Is there significant variation between patients. If so, how is this explained?

"Section IV-D-3-b. Negative effects.

"Section IV-D-3-b-(1). Is there any evidence of adventitial spread of transduced material? Was any tumor/normal tissue obtained after transduced material was administered? Was a post mortem obtained? Was there any sign of gonadal transfer of genetic material? By what criteria?

"Section IV-D-3-b-(2). Is there any evidence of generation of replication competent virus related to gene transfer procedure in patients?

"Section IV-D-3-b-(3). What toxicity was seen? Local, at injection site, systemic, any evidence of allergy/hypersensitivity/autoimmunity to the administered products?

"Section IV-D-3-b-(4). Is there evidence of deterioration of the disease state in relation to therapy?

"Section IV-D-3-b-(5). Is there any evidence of effects on other genes?

"Section IV-D-3-b-(6). Are there problems that have occurred that you did not anticipate prior to starting the protocol? What are these? Have they resulted in a change in your procedures?

"Section IV-D-4. Patient Accrual Data.

"Section IV-D-4-a. How many patients were considered for entry on study?

"Section IV-D-4-b. For those who were rejected, what were the reasons?

"Section IV-D-4-b-(1). Unavailability of tissue for transduction?

"Section IV-D-4-b-(2). Lack of ability to transduce tissue?

"Section IV-D-4-b-(3). Was that transduced tissue unable to be used? If not, give reason.

"Section IV-D-4-b-(4). Patient/physician refusal to participate?

"Section IV-D-4-b-(5). Other reasons not accepted in protocol?

"Section IV-D-4-c. How many patients were actually entered?

"Section IV-D-4-c-(1). Upon review, were all these patients eligible? If not, give reasons why not.

"Section IV-D-4-d. Provide a coded list of patients on study along with their on-study dates, off-study dates, and reason for being taken off study.

"Section IV-D-4-e. Are your patient accrual goals being met in a timely fashion? If not, why not.

"Section IV-D-5. Have any publications (abstracts or articles) resulted from this work? If so, provide reprints.

VIII. Amend Introduction, Section IV-B and V of the Points to Consider Regarding Review by the Human Gene Therapy Subcommittee; Amend Sections III-A and IV-C of the NIH Guidelines Regarding Publishing Notice of Meetings and Proposed Actions in the Federal Register

At the Human Gene Therapy Subcommittee meeting on July 30-31, 1991, the subcommittee requested that the Working Group on the Future Role of the Recombinant DNA Advisory Committee prepare a report about the feasibility of merging the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee.

This request was published for comment in the **Federal Register** on November 4, 1991 (56 FR 56415).

The Human Gene Therapy Subcommittee received a report from this working group during its meeting on November 21-22, 1991 which recommended that: (i) All eligible Human Gene Therapy Subcommittee members be added to the Recombinant DNA Advisory Committee as full voting members; or (ii) all of the Human Gene Therapy Subcommittee members be added to the Recombinant DNA Advisory Committee as non-voting members; or (iii) joint meetings would be held in which the subcommittee would vote on the proposed action first, followed by the full Recombinant DNA Advisory Committee.

During the meeting, the following motion passed by a vote of 11 in favor, 2 opposed, and no abstentions:

"We move to recommend to the Recombinant DNA Advisory Committee, that its subcommittee, the Human Gene Therapy Subcommittee, be merged into the parent committee. The number of meetings per year of the Recombinant DNA Advisory Committee would increase to four per year. There would be a transition period of one year in which the Recombinant DNA Advisory Committee would begin to review proposed actions as the sole review group with the following provisions: (i) The Human Gene Therapy Subcommittee would codify a set of guidelines for shortening the review process, and (ii) the eligible members of the Human Gene Therapy Subcommittee would be brought onto the Recombinant DNA Advisory Committee as full voting members in keeping with the nomination process for Federal Advisory Committees."

The Human Gene Therapy Subcommittee forwarded the proposal to the Recombinant DNA Advisory Committee for consideration during the February 10-11, 1992, meeting.

In a letter dated December 23, 1991, Dr. Nelson Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland, is making a request to enable the above transition to proceed more efficiently. His letter states:

"* * * the Office of Recombinant DNA Activities (ORDA) is requesting that the following amendments be made to: (i) Sections III-A, IV-C-1-b-(1), IV-C-2, IV-C-3-b-(1), and IV-C-3-b-(2) to have the 30 day notice for Notice of Meeting and Proposed Actions be changed to a 15 day notice; and (ii) the *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects* in the sections of Introduction, IV-B, V, and the *NIH Guidelines*, Appendix D-XV, to have the Human Gene Therapy Subcommittee reviewing the human gene protocols changed to the Recombinant DNA Advisory Committee.

"ORDA is proposing that if the RAC votes to approve the recommendation to merge the HGTS with the parent committee and to increase the number of meetings per year, that the following changes must be made to amend the *National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules:*

"I. Notice of Meeting and Proposed Actions.

"The *NIH Guidelines* states that a 30 day Notice of Meeting and Notice of Proposed Action be published in the **Federal Register** for public comment. Under the Federal Advisory Committee Act, only a 15 day notice is required. The recommendation being forwarded by the HGTS to the RAC for approval would require an increase in the number of meetings per year. To more efficiently process the required paperwork prior to each meeting, the 30 day notice needs to be changed to a 15 day notice. It is proposed that the following changes be made:

'Section III-A. Experiments that Require RAC Review and NIH and IBC Approval Before Initiations.

'Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the Proposal in the **Federal Register** for

fifteen days of comment, review by the RAC, and specific approval by NIH.

'Section IV–C–1–b–(1). Major Actions. To execute major actions the Director, NIH, must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 15 days before the meeting, and the Director, NIH, will also publish the proposed action the **Federal Register** for comment at least 15 days before the meeting. In addition, the Director's proposed decision, at his/her discretion, may be published in the **Federal Register** for 15 days of comment before final action is taken.

'Section IV–C–2. Recombinant DNA Advisory Committee. * * * All meetings of the RAC will be announced in the **Federal Register**, including tentative agenda items, 15 days in advance of the meeting with final agendas (if modified) available at least 72 hours before the meeting.

'Section IV–C–3–b–(1). Announcements of RAC meetings and agendas at least 15 days in advance;

'Section IV–C–3–b–(2). Proposed major actions of the type falling under Section IV–C–1–b–(1) at least 15 days prior to the RAC meeting at which they will be considered; and * * *'

"II. Review of Human Gene Therapy/ Transfer Protocols.

"The Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects document (**Federal Register** of March 1, 1990) and the *NIH Guidelines* need to be amended to reflect exclusive review of protocols by the Recombinant DNA Advisory Committee. The *Points to Consider* will be amended as follows:

'Introduction. RAC consideration of each proposal will be on a case-by-case basis and will follow publication of a precis of the proposal in the **Federal Register**, and an opportunity for public comment.

'Section IV–B. If the change has been approved by the relevant IRB, and IBC, then the Chair of the Recombinant DNA Advisory Committee may give approval. It is expected that the Chairs will consult with one or more members of the committee, as necessary.

'Section V. Minor Modifications. A minor change in protocol approved by the Recombinant DNA Advisory Committee is a change that does not significantly alter the basic design of a protocol and that does not increase risk to the subjects.' "

IX. Amend Appendices B–I–B–1 and B–I–B–2 of the NIH Guidelines regarding the Bacterial Order, Actinomycetales

In a written request dated April 15, 1991, Dr. Diane O Fleming of Merck & Co., Inc., Somerset, New Jersey, requested that only pathogenic genera and species of the bacterial order, *Actinomycetales*, be included in Appendix B–I–B–1 of the *NIH Guidelines*.

It was proposed that the following pathogens be included in the list of Bacterial Agents in appendix B–I–B–1 of the *NIH Guidelines* as follows:

Actinomadura madurae
Actinomadura pelletieri
Actinomyces bovis
Actinomyces israelii
Nocardia asteroides
Nocardia brasiliensis

In appendix B–I–B–2, the entry under *Actinomycetes* would be deleted.

This request was reviewed at the Recombinant DNA Advisory Committee meeting on May 30–31, 1991. Following a discussion there was agreement that the *Actinomyces* should be reclassified as bacteria and removed from the list of fungi. However, there was disagreement about the number of species to be listed as pathogens. The number was thought to be considerably larger than the six species proposed for inclusion. Dr. Fleming was asked to consult with leading experts in the field and return with a revised list of pathogens, to be reviewed at the Recombinant DNA Advisory Committee meeting on October 7–8, 1991.

This request was published for comment in the **Federal Register** on September 3, 1991 (56 FR 43686).

During the October 7–8, 1991, Recombinant DNA Advisory Committee meeting, a motion was passed by a vote of 19 in favor, 0 opposed, and no abstentions to create an *ad hoc* working group within the Recombinant DNA Advisory Committee with outside consultants to provide an amended list of pathogens.

X. Amend Appendices B–I–C–1 and B–I–B–1 in the NIH Guidelines regarding Mycobacterium avium

In a letter dated December 18, 1991, Dr. William R. Jacobs, Jr., of the Albert Einstein College of Medicine, Bronx, New York, requested lowering the classification of *Mycobacterium avium* from a Class III bacterial agent to a Class II bacterial agent. *M. avium* would move from appendix B–I–C–1 to appendix B–I–B–1 in the *NIH Guidelines*.

XI. Other Matters To Be Considered by the Committee

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, a roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: December 24, 1991.

Jay Moskowitz,

Associate Director for Science Policy and Legislation, NIH.

[FR Doc. 92–108 Filed 1–2–92; 8:45 am]

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Friday
January 3, 1992

Part IV

Department of Housing and Urban Development

24 CFR Part 570

Community Development Block Grants: Community Development Plans

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-91-1597; FR-3007-P-01]

RIN 2506—AB19

Community Development Block Grants; Community Development Plans

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to require each recipient under subsection (b) of section 106 of the Housing and Community Development Act of 1974 (the so-called Entitlement grantees) to submit a Community Development Plan to HUD in a standardized format. The plan must describe the community's non-housing community development needs and present a strategy for meeting those needs.

DATES: Comment due date: March 4, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director, Entitlement Cities Division (202) 708-1577, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. A telecommunications device for hearing impaired persons (TDD) is available at (202) 708-0564. FAX inquiries may be sent to Mr. Broughman at (202) 708-3363. (These telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register.** Public reporting burdens for the collection of information requirements contained in this proposed rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, consulting with adjacent units of government, holding public hearings, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW, room 10276, Washington, DC 20410; and to the Office of Management and Budget, Washington, DC 20503.

Background

This proposed rule would revise the Community Development Block Grant program regulations for entitlement cities and counties (24 CFR 570 subpart D) to implement certain of the changes made to the Housing and Community Development Act of 1974 by the National Affordable Housing Act of 1990 (NAHA), Public Law 101-625, approved November 28, 1990. The proposed changes would implement NAHA section 922—Community Development Plans. The changes contained in this proposed rule only affect the Entitlement program. Separate rules will address the effects on States, Indians and other non-entitlement units of government.

Community Development Plan

Section 922 of NAHA added a new section 104(l) to the Housing and Community Development Act of 1974. This section requires each recipient under subsection (b) of section 106 (the so-called Entitlement grantees), among other recipients, to submit a Community Development Plan to HUD in a standardized format prescribed by HUD in regulations, as a pre-condition to receipt of CDBG funds. The proposed rule would implement the new requirement that the plan describe the community's non-housing community development needs and present a strategy for meeting those needs. The Department invites comment on whether the categories selected fully encompass all non-housing community development needs that should be addressed, as well as on the helpfulness of the specific categories themselves as identified in the proposed rule.

Section 922 is silent concerning the period of time localities should consider when identifying community development needs, and whether, and how frequently, the plan would need to be updated and resubmitted. HUD is aware that section 104(b)(4) already requires units of general local government to have developed a community development plan which identifies both community development and housing needs for a period of one to three years. To allow a community to use, either wholly or partially, a plan that it previously developed, including a plan developed in compliance with section 104(b)(4), this proposed rule would permit units of general local government to choose the relevant time period used in its newly required plan containing its non-housing community development needs. This will enable communities to use a one-, two-, or three-year period to coincide with their current plan developed under section 104(b)(4), and therefore use some (or all) of the non-housing needs contained in that plan as part of the newly required plan. In addition, any grantee that wishes to develop its new plan in conjunction with its Comprehensive Housing Affordability Strategy (CHAS) in accordance with section 105 of the National Affordable Housing Act may select the five-year period covered by the CHAS. The Department invites comment on the appropriate period of time for consideration of non-housing community development needs.

Section 922 requires units of general local government to hold at least one public hearing to obtain citizen views on non-housing community development needs. HUD recognizes that the Housing and Community Development Act of 1974 already requires each community to hold public hearings on its community development and housing needs, that public hearings will be required as part of the preparation of the new CHAS, and that many communities conduct public hearings as part of their planning process for local or State plans. This proposed rule would enable a community to use the results of any such public hearings, held up to one year before the submission of its community development plan to HUD, if that public hearing substantively meets the requirements of obtaining citizen views on non-housing community development needs for the period of time chosen by the grantee for the plan required under this proposed rule.

Section 922 also requires units of general local government to consult with

all adjacent localities. "Adjacent" for this purpose will mean those localities that are contiguous to the borders of the grantee community. The apparent purpose of the consultation is to determine the extent to which the grantee's local needs may have an impact on neighboring units of government and any needs that are mutually shared and that might be advantageous to address together; to discuss strategies for meeting the needs; and to consider the possibility of coordinated action for addressing multi-jurisdictional needs. Comments are invited on the nature and extent of consultation that the rule should require.

Section 922 of NAHA specifies that the community development plan be submitted to HUD before HUD may make the grant. While it would not be a requirement, grantees are encouraged to submit their community development plan at least 30 days in advance of the submission of their Statement. As mentioned previously, the statute is silent regarding the frequency with which the plan should be submitted to the Department. This rule proposes that communities need not resubmit their plan until the period of time covered by the plan is expiring. Accordingly, if a community elects to use a five-year plan, its plan need not be resubmitted more often than once every five years. The Department invites comment on how frequently a community should be required to resubmit its plan.

The specific proposed content of the new non-housing community development plan requirements is discussed below.

Plan Requirements

a. Nonhousing Community Development Needs

Section 922 of NAHA requires that the plan describe the community's non-housing community development needs and a strategy for meeting those needs. A community would be required to describe briefly its non-housing community development needs that currently are unmet, and those expected to arise within the period of time covered by the plan. Communities would not be required to list those needs for which remedial actions are already underway and are expected to have been fully met by the time the plan period expires. The description would need specifically to state whether identified facilities needs would constitute construction, reconstruction, or expansion. This rule proposes to require that the description of needs be arranged so that grantees separately identify the following four basic categories: (1) Public infrastructure facilities needs, such as transportation, water, sanitation, energy, and drainage/flood control; (2) other public facilities needs, such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services; (3) economic development needs, such as commercial/industrial revitalization, job-creation and retention considering the unemployment and underemployment of its citizens, accessibility to financial resources by citizens and businesses, investment within particular areas of the jurisdiction, or other related components of community economic development; and (4) social services needs. Within each category, a community would be required either to identify the relative priority it attaches to each of the needs, or to describe the process the community expects to follow in determining which need to address as funds become available during the period of time covered by the plan. (See proposed §§ 570.309(b)(2) through 570.309(b)(4).)

b. Strategies for Meeting Needs

The Act requires that units of general local government include in their community development plan a description of their strategies for meeting their needs. As part of their strategy statements, communities would be required to identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of needs, the grantee would need to identify the sources of funds the grantee believes might become available during the period covered by the plan; actions the grantee would take to acquire those funds; and which needs would be addressed in concert with adjacent communities. (See § 570.309(b)(5).)

c. Period of Time for Plan

The grantee would need to identify the period of time covered by its plan. (See § 570.309(c).)

d. Public Hearings

Section 104(l)(2)(A) of the Housing and Community Development Act of 1974, as amended by section 922 of NAHA, requires units of general local government to hold one or more public hearings to obtain citizen views of the locality's non-housing community development needs. These public hearings may be held in conjunction with those required for other purposes. (For example, section 104(a)(2)(C) requires grantees to hold one or more public hearings to obtain the views of citizens on community development and housing needs.) Moreover, CDBG entitlement grantees are required under 24 CFR part 91 to hold hearings for the consideration of housing needs as part of the preparation of the community's CHAS. If the community has held a public hearing within 12 months of the date of submission to HUD of the community development plan and the hearing met the statutory requirement that the public hearing was for the purpose of obtaining citizen viewpoints on the locality's non-housing community development needs covering the period of time that will be covered by the newly required community development plan, the grantee may use the results of that public hearing to comply with this requirement.

In the plan, the community would be required to describe when and where the public hearing or hearings were held. To fulfill this requirement, a grantee could simply include in its plan a copy of any public notices announcing the hearings. (See §§ 570.309(a)(2), and 570.309(b)(6).)

e. Consultation

Section 104(l)(2)(A) requires units of general local government, while preparing the non-housing community development plan, to consult with adjacent units of general local government. "Adjacent units of general local government" is defined to mean those localities that share a common boundary or where one community is entirely surrounded by another.

The community would need to identify in its plan all adjacent units of government and include the date and circumstances of the consultation with each of them and a brief description of the substance of each consultation. (See §§ 570.309(a)(3) and 570.309(b)(7).)

f. Submission of Plan

Section 104(l)(1) prohibits HUD from making a grant until the community submits a non-housing community development plan to HUD. Section 104(l)(2)(B) requires that a grantee submit its plan to the State within which it resides and to any other unit of general local government within which the recipient is located. Because entitlement communities have wide latitude in selecting their program year start dates, HUD does not propose to specify a particular date by which the plan must be submitted. However, since HUD may not make a grant until the plan is submitted, the Department does not plan to accept a final statement submitted by a grantee until the required plan has been received from the

community. HUD also will not make the grant until it has reviewed the plan to determine that it meets the content and format requirements that will be identified in the rules. Accordingly, HUD recommends that a locality submit its non-housing community development plan at least 30 days before the submission of its final statement. This will allow HUD sufficient time to review the community development plan for compliance with the above-described requirements without delaying the grant award. (See § 570.309(a).)

g. Effect of Submission on CDBG

The contents of a nonhousing community development plan shall not be binding upon a grantee with respect to the use of any funds received under section 106. (See § 570.309(d).)

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW, Washington, DC 20410.

Executive Order 12291

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities because it does not affect the amount of funds provided in the CDBG program, but rather modifies and updates program administration and procedural requirements to comport with recently enacted legislation.

Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that this proposed rule does not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. The proposed rule would provide for increased citizen participation in the Community Development Block Grants (CDBG) program. Any effect on the family or on family formation, maintenance, and general well-being will be indirect and incidental.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this proposed rule would not have "federalism implications" within the meaning of the Order. The increased citizen participation requirements under the CDBG program will not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

This proposed rule was listed as item no. 1448 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53416), under Executive Order 12291 and the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. The amendment at § 570.309 of this proposed rule has been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

Annual Reporting Burden for the Community Development Plan—Proposed Rule

Description of information collection	Number of respondents	Number of responses	Total annual responses	Hours per response	Total hours
Community Development Plan	860	.25	215	100	21,500

List of Subjects in 24 CFR Part 570

Community development block grants.

Accordingly, the Department amends 24 CFR part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 would continue to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5300–20); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 570.304, a new paragraph (a)(4) would be added, to read as follows:

§ 570.304 Making of grants.

(a) *Acceptance of final statement and certifications.*

* * * * *

(4) *Plan submission.* The grantee must have submitted a plan meeting the requirements of § 570.309 covering a period that includes the fiscal year in which the grant is to be made.

* * * * *

3. A new § 570.309 would be added, to read as follows:

§ 570.309 Community development plan.

(a) *General Requirements.* Before the receipt of a grant in any fiscal year, the grantee must have submitted to HUD a community development plan meeting the requirements set forth in this section.

(1) Before developing the plan, the grantee must:

(i) Hold one or more public hearings to obtain the views of residents within its jurisdiction concerning the community's non-housing community development needs. (The hearings must occur no earlier than one year from the date the plan is submitted to HUD); and

(ii) Consult with all adjacent units of general local government regarding the grantee's non-housing community development needs and strategies for addressing those needs. (For the purpose of this paragraph, "adjacent" means

being physically contiguous with the border of the other unit of government);

(2) The plan must contain all of the elements described in paragraph (b) of this section, and

(3) The grantee must submit the plan to HUD, to the State, and to any units of general local government within which the grantee is located.

(b) *Plan contents.* The plan shall, at a minimum, contain the following:

(1) The period of time covered by the needs identified in the plan. The period covered shall not be less than one year following the date of the plan's submission to HUD.

(2) A brief description of each of the grantee's non-housing community development needs that currently are unmet and those expected to arise within the period of time covered by the plan. Communities should not list those needs for which all of the required funds have been committed, remedial actions are already underway, and the needs are expected to have been fully met by the time the plan period expires. The description of non-housing community development needs should be arranged by category in the following order:

(i) *Public infrastructure facilities needs*, consisting of the following major subcategories of public works: transportation, water, sanitation, energy, and drainage/flood control;

(ii) *Other public facilities needs* such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services;

(iii) *Economic development needs* such as those for commercial/industrial revitalization, job-creation and retention considering the unemployment and underemployment of the citizens, increased accessibility to financial resources by citizens and businesses, increased levels of investment within particular areas of the jurisdiction experiencing disinvestment, or other related components of community economic development; and

(iv) *Social services needs.* (3) For needs under paragraphs (b)(2) (i) and (ii) of this section, the grantee must identify whether the need is for construction of a new facility, reconstruction or expansion of an existing facility;

(4) An identification of the relative priority the grantee considers each need to have. Alternatively, the grantee may describe how it expects to decide which need to address as funds become available during the period covered by the plan.

(5) A description of the grantee's strategy to meet the needs identified under paragraph (b)(2) of this section. The description must include:

(i) The sources of funds expected to be available during the period covered by the plan and the needs for which the funds are expected to be applied;

(ii) Other sources of funds the grantee believes may become available during the period covered by the plan, and the strategy the grantee expects to use to acquire and use the funds to meet the identified needs;

(iii) A description of steps the grantee has taken and expects to take to coordinate its actions in addressing identified needs with adjacent units of general local government; and

(iv) A description of any timing considerations that may be crucial to the implementation of any of the grantee's strategies;

(6) A description of when and where the grantee conducted a public hearing or hearings for the purpose of identifying the needs contained in its plan. (A copy of the public notice of the hearing or hearings will meet the requirement of this paragraph); and

(7) A description of the dates and circumstances of consultations with adjacent units of general local government, the governments with which the grantee consulted on each occasion, and the substance of each consultation.

(c) *Resubmission.* (1) A Grantee may update its plan whenever the grantee believes that a significant change has occurred to its needs.

(2) A Grantee need not resubmit a community development plan to HUD until a plan is required to enable HUD to make a grant under § 570.304(a)(4).

(d) *Effect on use of CDBG funds.* The contents of a nonhousing community development plan shall not be binding upon the recipient with respect to use of its CDBG funds.

Dated: November 26, 1991.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92-47 Filed 1-2-92; 8:45 am]

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federal register

Friday
January 3, 1992

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91
Airspace Reclassification; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 24456; Amendment No. 91-227]

RIN 2120-AB95

Airspace Reclassification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the preamble and the effective date of the Airspace Reclassification Final Rule published in the **Federal Register** on December 17, 1991 (56 FR 65638), docket number 24456, regarding authority of air traffic control (ATC) to approve deviations from the transponder requirements in § 91.215(b).

FOR FURTHER INFORMATION CONTACT: Mr. William Mosley, Air Traffic Rules Branch, (ATP-230), Airspace Rules and Aeronautical Information Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone: (202) 267-9251.

SUPPLEMENTARY INFORMATION:

History

The Airspace Reclassification Final Rule provided that the effective date for § 91.215(d) of the Federal Aviation Regulations was December 12, 1991. The amendment and the preamble to the rule clarified that the ATC facility having jurisdiction over the concerned airspace is permitted to authorize deviations from the transponder requirements in § 91.215(b). However, the effective date of the amendment to § 91.215(b), which complements and supports the language in § 91.215(d), was issued erroneously as September 16, 1993. The corrections are listed in detail below and this oversight is corrected by this notice.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the preamble and effective date of the amendment to § 91.215(b), as published in the **Federal Register** on December 17, 1991 (56 FR 65638), (Federal Register Document 91-29869; page 65638, Column 1, and page 65639, Column 2) are corrected as follows:

1. On page 65638, first column, in the third line of the paragraph entitled **EFFECTIVE DATE**, insert "91.215(b) introductory text" between "§ 11.61(c)" and "91.215(d)".

2. On page 65639, second column, line 22, delete the "(d)" from "Section 91.215" and change the effective date on line 39 to December 12, 1991 instead of December 17.

Issued in Washington, DC on December 30, 1991.

Donald P. Byrne,

Assistant Chief Counsel for Regulations and Enforcement, Office of the Chief Counsel

[FR Doc. 92-120 Filed 1-2-92; 8:45 am]

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